

# MAINE STATE LEGISLATURE

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**House Legislative Record**  
of the  
**One Hundred and Eighteenth Legislature**  
of the  
**State of Maine**

**Volume I**

**First Regular Session**

December 4, 1996 - March 27, 1997

**First Special Session**

March 27, 1997 - May 15, 1997

ONE HUNDRED AND EIGHTEENTH LEGISLATURE  
FIRST SPECIAL SESSION  
14th Legislative Day  
Monday, April 28, 1997

The Speaker resumed the Chair.

The House met according to adjournment and was called to order by the Speaker.

Prayer by Reverend Samuel H. Richards, East Winthrop Baptist Church.

National Anthem by Nokomis Chamber Ensemble, Newport.

Pledge of Allegiance.

Doctor of the day, John Yindra, M.D., Wayne.

The Journal of Thursday, April 17, 1997 was read and approved.

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**SENATE PAPERS**

**Non-Concurrent Matter**

Bill "An Act to Remove Instant Lottery Ticket Vending Machines" (H.P. 248) (L.D. 312) on which the Minority "**Ought to Pass**" as amended Report of the Committee on **Legal and Veterans Affairs** was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-170) in the House on April 15, 1997.

Came from the Senate with the Majority "**Ought Not to Pass**" Report of the Committee on **Legal and Veterans Affairs** accepted in non-concurrence.

The House voted to Recede and Concur.

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**Non-Concurrent Matter**

Bill "An Act to Bring the State into Conformity with the Firearms Provisions of the Violence against Women Provisions of the Federal Violent Crime Control Act" (H.P. 1264) (L.D. 1791) which was referred to the Committee on **Criminal Justice** in the House on April 15, 1997.

Came from the Senate referred to the Committee on **Judiciary** in non-concurrence.

The House voted to Recede and Concur.

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**COMMUNICATIONS**

The following Communication: (S.P. 614)

**118th Maine Legislature**  
April 16, 1997

Senator Peggy Pendleton  
Representative Shirley Richard  
Chairpersons  
Joint Standing Committee on Education and Cultural Affairs  
118th Legislature  
Augusta, Maine 04333

Dear Senator Pendleton and Representative Richard:

Please be advised that Governor Angus S. King, Jr. has nominated Gregory G. Cyr for appointment as a member of the University of Maine Board of Trustees.

Pursuant to P & SL 1967, Chapter 229, this nomination will require review by the Joint Standing Committee on Education and Cultural Affairs and confirmation by the Senate.

Sincerely,  
S/Mark W. Lawrence  
President of the Senate  
S/Elizabeth H. Mitchell  
Speaker of the House

Came from the Senate, read and referred to the Committee on **Education and Cultural Affairs**.

Was read and referred to the Committee on **Education and Cultural Affairs** in concurrence.

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The following Communication: (S.P. 617)

**118th Maine Legislature**  
April 16, 1997

Senator Peggy Pendleton  
Representative Shirley Richard  
Chairpersons  
Joint Standing Committee on Education and Cultural Affairs  
118th Legislature  
Augusta, Maine 04333

Dear Senator Pendleton and Representative Richard:

Please be advised that Governor Angus S. King, Jr. has withdrawn his nomination of David B. Hawkes of Falmouth for appointment as a member of the University of Maine Board of Trustees.

Pursuant to P & SL 1967, Chapter 229, this nomination is currently pending before the Joint Standing Committee on Education and Cultural Affairs.

Sincerely,  
S/Mark W. Lawrence  
President of the Senate  
S/Elizabeth H. Mitchell  
Speaker of the House

Came from the Senate, read and referred to the Committee on **Education and Cultural Affairs**.

Was read and referred to the Committee on **Education and Cultural Affairs** in concurrence.

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The following Communication: (H.C. 194)

**STATE OF MAINE**  
**ONE HUNDRED AND EIGHTEENTH LEGISLATURE**  
**COMMITTEE ON BANKING AND INSURANCE**

April 16, 1997

Honorable Mark W. Lawrence, President of the Senate  
Honorable Elizabeth H. Mitchell, Speaker of the House  
118th Maine Legislature  
State House

Augusta, Maine 04333

Dear President Lawrence and Speaker Mitchell:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Banking and Insurance has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 1374 An Act to Increase Mandatory Auto Insurance Limits

L.D. 1619 An Act to Require Banks to Have Written or Oral Authority before Funds Are Electronically Removed from Resident Accounts

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,  
S/Sen. Lloyd P. LaFountain III S/Rep. Jane W. Saxl  
Senate Chair House Chair

Was read and ordered placed on file.

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The following Communication: (H.C. 195)

**STATE OF MAINE**  
**ONE HUNDRED AND EIGHTEENTH LEGISLATURE**

**COMMITTEE ON INLAND FISHERIES AND WILDLIFE**

April 16, 1997

Honorable Mark W. Lawrence, President of the Senate  
Honorable Elizabeth H. Mitchell, Speaker of the House  
118th Maine Legislature  
State House  
Augusta, Maine 04333

Dear President Lawrence and Speaker Mitchell:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Inland Fisheries and Wildlife has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 1546 An Act to Require That an Adult Accompany Youths Attending Hunter Safety Programs

We have also notified the sponsor and cosponsors of the Committee's action.

Sincerely,

S/Sen. Marge L. Kilkelly S/Rep. Norman R. Paul  
Senate Chair House Chair  
Was read and ordered placed on file.

The following Communication: (H.C. 196)

**STATE OF MAINE**

**ONE HUNDRED AND EIGHTEENTH LEGISLATURE  
COMMITTEE ON LEGAL AND VETERANS AFFAIRS**

April 16, 1997

Honorable Mark W. Lawrence, President of the Senate  
Honorable Elizabeth H. Mitchell, Speaker of the House  
118th Maine Legislature  
State House  
Augusta, Maine 04333

Dear President Lawrence and Speaker Mitchell:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Legal and Veterans Affairs has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 376 An Act to Eliminate the Requirement That Agency Liquor Stores Be a Certain Distance Apart

L.D. 986 An Act to Allow Independent Voters to Vote in Primary Elections

L.D. 1029 An Act to Provide Fairness in Ballot Access

L.D. 1161 An Act to Extend Political Party Status to 4 Years

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Beverly C. Daggett S/Rep. John L. Tuttle, Jr.  
Senate Chair House Chair  
Was read and ordered placed on file.

The following Communication: (H.C. 197)

**STATE OF MAINE**

**ONE HUNDRED AND EIGHTEENTH LEGISLATURE  
COMMITTEE ON NATURAL RESOURCES**

April 16, 1997

Honorable Mark W. Lawrence, President of the Senate  
Honorable Elizabeth H. Mitchell, Speaker of the House  
118th Maine Legislature  
State House  
Augusta, Maine 04333

Dear President Lawrence and Speaker Mitchell:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Natural Resources has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 1499 An Act to Prohibit the Use of Harmful Additives in Gasoline

L.D. 1599 Resolve, to Encourage Stream and Wetland Enhancement Projects

L.D. 1608 An Act to Create the Mousam Way River Environmental Advisory Committee

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,

S/Sen. Sharon Anglin Treat S/Rep. G. Steven Rowe  
Senate Chair House Chair  
Was read and ordered placed on file.

The following Communication: (H.P. 1284)

**State of Maine**

**House of Representatives  
Augusta, Maine 04333-0002**

April 17, 1997

Elizabeth H. Mitchell  
Speaker of the House  
118th Legislature  
Mark W. Lawrence  
President of the Senate  
118th Legislature

Dear Madam Speaker and Mr. President:

On April 17, 1997, one bill was received by the Clerk of the House.

Pursuant to the provisions of Joint Rule 308.2, this bill was referred to the Joint Standing Committee on April 17, 1997, as follows:

**Taxation**

Bill "An Act to Establish a Penalty on Gains from the Sale or Exchange of Land from Which Timber Has Been Harvested" (H.P. 1283) (L.D. 1820) (Presented by Representative GREEN of Monmouth) (Cosponsored by Senator RUHLIN of Penobscot and Representatives: BULL of Freeport, SHIAH of Bowdoinham, TOWNSEND of Portland, VOLENIK of Brooklin, Senators: DAGGETT of Kennebec, TREAT of Kennebec)

Sincerely,

S/Joseph W. Mayo  
Clerk of the House  
S/Joy J. O'Brien  
Secretary of the Senate

Was read and ordered placed on file and sent up for concurrence. Ordered sent forthwith.

The following Communication: (H.P. 1296)

**State of Maine**

**House of Representatives  
Augusta, Maine 04333-0002**

April 22, 1997

Elizabeth H. Mitchell  
Speaker of the House  
118th Legislature  
Mark W. Lawrence  
President of the Senate  
118th Legislature

Dear Madam Speaker and Mr. President:

On April 22, 1997, ten bills were received by the Clerk of the House.

Pursuant to the provisions of Joint Rule 308.2, these bills were referred to the Joint Standing Committees on April 22, 1997, as follows:

**Appropriations and Financial Affairs**

Bill "An Act to Provide Funding for Mental Retardation Day Services for Nonclass Members" (EMERGENCY) (H.P. 1285) (L.D. 1830) (Presented by Representative BERRY of Livermore) (Cosponsored by Senator MICHAUD of Penobscot and Representatives: FARNSWORTH of Portland, KERR of Old Orchard Beach, MITCHELL of Portland, TOWNSEND of Portland, Senator: NUTTING of Androscoggin) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.)

Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$25,000,000 for Development of the East-West Highway" (H.P. 1295) (L.D. 1840) (Presented by Representative SAXL of Bangor) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.)

**Business and Economic Development**

Bill "An Act to Amend the Laws Governing Debt Collection Activities" (H.P. 1286) (L.D. 1831) (Presented by Representative CIANCHETTE of South Portland) (Cosponsored by Senator: AMERO of Cumberland) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.)

**Education and Cultural Affairs**

Resolve, to Establish the Task Force to Study Strategies to Support Parents as Children's First Teachers (H.P. 1287) (L.D. 1832) (Presented by Representative BAKER of Bangor) (Cosponsored by Senator PENDLETON of Cumberland and Representatives: JABAR of Waterville, McELROY of Unity, RICHARD of Madison, SKOGLUND of St. George, TOWNSEND of Portland, Senators: CATHCART of Penobscot, LONGLEY of Waldo, MILLS of Somerset) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.)

**Judiciary**

Bill "An Act to Improve the State's Child Support Enforcement and Overpayment Recovery Laws" (H.P. 1289) (L.D. 1834) (Presented by Representative NASS of Acton) (Cosponsored by Senator LONGLEY of Waldo and Representatives: HATCH of Skowhegan, KERR of Old Orchard Beach, KNEELAND of Easton, ROWE of Portland, Senators: MICHAUD of Penobscot, MILLS of Somerset) (Submitted by the Department of Human Services pursuant to Joint Rule 204.)

Bill "An Act to Implement Federal Welfare Reform Mandates for State Child Support Enforcement Laws and Recovery of Overissued Food Stamps" (H.P. 1290) (L.D. 1835) (Presented by Representative NASS of Acton) (Cosponsored by Senator MILLS of Somerset and Representatives: HATCH of Skowhegan, KERR of Old Orchard Beach, KNEELAND of Easton, ROWE of Portland, Senator: MICHAUD of Penobscot) (Submitted by the Department of Human Services pursuant to Joint Rule 204.)

**Labor**

Bill "An Act to Promote Temporary Service by Retired Public Employees" (EMERGENCY) (H.P. 1294) (L.D. 1839) (Presented by Representative CHIZMAR of Lisbon) (Cosponsored by Representatives: JOY of Crystal, McELROY of Unity, TRUE of Fryeburg, Senator: NUTTING of Androscoggin) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.)

**Natural Resources**

Bill "An Act to Facilitate Delegation of the Federal Waste Discharge Permitting Program" (H.P. 1291) (L.D. 1836) (Presented by Representative COWGER of Hallowell) (Cosponsored by Representatives: BULL of Freeport, FOSTER of Gray, MERES of Norridgewock, Senator: NUTTING of Androscoggin) (Governor's Bill)

**Taxation**

Bill "An Act to Reform the Administration of the Maine Residents Property Tax Relief Program" (H.P. 1288) (L.D. 1833) (Presented by Representative SAXL of Portland) (Cosponsored by Representatives: ETNIER of Harpswell, KONTOS of Windham, LEMONT of Kittery, SPEAR of Nobleboro, TRIPP of Topsham, Senators: MILLS of Somerset, PINGREE of Knox, RUHLIN of Penobscot)

**Transportation**

Resolve, Requiring the Department of Transportation to Study the Method of Posting Roads (H.P. 1293) (L.D. 1838) (Presented by Representative BROOKS of Winterport) (Cosponsored by Senator LIBBY of York and Representatives: BRAGDON of Bangor, JOYNER of Hollis, KANE of Saco, STANLEY of Medway, WATSON of Farmingdale) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.)

Sincerely,  
S/ Joseph W. Mayo  
Clerk of the House  
S/ Joy J. O'Brien  
Secretary of the Senate

Was read and ordered placed on file and sent up for concurrence. Ordered sent forthwith

**PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE**

The following Bill was received and upon the recommendation of the Committee on Reference of Bills was referred to the following Committee, Ordered Printed and Sent up for Concurrence:

**Appropriations and Financial Affairs**

Bill "An Act to Appropriate Funds for the Education Research Institute" (H.P. 1298) (L.D. 1841) (Presented by Representative RICHARD of Madison) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.)

By unanimous consent, the reference matter requiring Senate concurrence having been acted upon was ordered sent forthwith.

**ORDERS**

On motion of Representative ETNIER of Harpswell, the following Joint Resolution: (H.P. 1297) (Cosponsored by Senator GOLDTHWAIT of Hancock and Representatives: GOODWIN of Pembroke, HONEY of Boothbay, LAYTON of Cherryfield, LEMONT of Kittery, PERKINS of Penobscot, PIEH of Bremen, PINKHAM of Brunswick, PINKHAM of Lamoine, Senators: KILKELLY of Lincoln, PINGREE of Knox) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 214.)

JOINT RESOLUTION MEMORIALIZING THE NATIONAL MARINE FISHERIES SERVICE TO NOT ADOPT RULES THAT UNNECESSARILY RESTRICT COMMERCIAL FISHING

WE, your Memorialists, the Members of the One Hundred and Eighteenth Legislature of the State of Maine, now assembled in the First Special Session, most respectfully present and petition the National Marine Fisheries Service as follows:

**WHEREAS**, the National Marine Fisheries Service has proposed rules for commercial fishing that impose restrictions throughout the Gulf of Maine, including waters of the State, by requiring rerigging and other modifications to gear as well as requiring gear to be inspected every 30 days; and

**WHEREAS**, the proposed rules are seen by many in the commercial fishing industry as unreasonable, potentially devastating and unacceptable; and

**WHEREAS**, the proposed rules are designed to prevent large whales from becoming entangled in lobster gear and gill nets; and

**WHEREAS**, many people, including Maine's Commissioner of Marine Resources, feel that the proposed rules will impose a devastating cost to the fishing industry and will do little to protect large whales; and

**WHEREAS**, the State of Maine and representatives from northeastern states and the fishing industry have acknowledged that significant actions are required to extend protection to endangered right whales and other large whales but differ with the rules proposed by the National Marine Fisheries Service; now, therefore, be it

**RESOLVED:** That We, your Memorialists, request that the National Marine Fisheries Service amend its proposed fishing rules and develop rules that provide protection for large whales but do not impose unnecessary restrictions on the fishing industry; and be it further

**RESOLVED:** That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the National Marine Fisheries Service and to each member of the Maine Congressional Delegation.

The **SPEAKER:** The Chair recognizes the Representative from Harpswell, Representative Etnier.

Representative **ETNIER:** Madam Speaker, Ladies and Gentlemen of the House. I appreciate your indulgence here for a very brief moment. I just wanted to bring to your attention this item (4-1) on your calendar that is sponsored by virtually everyone on the Marine Resources Committee that I could grab a hold of before we left for vacation. I would have liked to have a lot more on there, but as you know there were time constraints and cosponsor constraints so we got it out with this number. I am hoping to have this in hand on Wednesday when I go down to Portland to present this to the fisheries service at their public hearing there. I am looking for a unanimous show of support from this body in reference to this issue regarding whale entanglement and lobster gear. This is a critical issue. There is some information coming around to your desks at some point later today that will give you a little more information into it. I do appreciate your support and again, as I said earlier in the session, if you do have any questions about it or if you have any concerns or if you want some information, contact any member of our committee and we will gladly try to help you. Thank you.

Was read and adopted and sent up for concurrence. Ordered sent forthwith.

#### **SPECIAL SENTIMENT CALENDAR**

In accordance with House Rule 519 and Joint Rule 213, the following items:

Recognizing:

Alexander Smith, of Augusta, who has been named the Eagle Scout of the Year for 1997 by the American Legion, Department of Maine. He was also named the Most Valuable Student by the Maine Association of Elks. We extend our congratulations on these achievements; (HLS 342) by Representative O'BRIEN of Augusta. (Cosponsors:

Representative MADORE of Augusta, Senator DAGGETT of Kennebec, Speaker MITCHELL of Vassalboro)

On objection of Representative O'BRIEN of Augusta, was removed from the Special Sentiment Calendar.

The **SPEAKER:** The Chair recognizes the Representative from Augusta, Representative O'Brien.

Representative O'BRIEN: Madam Speaker, Ladies and Gentlemen of the House. We all know that of the accomplishment of how hard it is to reach the level of Eagle Scout. Alex Smith, who is a Senior at Cony High School in Augusta, has gone beyond that. He was recently honored by the American Legion of Maine as Eagle Scout of the Year. He will now compete on a national level with winners from the other states. When I called to congratulate Alex, I spoke to his mother and found out that he had also just recently won the Maine Association of Elks Award as the most valuable student. Again, with that honor he will be going on to a national competition. Besides all these accomplishments, Alex is business manager of the school newspaper. He is on the math team. He is a lifeguard at the YMCA and he plays a mean trumpet. He has played that all over the world. I am very honored to have him in my district and I believe he is in the balcony. I thank you for the opportunity to honor Alex.

Was read and passed and sent up for concurrence.

In Memory of:

Carl Ervin Cianchette, of Pittsfield and St. Petersburg, Florida, who was a former Member of the Maine State Legislature. He was active in Democratic politics and served in both the Maine State Senate and the House of Representatives, as well as serving as chairman of the last Governor's Executive Council. He was in the Merchant Marines during World War II and after the war he started his own construction business. Later, with his brothers, he founded what became Cianbro Corporation. Mr. Cianchette was first board chairman of the Sebasticook Valley Hospital and was instrumental in the original funding and successful establishment of the hospital. He will be greatly missed by his family, colleagues and friends; (HLS 332) by Representative CIANCHETTE of South Portland. (Cosponsors: Representative STEDMAN of Hartland, Senator MITCHELL of Penobscot, Representative JONES of Pittsfield)

On objection of Representative CIANCHETTE of South Portland, was removed from the Special Sentiment Calendar.

On motion of the same Representative, tabled pending adoption and specially assigned for Wednesday, April 30, 1997.

#### **REPORTS OF COMMITTEES**

##### **Refer to the Committee on Transportation**

Representative **KERR** from the Committee on **Appropriations and Financial Affairs** on Bill "An Act to Transfer State Ownership of Certain Railroad Rights-of-way, Create the Calais to Eastport Rail Authority and Authorize a General Fund Bond Issue in the Amount of \$4,500,000 to Fund Establishment of Freight Rail Service between Calais and Eastport" (H.P. 1138) (L.D. 1594) reporting that it be referred to the Committee on **Transportation**.

Report was read and accepted and the Bill referred to the Committee on **Transportation** and sent up for concurrence.

##### **Ought to Pass in New Draft/New Title**

Representative **ETNIER** from the Committee on **Marine Resources** on Bill "An Act Authorizing the St. George River

Shellfish Management Committee to Determine Availability of and Fees for Clam Licenses" (H.P. 314) (L.D. 436) reporting "**Ought to Pass**" in New Draft under New Title Bill "An Act to Authorize Shellfish Management Committees to Determine Fees for Clam Licenses" (H.P. 1292) (L.D. 1837)

Report was read and accepted. The New Draft was given its first reading and assigned for second reading Tuesday, April 29, 1997.

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**Divided Report**

Majority Report of the Committee on **Legal and Veterans Affairs** reporting "**Ought Not to Pass**" on Bill "An Act to Allow Candidates' Presence at Voting Places Solely for the Purpose of Voting" (H.P. 214) (L.D. 278)

Signed:

Senators: FERGUSON of Oxford  
CAREY of Kennebec  
DAGGETT of Kennebec

Representatives: TUTTLE of Sanford  
GAMACHE of Lewiston  
FISHER of Brewer  
GAGNE of Buckfield  
TESSIER of Fairfield  
LABRECQUE of Gorham  
BIGL of Bucksport

Minority Report of the same Committee reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-217) on same Bill.

Signed:

Representatives: CHIZMAR of Lisbon  
TRUE of Fryeburg  
BELANGER of Wallagrass

Was read.

Representative TUTTLE of Sanford moved that the House accept the Majority "**Ought Not to Pass**" Report.

On further motion of the same Representative, tabled pending his motion to accept the Majority "**Ought Not to Pass**" Report and specially assigned for Tuesday, April 29, 1997.

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**Divided Report**

Majority Report of the Committee on **Marine Resources** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-210) on Bill "An Act to Amend the Laws Regarding Scallop Harvesting" (EMERGENCY) (H.P. 531) (L.D. 722)

Signed:

Senator: MacKINNON of York  
Representatives: ETNIER of Harpswell  
PERKINS of Penobscot  
BAGLEY of Machias  
PIEH of Bremen  
VOLENIK of Brooklin  
PINKHAM of Brunswick  
HONEY of Boothbay

Minority Report of the same Committee reporting "**Ought to Pass**" as amended by Committee Amendment "B" (H-211) on same Bill.

Signed:

Senators: GOLDTHWAIT of Hancock  
PENDLETON of Cumberland  
Representatives: GOODWIN of Pembroke  
PINKHAM of Lamoine  
LAYTON of Cherryfield

Was read.

Representative ETNIER of Harpswell moved that the House accept the Majority "**Ought to Pass**" as amended Report.

On further motion of the same Representative, tabled pending his motion to accept the Majority "**Ought to Pass**" as amended Report and specially assigned for Tuesday, April 29, 1997.

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**Divided Report**

Majority Report of the Committee on **Business and Economic Development** reporting "**Ought Not to Pass**" on Bill "An Act to Require That Only Licensed Substance Abuse Counselors Treat Substance Abuse Problems" (H.P. 837) (L.D. 1142)

Signed:

Senators: JENKINS of Androscoggin  
MacKINNON of York  
RAND of Cumberland

Representatives: VIGUE of Winslow  
BODWELL of Brunswick  
MURPHY of Kennebunk  
FARNSWORTH of Portland  
CAMERON of Rumford  
SIROIS of Caribou  
MacDOUGALL of North Berwick  
MACK of Standish  
WRIGHT of Berwick

Minority Report of the same Committee reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-216) on same Bill.

Signed:

Representative: SHANNON of Lewiston

Was read.

On motion of Representative VIGUE of Winslow the Majority "**Ought Not to Pass**" Report was accepted and sent up for concurrence.

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**CONSENT CALENDAR**

**First Day**

In accordance with House Rule 519, the following items appeared on the Consent Calendar for the First Day:

(S.P. 236) (L.D. 805) Bill "An Act to Create the Oquossoc Standard Water District" (EMERGENCY) Committee on **Utilities and Energy** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-112)

(S.P. 351) (L.D. 1170) Bill "An Act to Amend Department of Defense and Veterans' Affairs Laws" Committee on **Legal and Veterans Affairs** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-114)

(H.P. 511) (L.D. 702) Bill "An Act to Amend the Penobscot County Budget Committee Process" Committee on **State and Local Government** reporting "**Ought to Pass**"

(H.P. 795) (L.D. 1083) Bill "An Act to Amend the Charter of the Lucerne-in-Maine Village Corporation" Committee on **State and Local Government** reporting "**Ought to Pass**"

(H.P. 960) (L.D. 1323) Bill "An Act to Remove the Sunset for the Employment of an Owner's Representative" Committee on **State and Local Government** reporting "**Ought to Pass**"

(H.P. 220) (L.D. 284) Bill "An Act to Continue the State's Dioxin Monitoring Program" Committee on **Natural Resources** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-225)

(H.P. 362) (L.D. 507) Bill "An Act Concerning Sea Urchin Management" Committee on **Marine Resources** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-233)

(H.P. 549) (L.D. 740) Bill "An Act to Permit the Temporary Removal of Gravestones from Cemeteries for the Purpose of Repair" Committee on **Legal and Veterans Affairs** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-224)

(H.P. 608) (L.D. 833) Bill "An Act to Amend the Charter of Foxcroft Academy" Committee on **Education and Cultural Affairs** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-223)

(H.P. 681) (L.D. 933) Resolve, to Establish a Commission to Study Insurance Fraud Committee on **Banking and Insurance** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-238)

(H.P. 685) (L.D. 937) Bill "An Act Relating to the State's Deferred Compensation Plan" Committee on **State and Local Government** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-232)

(H.P. 794) (L.D. 1082) Bill "An Act to Ensure Fair Pricing for Consumers of Health Care Services under Managed Care Plans" Committee on **Banking and Insurance** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-236)

(H.P. 809) (L.D. 1097) Bill "An Act Regarding the Enforcement of the Motor Vehicle Laws" Committee on **Transportation** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-230)

(H.P. 823) (L.D. 1128) Bill "An Act to Transfer a Certain Parcel of Land from the Department of Conservation to the Department of Agriculture, Food and Rural Resources" Committee on **Agriculture, Conservation and Forestry** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-220)

(H.P. 1062) (L.D. 1500) Bill "An Act to Increase Access to and Affordability of Mental Health Services" Committee on **Banking and Insurance** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-237)

There being no objections, the above items were ordered to appear on the Consent Calendar of Tuesday, April 29, 1997 under the listing of Second Day.

(H.P. 138) (L.D. 180) Bill "An Act to Amend the Motor Vehicle Laws Regarding Proof of Financial Responsibility and to Increase the Required Minimum Amounts of Liability Insurance Coverage" Committee on **Transportation** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-218)

On motion of Representative MAYO of Bath, was removed from the First Day Consent Calendar.

The Committee Report was read and accepted. The Bill was read once. Committee Amendment "A" (H-218) was read by the Clerk and adopted. The Bill was assigned for second reading Tuesday, April 29, 1997.

(H.P. 920) (L.D. 1263) Bill "An Act to Eliminate the Need for a Retail Seafood License to Sell Prepared Seafood" Committee on **Marine Resources** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-234)

On motion of Representative UNDERWOOD of Oxford, was removed from the First Day Consent Calendar.

On further motion of the same Representative, tabled pending acceptance of the Committee Report and specially assigned for Tuesday, April 29, 1997.

## CONSENT CALENDAR

### Second Day

In accordance with House Rule 519, the following items appeared on the Consent Calendar for the Second Day:

(S.P. 95) (L.D. 374) Bill "An Act to Consider Cost-effectiveness When Providing Medicaid Coverage for Dental Services"

(S.P. 120) (L.D. 399) Bill "An Act to Extend Certain Survivor Benefits to the Spouses of Firefighters and Law Enforcement Officers and Expand the Definition of Law Enforcement Officers"

(S.P. 305) (L.D. 1013) Bill "An Act to Implement Electronic Monitoring for Compliance with the Motor Vehicle Financial Responsibility Laws by 1999 and Make Other Changes in Those Laws" (C. "A" S-110)

(H.P. 1142) (L.D. 1607) Resolve, to Name the New Bangor-Brewer Replacement Bridge

(H.P. 358) (L.D. 481) Bill "An Act to Regulate Body Piercing" (C. "A" H-215)

(H.P. 717) (L.D. 981) Bill "An Act to Amend the Revised Maine Securities Act" (C. "A" H-212)

(H.P. 788) (L.D. 1076) Bill "An Act to Criminalize Mistreatment of and Cruelty to Animals and to Enhance Reporting Requirements" (C. "A" H-214)

No objections having been noted at the end of the Second Legislative Day, the Senate Papers were Passed to be Engrossed or Passed to be Engrossed as Amended in concurrence and the House Papers were Passed to be Engrossed or Passed to be Engrossed as Amended and sent up for concurrence.

## BILLS IN THE SECOND READING

### As Amended

Bill "An Act to Clarify Liability Coverage" (S.P. 233) (L.D. 802) (S. "A" S-117)

Was reported by the Committee on **Bills in the Second Reading**, read the second time, the Senate Paper was passed to be engrossed as amended in concurrence.

Bill "An Act to Require Certain Employees of Health Care Facilities to Wear Identification Badges" (S.P. 288) (L.D. 939) (C. "A" S-89)

Was reported by the Committee on **Bills in the Second Reading** and read the second time.

On motion of Representative PIEH of Bremen, was set aside.

On further motion of the same Representative, tabled pending passage to be engrossed as amended and specially assigned for Tuesday, April 29, 1997.

## ENACTORS

### Emergency Measure

An Act to Increase the Availability and Reduce the Cost of Escorts for Over-limit Movements on the State's Roads (H.P. 380) (L.D. 525) (C. "A" H-162)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 127 voted in favor of the same and



1 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

**Emergency Measure**

Resolve, to Establish Qualifications for Constitutional Officers and the State Auditor (S.P. 80) (L.D. 219) (C. "A" S-99)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed.

On motion of Representative KONTOS of Windham, tabled pending final passage and specially assigned for Tuesday, April 29, 1997.

**Emergency Measure**

Resolve, to Establish the Task Force on Youth and Families (H.P. 596) (L.D. 787) (C. "A" H-173)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 117 voted in favor of the same and 15 against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

An Act to Establish Maine as a Sponsor of the Women in Military Service for America Memorial in Arlington National Cemetery (H.P. 275) (L.D. 339) (C. "A" H-171)

An Act to Improve the Reporting of General Use Pesticide Sales (S.P. 141) (L.D. 420) (C. "A" S-96)

An Act Pertaining to the Aquaculture Lease Law (H.P. 346) (L.D. 468) (C. "A" H-167)

An Act to Create a Cemetery Perpetual Care Fund (H.P. 372) (L.D. 517) (C. "A" H-120)

An Act to Amend the Laws Regarding Confidentiality of Library Records (H.P. 529) (L.D. 720) (C. "A" H-161)

An Act to Ensure the Availability of Expertise on Dam Safety (H.P. 591) (L.D. 782) (C. "A" H-172)

An Act to Amend the Qualifications of the Administrator of the Maine Veterans' Homes (S.P. 277) (L.D. 885) (C. "A" S-97)

An Act to Improve the Efficiency of the Department of Agriculture, Food and Rural Resources (H.P. 714) (L.D. 978) (C. "A" H-160)

An Act to Require That the Attorney General Be an Attorney in Good Standing in Maine (H.P. 753) (L.D. 1030) (C. "A" H-169)

An Act to Establish Practical Difficulty Standards for a Variance from the Dimensional Standards of a Municipal Zoning Ordinance (H.P. 786) (L.D. 1074) (C. "A" H-175)

Were reported by the Committee on **Engrossed Bills** as truly and strictly engrossed, passed to be enacted, signed by the Speaker and sent to the Senate.

**UNFINISHED BUSINESS**

The following matters, in the consideration of which the House was engaged at the time of adjournment Thursday, April 17, 1997, have preference in the Orders of the Day and continue with such preference until disposed of as provided by House Rule 502.

HOUSE DIVIDED REPORT - Majority (11) "**Ought Not to Pass**" - Minority (2) "**Ought to Pass**" as amended by Committee Amendment "A" (H-202) - Committee on **Taxation** on Bill "An Act to Exclude Transfers of Motor Vehicles Owned by S Corporations from Sales Tax" (H.P. 779) (L.D. 1067)

TABLED - April 16, 1997 (Till Later Today) by Representative SAXL of Portland.

PENDING - Motion of Representative TRIPP of Topsham to accept the Majority "**Ought Not to Pass**" Report.

The SPEAKER: The Chair recognizes the Representative from Topsham, Representative Tripp.

Representative TRIPP: Madam Speaker, Ladies and Gentlemen of the House. This is a sales tax exemption bill. Just to refresh your memory, the state allows sales tax exemptions for up to \$770 million already. This would add to that. It is an 11 to 2 report. What this bill asks is that a sales tax exemption be allowed on the transfer of a motor vehicle from a S corporation to a majority stockholder. The committee discussed this at length and just felt that this was not good tax policy and it would be very difficult to maintain. Thank you.

The SPEAKER: The Chair recognizes the Representative from Norway, Representative Winsor.

Representative WINSOR: Madam Speaker, Colleagues of the House. I just would like to take a few moments of time to explain what this bill is. I am the sponsor of the bill. I call it a small guy bill. I submitted this, really, to prevent a small sole proprietor from having to pay the sales tax on his vehicle more than one time. The first time, when he purchased the vehicle, originally, and the second time once he transfers the vehicle from his corporation into his name. Note the bill, it talks about subchapter S corporations. In this particular bill, it involves only the majority stockholders that are subchapter S corporations. Subchapter S corporations are a rather unique type of organization. In general terms they limit the number of stockholders and the income from the subchapter corporations is not passed at the corporate level. It is passed on the income level or on the tax return of the stockholders. Basically, the money just passes from the corporation to the individual stockholder. The Department of Taxation tells me that the majority of these subchapter S corporations in Maine are indeed individual proprietorships, your mom and pop type businesses.

Current tax law allows the stockholder of an S corporation to transfer a motor vehicle to the corporation without paying a sales tax. If you reject the current motion and accept the Minority Report, the transfer would go the other way as well. Just remember that the sales tax has already been paid by the purchaser of the vehicle or the corporation. If this bill is passed, it would simply prevent the owner from having to pay the sales tax twice when he transferred the vehicle back into its corporate name. The reason I really got up to speak to this is that when I asked the department about the fiscal note involved I asked one question. I said, how many of these transfers do you think are purposeful? The person would have transferred the automobile into their own names and their corporate names if they knew they had to pay the sales tax. The department said that they don't think that any of these transfers are purposeful. In fact, what happens is somebody makes a mistake and transfers the vehicle from the corporation into their own name and again, get assessed a sales tax. I suspect, although I have no evidence to back this up, that this is done during a period of time when the corporation or business is failing or has been sold. With that in mind, all I really wanted to do is explain to you what I attempted to do. I would certainly enjoy support. If not, thank you very much for your time.

The Chair ordered a division on the motion to accept the Majority "**Ought Not to Pass**" Report.

The SPEAKER: The Chair recognizes the Representative from South Portland, Representative Morgan.

Representative MORGAN: Madam Speaker, Ladies and Gentlemen of the House. I would like to point out that under this "Ought Not to Pass," I do favor the "Ought Not to Pass." Under

Title 36, Section 1764, there is an exemption in the law or the owner of the majority stock of the S corporation. This bill here would allow an S corporation, now I will get back to the fact, that it is a single majority stockholder and we use the word single, and when we start talking subchapter S corporations, now I believe the government now allows around 70 people to tie into a subchapter S corporation. This would be affecting 70 people. Now it is only singular or only one. I recommend "Ought Not to Pass."

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Rowe.

Representative ROWE: Madam Speaker, Men and Women of the House. I just want to add to what Representative Morgan has said. The information that we got from the Bureau of Taxation is that under current law, if you are a corporation, the majority shareholder there can be a casual sale of the vehicle to the corporation and there is no sales tax. They would apply that to an S corporation, too. Under current law the majority shareholder of an S corporation could sell a vehicle to the S corporation and there is no sales tax on that transfer. This bill would basically allow, not only the majority shareholder, but all shareholders in an S corporation to transfer vehicles to the corporation and there would be no tax on that and to receive transfers of vehicles from the corporations so that the bill before you would go two ways. I agree, the bill is not good tax policy. I believe that current law is adequate. It allows a majority shareholder of an S corporation to transfer vehicles to the corporation and to receive an exemption as far as the sales tax is concerned. As you know an S corporation, there is a multitude of shareholders and whether you own one share or many shares, you would be able to transfer a vehicle and not pay sales tax and receive a vehicle. I just don't see the complete logic in that. I believe the current law is adequate. It doesn't treat S corps. any different than C corps. and for that reason I would encourage you to vote with the Majority "Ought Not to Pass" Report. Thank you.

The SPEAKER: The Chair recognizes the Representative from Norway, Representative Winsor.

Representative WINSOR: Madam Speaker, Men and Women of the House. I am glad to hear that people have confirmed the idea that you can transfer property from your personal account into your corporation, but not the other way around. Somehow, that seems to me to be unfair, but I just want to be absolutely clear. The Minority Report, should you reject this motion and go on to the Minority Report, I believe, does talk to the majority stockholder only, not to 70 or however many stockholders might be in the corporation. I just wanted to clarify that. Thank you very much.

The SPEAKER: A division has been requested. The pending question before the House is acceptance of the Majority "Ought Not to Pass" Report. All those in favor will vote yes, those opposed will vote no.

A vote of the House was taken. 86 voted in favor of the same and 46 against, the motion to accept the Majority "**Ought Not to Pass**" Report was accepted and sent up for concurrence.

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SENATE DIVIDED REPORT - Majority (11) "**Ought to Pass**" as amended by Committee Amendment "A" (S-73) - Minority (1) "**Ought Not to Pass**" - Committee on **State and Local Government** on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Require the Election of the Secretary of State in Statewide Elections (S.P. 122) (L.D. 401)

- In Senate, Minority "**Ought Not to Pass**" Report read and accepted.

TABLED - April 16, 1997 by Representative AHEARNE of Madawaska.

PENDING - Motion of same Representative to accept the Majority "**Ought to Pass**" as amended Report.

Subsequently, the Majority "**Ought to Pass**" as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (S-73) was read by the Clerk and adopted. The Bill was assigned for second reading Tuesday, April 29, 1997.

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HOUSE DIVIDED REPORT - Majority (9) "**Ought Not to Pass**" - Minority (4) "**Ought to Pass**" - Committee on **State and Local Government** on Bill "An Act to Require the Deputy Commissioner of Inland Fisheries and Wildlife to be Appointed by the Governor and Confirmed by the Senate" (H.P. 923) (L.D. 1266)

TABLED - April 16, 1997 by Representative AHEARNE of Madawaska.

PENDING - Motion of same Representative to accept the Minority "**Ought to Pass**" Report.

Subsequently, the Minority "**Ought to Pass**" Report was accepted.

The Bill was read once and assigned for second reading Tuesday, April 29, 1997.

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#### TABLED AND TODAY ASSIGNED

The Chair laid before the House the following item which was tabled and today assigned:

SENATE REPORT - "**Ought to Pass**" as amended by Committee Amendment "A" (S-107) - Committee on **Business and Economic Development** on Bill "An Act to Amend the Laws Relating to Auctioneers" (S.P. 219) (L.D. 678)

TABLED - April 17, 1997 by Representative WATERHOUSE of Bridgton.

PENDING - Acceptance of Committee Report.

On motion of Representative WATERHOUSE of Bridgton, tabled pending acceptance of the Committee Report and specially assigned for Tuesday, April 29, 1997.

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The following item was taken up out of order by unanimous consent:

#### COMMUNICATIONS

The following Communication: (S.P. 625)

**MAINE STATE SENATE  
3 STATE HOUSE STATION  
AUGUSTA, MAINE 04333**

April 17, 1997

Mark W. Lawrence  
President of the Senate  
118th Legislature  
Elizabeth H. Mitchell  
Speaker of the House  
118th Legislature

Dear President Lawrence and Speaker Mitchell:

On April 17, 1997, seven bills were received by the Secretary of the Senate.

Pursuant to the provisions of Joint Rule 308.2, these bills were referred to the Joint Standing Committees on April 17, 1997, as follows:

#### Appropriations and Financial Affairs

Bill "An Act to Provide Funding for the Southern York County Business Resource Center" (S.P. 618) (L.D. 1821) (Presented by President LAWRENCE of York) (Cosponsored by Representative WRIGHT of Berwick and Representatives:

LEMONT of Kittery, MacDOUGALL of North Berwick, OTT of York, WHEELER of Eliot) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.)

Bill "An Act to Continue the Operation of State Government for the First Two Quarters of the Fiscal Year Ending June 30, 1998" (EMERGENCY) (S.P. 620) (L.D. 1823) (Presented by Senator AMERO of Cumberland) (Cosponsored by Representative CAMPBELL of Holden and Senators: BENNETT of Oxford, BUTLAND of Cumberland, Representatives: GERRY of Auburn, MARVIN of Cape Elizabeth) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.)

**Education and Cultural Affairs**

Bill "An Act to Authorize a Tuition Savings Plan to Encourage Attendance at Institutions of Higher Education" (S.P. 622) (L.D. 1825) (Presented by Senator PENDLETON of Cumberland) (Cosponsored by Representative KONTOS of Windham and Senators: BENNETT of Oxford, HALL of Piscataquis, Representatives: CAMERON of Rumford, CLARK of Millinocket, DESMOND of Mapleton, MURPHY of Kennebunk, TUTTLE of Sanford, USHER of Westbrook) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.)

**Legal and Veterans Affairs**

Bill "An Act to Authorize the Operation of Video Gaming Terminals by Certain Nonprofit Organizations" (S.P. 624) (L.D. 1827) (Presented by Senator DAGGETT of Kennebec) (Cosponsored by Representative DUNLAP of Old Town and Senators: CATHCART of Penobscot, FERGUSON of Oxford, MICHAUD of Penobscot, NUTTING of Androscoggin, Representatives: MUSE of South Portland, TRUE of Fryeburg.)

**State and Local Government**

Resolve, Authorizing the Town of Southwest Harbor to Refinance Certain Temporary Bond Anticipation Notes Issued for Its Water Project (EMERGENCY) (S.P. 619) (L.D. 1822) (Presented by Senator GOLDTHWAIT of Hancock) (Cosponsored by Representative JONES of Bar Harbor) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.)

**Taxation**

Bill "An Act to Establish a System of Tax Revenue Targeting" (S.P. 621) (L.D. 1824) (Presented by Senator RUHLIN of Penobscot) (GOVERNOR'S BILL) (Cosponsored by Representative DONNELLY of Presque Isle and Senator BENNETT of Oxford, Representatives: CIANCHETTE of South Portland, DAVIDSON of Brunswick, DEXTER of Kingfield, GAGNON of Waterville, KERR of Old Orchard Beach, SPEAR of Nobleboro.)

Bill "An Act to Change the Name of the Bureau of Taxation and to Allow Other Agencies of the State to Benefit from Its Services" (S.P. 623) (L.D. 1826) (Presented by Senator RUHLIN of Penobscot) (GOVERNOR'S BILL) (Cosponsored by Representatives: CIANCHETTE of South Portland, DEXTER of Kingfield, KERR of Old Orchard Beach, WINSOR of Norway.)

Sincerely,  
S/Joy J. O'Brien

Secretary of the Senate  
S/Joseph W. Mayo  
Clerk of the House

Was read and ordered placed on file in concurrence.

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The following Communication: (S.P. 628)  
**MAINE STATE SENATE**  
**3 STATE HOUSE STATION**  
**AUGUSTA, MAINE 04333**

April 22, 1997

Senator Mark W. Lawrence  
President of the Senate  
118th Legislature  
Representative Elizabeth H. Mitchell  
Speaker of the House  
118th Legislature

Dear President Lawrence and Speaker Mitchell,

On April 22, 1997, two bills were received by the Secretary of the Senate. Pursuant to the provisions of Joint Rule 308.2, these bills were referred to the Joint Standing Committees on April 22, 1997, as follows:

**Appropriations and Financial Affairs**

Bill: "An Act to Change the State's Fiscal Year from July 1st to October 1st" (S.P. 627) (L.D. 1829) (Presented by Senator PINGREE of Knox) (Cosponsored by Representative KONTOS of Windham and Senators: CLEVELAND of Androscoggin, LAWRENCE of York, MICHAUD of Penobscot, RAND of Cumberland, Representatives: MITCHELL of Vassalboro, SAXL of Portland) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.)

**Legal and Veterans Affairs**

Bill: "An Act to Preserve Financial Integrity of the Bureau of Alcoholic Beverages and Lottery Operations" (S.P. 626) (L.D. 1828) (EMERGENCY) (Presented by Senator MICHAUD of Penobscot) (Cosponsored by Senator DAGGETT of Kennebec.)

Sincerely,  
S/Joy J. O'Brien  
Secretary of the Senate  
S/Joseph W. Mayo  
Clerk of the House

Was read and ordered placed on file in concurrence.

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By unanimous consent, all matters having been acted upon were ordered sent forthwith with the exception of matters being held.

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On motion of Representative JOY of Crystal, the House adjourned at 12:05 p.m., until 9:00 a.m., Tuesday, April 29, 1997 in honor and lasting tribute to Robert Pendleton, Sr.