

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

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
26th Legislative Day
Wednesday, May 14, 1997

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

Prayer by Reverend John L. Dunn, Dunn's Corner Baptist Church, Mt. Vernon.

Pledge of Allegiance.

The SPEAKER: The Chair recognizes the Representative from Greenville, Representative Jones who wishes to speak on the record.

Representative JONES: Madam Speaker, Distinguished Members of the House. It is great honor for me today to honor my nephew, David Rand, for his remarkable achievement. He has reached the rank of Eagle Scout. Thirty-four years ago I became a foster child of Elwin and Mary Rand, David's grandparents. David's father, Robert Rand, became a brother to me. This family taught me that I could be anything that I wanted to be and they have taught David those same lessons as well. I am very proud of you, David. I just have to tell you a brief story about my involvement with the Boy Scouts. Many years ago, I was living in Gray, Maine. Troop 86 needed some more adult involvement so I became a committee member. I spent several days at Camp Hinds, with a whole bunch of men, learning about the Boy Scouts so I could help the troop. It took eight weeks to complete the training, but I will never forget the last few days of the physical training at Camp Hinds in Windham. Unbelievably in Maine, we had a terrific hot spell in the spring. I have never been so hot and so sweaty as I practiced starting a fire, setting up a tent and learning about Boy Scouts skills. This experience only increases my respect and admiration for my nephew, David Rand, and all the others who have worked so hard to become Eagle Scouts. Thank you very much.

The Journal of yesterday was read and approved.

The following items were taken up out of order by unanimous consent:

The Chair laid before the House the following items which were tabled and today assigned:

TABLED AND TODAY ASSIGNED

Expression of Legislative Sentiment in memory of Carl Ervin Cianchette (HLS 332)

TABLED - May 13, 1997 by Representative KONTOS of Windham.

PENDING - Adoption.

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

Representative CIANCHETTE: Madam Speaker, Ladies and Gentlemen of the House. As some of you may know, my family has had a long history of being involved in government and politics in the State of Maine. In fact, I am the fourth member of my family to hold an office in the Legislature. I am proud to continue that service. I am truly humbled to follow in their large shadows. Of the four of us, I thought it might be interesting to note that two of us have been Republicans and two have been Democrats. It makes for some interesting family reunions.

I stand this morning to ask your indulgence that we take a moment to pause to mark the recent death of a man who spent a considerable amount of time in this chamber and wandering the

halls of this building. In the last few days, I had the opportunity to go into the library and pull some old news clippings. I sort of got a kick out of the fact that several of them referred to him as a burly chairman, a blustery politician and one even called him a beefy executive. Those of you who might remember him, remember he was a very large and imposing man.

I knew him as Uncle Carl, who was really a softy with a great big heart and truly a special guy. Last week when we had Welcome Back Day, like you, I was awestruck with the celebration we had involving legislators that have served before us. I must admit, though, that I was consumed with thoughts of my uncle who did just recently passed away. He couldn't be here because he is taking a well deserved rest for his years of labor to his family, his business, his employees and not to mention public service. He was first elected to the House in 1954. He served in the 97th Legislature. He went from there to serve on the Governor's council, and the Governor's council was certainly before my time, but my understanding was that it was a separate body that we had that gave advice to the Governor, particularly in the areas of appointments and confirmations and pardons. He was then elected to the Senate in 1969 and in 1975 he was elected again to the Governor's council to serve under Governor Longley. In the 107th, he headed the effort to abolish the Governor's council, a council he felt, and I quote, "was an archaic check on Maine's Chief Executive and did not serve the people well anymore." I might just put a quick date stamp on this too. If I have my history correct, at that time, when they were abolishing that and he was serving in the Governor's council, the speaker was serving her first term at that time. Joe Brennen was the Attorney General and Jock McKernan was serving his second term here in the Legislature. That year, the Governor's council was dissolved by referendum of the people and Carl held his last elective office.

In the last few weeks, I have received many notes. I would like to quote from one that I received from Charlie Jacobs, who served with him on the last Governor's council. "During a rather tumultuous time in the history of the state, Carl was steady, wise, always polite, always attempting to do the right thing for the state and was always ready with a laugh to break the tension. He enjoyed the respect of the council, legislators of both parties, and the Governor. It was an honor to serve with him. He was a public servant in the finest sense of the word." For me, that says it all.

In closing, I would just like to say that I will always remember my uncle for a life of unselfish service to his community and a deep, caring love and devotion to his family. Madam Speaker, I request that when we adjourn, we do so in tribute and lasting memory of Carl Cianchette.

Subsequently, the Sentiment was read, adopted and sent up for concurrence.

Expression of Legislative Sentiment recognizing Jared Dubreuil, Eagle Scout (HLS 478)

TABLED - May 12, 1997 by Representative. McKEE of Wayne
PENDING - Passage.

The SPEAKER: The Chair recognizes the Representative from Wayne, Representative McKee.

Representative MCKEE: Madam Speaker, Men and Women of the House. I am also very pleased to stand here today and to recognize, and to honor, another young man who has achieved this high distinction in Boy Scouting. This is Jared Dubreuil. I am very pleased to say that he is also a former student of mine. He is the son of Mr. and Mrs. Norman Dubreuil of East Winthrop. He is the third Eagle Scout in the Dubreuil family. Jared was a member of Troop #106, which is connected to his church in

Farmingdale, the Church of the Latter Day Saints. He is now a student at Brigham University in Provo, Utah. His court of honor was actually held in December, but because he has been away as a freshman at the university, he was not able to get back until now. We are very pleased that he could be here. He said he wasn't able to find everything for his uniform, not unlike a lot of freshmen that I have had in my family. We do want to say to you, Jared, that we are very pleased that you could join us today for this honor. Jared truly exemplifies the highest ideals of scouting. In Winthrop High School, he was an excellent soccer player. He was also following in the tradition of the Dubreuil family and was also an outstanding cheerleader. We are extremely happy that you could be with us here today to celebrate your 10 years of scouting and also the achievement of this very high honor of Eagle Scout. Thank you very much.

Subsequently, the Sentiment was read, passed and sent up for concurrence.

SENATE PAPERS

The following Communication: (H.C. 252)
THE SENATE OF MAINE
3 State House Station
Augusta, Maine 04333
May 12, 1997

The Honorable Joseph W. Mayo
Clerk of the House
State House Station 2
Augusta, Maine 04333
Dear Clerk Mayo:

Please be advised that the Senate today Adhered to its previous action whereby it Accepted the Minority Ought Not to Pass Report from the Committee on Marine Resources on Bill "An Act Regarding the Harvesting of Periwinkles in the Unorganized Townships" (H.P. 359) (L.D. 482).

Sincerely,
S/Joy J. O'Brien
Secretary of the Senate

Was read and ordered placed on file.

The following Communication: (H.C. 251)
THE SENATE OF MAINE
3 State House Station
Augusta, Maine 04333
May 12, 1997

The Honorable Joseph W. Mayo
Clerk of the House
State House Station 2
Augusta, Maine 04333
Dear Clerk Mayo:

Please be advised that the Senate today Adhered to its previous action whereby it Accepted the Majority Ought Not To Pass Report from the Committee on Legal and Veterans Affairs on Bill "An Act to Repeal the Presidential Primary" (H.P. 645) (L.D. 898).

Sincerely,
S/Joy J. O'Brien
Secretary of the Senate

Was read and ordered placed on file.

The following Communication: (H.C. 253)
THE SENATE OF MAINE
3 STATE HOUSE STATION
AUGUSTA, MAINE 04333

May 13, 1997

The Honorable Elizabeth H. Mitchell
Speaker of the House
118th Maine Legislature
2 State House Station
Augusta, Maine 04333
Dear Speaker Mitchell:

In accordance with Joint Rule 506, please be advised the Senate today confirmed, upon the recommendation of the Joint Standing Committee on Natural Resources the nomination of Cheryl A. Bascomb of New Gloucester and Andrew A. Cadot of Freeport, for appointment to the Board of Environmental Protection.

Thank you for your attention to this matter.

Sincerely,
S/Joy J. O'Brien
Secretary of the Senate

Was read and ordered placed on file.

Divided Report

Majority Report of the Committee on **Judiciary** reporting "**Ought Not to Pass**" on Bill "An Act to Prohibit the Photographing or Transmittal of Jury Deliberations" (S.P. 37) (L.D. 35)

Signed:

Senators: LONGLEY of Waldo
LaFOUNTAIN of York
BENOIT of Franklin

Representatives: THOMPSON of Naples
ETNIER of Harpswell
JABAR of Waterville
MAILHOT of Lewiston
POWERS of Rockport
PLOWMAN of Hampden
MADORE of Augusta

Minority Report of the same Committee reporting "**Ought to Pass**" on same Bill.

Signed:

Representatives: WATSON of Farmingdale
NASS of Acton
WATERHOUSE of Bridgton

Came from the Senate with the Majority "**Ought Not to Pass**" Report read and accepted.

Was read.

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

The SPEAKER: The Chair recognizes the Representative from Acton, Representative Nass.

Representative NASS: Madam Speaker, Men and Women of the House. This is a golden oldie from the last session and I appreciate the chance to take one more shot at this. Basically, what happened in the 117th was we had a proposal from CBS News with the support of the American Bar Association to tape jury deliberations in a trial. They proposed to do that in the State of Maine and the State of Arizona. At the time the proposal was made, CBS proposed to identify about 10 cases that were ongoing in the State of Maine. These were civil cases. Throughout the summer following the session, hopefully to pick one and tape the jury deliberation and make that tape available or use that tape on national television, they stated a willingness to provide an educational opportunity for both the law school in Maine and for other institutions, which was good. There was no doubt about that.

However, at the same time, the proponents of this distributed a tape of jury deliberations in another state in the midwest on a criminal trial. While I guess it was designed to support their effort, I have to tell you it was a disaster, in my opinion. What we saw on the tape was essentially people playing to the camera. It was badly done, technically. The microphone was bouncing in and out in front of people's faces. The net result was not, I think, what would happen in jury deliberations. On top of that, we had the potential that CBS News, a commercial organization, which had to find sponsors and worry about profits, essentially would minimize the educational value of this. That was the essence of our opposition to it.

We were not successful in the 117th. What, in fact, happened was that CBS went forward and stayed on top of the 10 cases they had identified and eventually narrowed that down to one. What they needed was prior consent of all the parties, the defendant, the plaintiff, the judge, everyone had to consent in order for this to move forward. The last case, they finally narrowed it down, and the case was settled out of court. There was no taping in Maine. Arizona, however, went ahead and parts of all that were aired last fall. I did not see that. This is a golden oldie. My concern about this remains the same and it is based primarily on the tape that was distributed to the members of the Judiciary Committee two years ago, where the opposition was greater. It is not, I feel, what we should be doing, providing commercial opportunities for jury deliberation. At that time, of course, we were involved with several high profile cases that we heard every night on the radio. We are still in that mode. It is just not fair to the people whose case it is. In my mind, it is not a profitable or instructive process to allow to happen. Thank you.

The SPEAKER: The Chair recognizes the Representative from Naples, Representative Thompson.

Representative THOMPSON: Madam Speaker, Men and Women of the House. I am one of the people who last year voted on the other side of this issue and have since changed my position. I have done so, primarily because I believe, first of all, it is a moot point. There is nothing in the future that indicates that there is going to be any taping going on. It did not happen last year because of a number of circumstances. Secondly, I don't feel, at this time, that the Legislature should interfere with a separate branch of the government and allow the judiciary to promulgate their own rules in this regard. I would ask that you vote for the "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Bridgton, Representative Waterhouse.

Representative WATERHOUSE: Madam Speaker, Ladies and Gentlemen of the House. I hope you will vote against the pending motion. I have a lot of problems with this happening with jury deliberations. I don't know how many of you in this House has served on jury duty. I have. I have served on several criminal trials. It is not a choice for people when they get called for jury duty. They have to go and serve. It is a public service and a citizen's duty. They go into the jury pool and get elected for these trials. They are in that trial and in that jury deliberation. If you have served on jury duty, you know there is quite a dynamic that goes on in that deliberation process. There are some people that are quite intimidated by it that don't even speak. There are others that are very forceful and try to persuade the others to their way of thinking. I feel as though having this thing taped, when I was in there on deliberation, I did not know that this law was on the books and that this was allowed. If I had known, I don't know how it would have changed my performance in that jury deliberation. The point being, I don't think this is necessary and I think it is adverse to jury deliberation system. I think that right now it might not be happening, but if we don't correct it now, it could happen and I think it could have

some dire consequences on that process. I hope you will vote against the pending motion.

The SPEAKER: The Chair recognizes the Representative from Lebanon, Representative Chick.

Representative CHICK: Madam Speaker, Ladies and Gentlemen of the House. I rise this morning to say that I have had the privilege to serve on jury duty. I have a great respect for the judicial system here in the State of Maine. I would suggest that you join in not allowing the court, the jury room, to be invaded by people with communication to the public. I believe all the records that are required are available. Someone might disagree with me, however, I can't vote for this invasion. Thank you.

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

A vote of the House was taken. 43 voted in favor of the same and 51 against, the Majority "**Ought Not to Pass**" Report was not accepted.

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

The Bill was read once and assigned for second reading Thursday, May 15, 1997.

Doctor of the day, James M. Kirsh, D.O., Falmouth.

Divided Report

Majority Report of the Committee on **Inland Fisheries and Wildlife** reporting "**Ought Not to Pass**" on Bill "An Act to Reallocate Environmental Registration License Plate Revenue" (S.P. 169) (L.D. 498)

Signed:

Senators: KILKELLY of Lincoln
RUHLIN of Penobscot

Representatives: PAUL of Sanford
CLARK of Millinocket
CHICK of Lebanon
DUNLAP of Old Town
USHER of Westbrook
GOODWIN of Pembroke
PERKINS of Penobscot

Minority Report of the same Committee reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-203) on same Bill.

Signed:

Senator: HALL of Piscataquis
Representatives: UNDERWOOD of Oxford
TRUE of Fryeburg
CROSS of Dover-Foxcroft

Came from the Senate with the Majority "**Ought Not to Pass**" Report read and accepted.

Was read.

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

The SPEAKER: The Chair recognizes the Representative from Oxford, Representative Underwood.

Representative UNDERWOOD: Madam Speaker, Men and Women of the House. I ask you to oppose the pending motion. Presently, the money that we take in from the loon plates, 60 percent of the proceeds, are deposited into the Maine State Parks Fund and 40 percent is deposited into the Maine Endangered and Nongame Wildlife Fund. What this bill will do, will take 50 percent of the monies that go to the Department of Inland Fisheries and Wildlife and give that 20 percent to the

Maine Warden Service. The reason I am on the Minority Report on this is this year we have added 20 new endangered species to our endangered species list. The people then enforce the laws pertaining to endangered species are the Maine Warden Service. They do most of the work. What the Minority Report tries to do here is to reimburse them some of that money they are expending on warden services for endangered species.

I know this is a very controversial bill. It is something that I believe we need to do. The Committee on Inland Fisheries and Wildlife this year passed many pieces of legislation, which are going to get programs to be paid for. If this Legislature adds new duties to the Department of Inland Fisheries and Wildlife, basically what we are trying to do is get these programs to be paid for through other funds. This is one step in that direction to give 50 percent of this money to the Warden Service. I would ask you to vote against the pending motion and to accept the Minority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Sanford, Representative Paul.

Representative PAUL: Madam Speaker, Men and Women of the House. Every once in a while, there is an attempt to raid the funds from the Maine Environmental Trust Fund. This has been tried before and it has not succeeded. The loon plate has been one of the most successful conservation license plates in the country. Today, approximately 120,000 of these plates are issued, generating nearly \$1.4 million for nongame and endangered species and conservation in the operation of state parks. The Maine Environmental Trust Fund was established as a nonlapsing fund, administered by the commissioner of the Department of Inland Fisheries and Wildlife, supporting the improvement of state parks and historic sites and by supporting the maintenance in the state parks.

This bill, should it pass, would allocate out of the fund, 50 percent to the Department of Inland Fisheries and Wildlife, Bureau of Warden Service, for the enforcement of laws regulating boats, snowmobiles and all terrain vehicles. There was a lot of opposition to this bill in committee. Some of the opposition came from the Maine Audubon Society, the director of Maine Parks and Lands, the Department of Conservation and the commissioner of Inland Fisheries and Wildlife. Every allocation of funds in the Maine Environmental Trust Fund would result in a loss of \$280,000 fiscal year 97-98 and an annual loss of over \$373,000 thereafter. I hope you will support the Majority "Ought Not to Pass" Report. Thank you.

The SPEAKER: The Chair recognizes the Representative from Union, Representative Savage.

Representative SAVAGE: Madam Speaker, Men and Women of the House. I have to stand up for the people in my district who can't be here to stand up today to speak to you. Please support the Majority "Ought Not to Pass" Report. Those people who purchased these plates were given a promise where that money would go. They did not intend for that money to go to enforce the snowmobile and ATV laws. They want that money to go where it was proposed, both for conservation and endangered species. Please vote for those people in your district who bought those plates for that reason. Thank you.

Representative PAUL of Sanford requested a roll call on the motion to accept the Majority "**Ought Not to Pass**" Report.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: The Chair recognizes the Representative from Manchester, Representative Fuller.

Representative FULLER: Madam Speaker, Ladies and Gentlemen of the House. I, too, urge that this group support the "Ought Not to Pass" recommendation of this committee. This is an issue in which I have heard from a number of constituents in

my area who bought those plates specifically to support our state parks and our nongame endangered wildlife fund. I urge that you support the "Ought Not to Pass" vote.

The SPEAKER: The Chair recognizes the Representative from Dover-Foxcroft, Representative Cross.

Representative CROSS: Madam Speaker, Ladies and Gentlemen of the House. I am on the "Ought Not to Pass" part of this bill. The prime reason for this we will say is the change in the allotment of the monies. We have been facing for the past three years, a deficit in Inland Fisheries and Wildlife of \$975,000 to \$700,000 a year. Again, in an attempt to pay the wardens basically for doing, as they said, policing the snowmobiles and whatever. This is not Inland Fisheries and Wildlife. It is something else, but Inland Fisheries and Wildlife have been paying the bill to the wardens when they spent their time there, consequently, we ended up with those deficits that I just previously mentioned. This was an attempt, if we could, vote your conscience, but this was an attempt to balance the books in the Inland Fisheries and Wildlife. Thank you very much.

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

ROLL CALL NO. 185

YEA - Ahearn, Bagley, Baker CL, Belanger DJ, Belanger IG, Berry DP, Berry RL, Bigl, Bodwell, Bouffard, Bragdon, Brennan, Brooks, Bruno, Buck, Bull, Bumps, Bunker, Cameron, Campbell, Carleton, Chartrand, Chick, Chizmar, Cianchette, Clark, Clukey, Colwell, Cowger, Davidson, Desmond, Dexter, Donnelly, Driscoll, Dunlap, Dutremble, Etnier, Farnsworth, Fisher, Foster, Frechette, Fuller, Gagne, Gagnon, Gamache, Gerry, Gieringer, Goodwin, Gooley, Green, Hatch, Honey, Jabar, Jones KW, Jones SL, Jones SA, Joyce, Joyner, Kane, Kasprzak, Kerr, Kneeland, Kontos, Labrecque, Lane, LaVerdiere, Lemaire, Lemke, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, Mailhot, Marvin, Mayo, McAlevey, McKee, Meres, Mitchell JE, Morgan, Murphy, Muse, Nass, Nickerson, O'Brien, O'Neal, O'Neil, Ott, Paul, Peavey, Pendleton, Perkins, Perry, Pieh, Pinkham RG, Pinkham WD, Plowman, Poulin, Powers, Quint, Rines, Rowe, Samson, Savage, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Snowe-Mello, Spear, Stanley, Stedman, Taylor, Tessier, Thompson, Tobin, Townsend, Treadwell, Tripp, Tuttle, Usher, Volenik, Waterhouse, Watson, Wheeler EM, Wheeler GJ, Winglass, Winn, Winsor, Wright, Madam Speaker.

NAY - Barth, Cross, Joy, Layton, Underwood, Vedral.

ABSENT - Baker JL, Bolduc, Fisk, McElroy, Povich, Richard, Sanborn, Stevens, True, Vigue.

Yes, 135; No, 6; Absent, 10; Excused, 0.

135 having voted in the affirmative and 6 voted in the negative, with 10 being absent, the Majority "**Ought Not to Pass**" Report was accepted in concurrence.

Non-Concurrent Matter

Bill "An Act to Provide That the Operator of a Limousine Is Not Responsible for Securing in a Seat Belt a Passenger Transported for a Fee" (H.P. 303) (L.D. 367) which was passed to be engrossed as amended by Committee Amendment "A" (H-334) in the House on May 7, 1997.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-334) and Senate Amendment "C" (S-218) in non-concurrence.

The House voted to Recede and Concur.

Non-Concurrent Matter

Bill "An Act to Implement the Recommendations of the Task Force on Production and Issuance of Registration Plates" (H.P. 207) (L.D. 260) on which Report "B" of the Committee on **Transportation** was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "B" (H-365) in the House on May 8, 1997.

Came from the Senate with Report "A" of the Committee on **Transportation** read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-364) in non-concurrence.

Representative DRISCOLL of Calais moved that the House Recede and Concur.

Representative WHEELER of Eliot requested a roll call on the motion to Recede and Concur.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: The Chair recognizes the Representative from Eliot, Representative Wheeler.

Representative WHEELER: Madam Speaker, Men and Women of the House. I urge you to defeat the pending motion so that we can insist and set up a committee of conference. I urge you to support me on this. I think we have a good solution to the problem and I would appreciate your support.

The SPEAKER: The Chair recognizes the Representative from North Berwick, Representative MacDougall.

Representative MACDOUGALL: Madam Speaker, Men and Women of the House. We heard a great debate last week and I appreciate everyone's participation. I will just take a few minutes to, hopefully, tell two points I would us to remember as we vote. Why keep the Quoddy Lighthouse plate alive? Many reasons were enumerated last week as well as for the chickadee plate. I would just like to focus our thoughts on two things concerning the Quoddy plate. First, who created it? Was it a government task force? No. Was it a collaborative effort between bureaucrats and politicians? No. Who did create the plate? I just remind you, ladies and gentlemen, that it was a group of young citizens who took an idea, worked it, shaped it and brought it to the highest form of government in our state and convinced some on the Transportation Committee to support it. Indeed, they convinced this body to adopt it. Like everything else in life, there are hills and valleys and they suffered a setback from the other body. They are still battling to keep this idea alive.

Ladies and gentlemen, this effort resonates what Maine is all about. Do we want a plate that was created from a task force or one that was created from our citizens? This group of young citizens have exemplified the independent spirit and work effort that represents our state. They saw an opportunity and they did run with it.

The second idea I would like to leave with you today is something that was said to me yesterday and that was that the Quoddy Lighthouse was just a relic of the past. Indeed, I have two children who think I am a relic of the past, but the point is, I would submit to you, disengaging linkage to the past, economically, culturally, and spiritually is to sever ourselves from who we are as a people. The Quoddy Lighthouse plate is a shining example of our heritage and so, my fellow colleagues, why the Quoddy Lighthouse plate? I submit the answer is our citizenship and our rich heritage as a state. I ask your support to defeat the current motion and to support the Representative from Eliot, Representative Wheeler. Thank you.

The SPEAKER: The Chair recognizes the Representative from Rockland, Representative Chartrand.

Representative CHARTRAND: Madam Speaker, Men and Women of the House. I would ask you to vote against this motion and vote to Recede and Concur with the overwhelming

vote in the Senate for the chickadee plate. With respect to all the parties who have worked hard on this issue, I think we have spent enough time on license plates in this session. We have a lot of issues that we still have yet to deal with and a lot of long debates ahead. I would hate to see this issue continue to occupy our time with a long debate here today, a committee of conference and with possibly more debate on whatever their final decision will be. It was quite a close vote here for the two plates the other day. I would ask any of you who were on the fence about that and voted for the lighthouse to reconsider that and today, vote for the chickadee plate. I am not going to spend a lot of time telling you why I think we should, but briefly, I think it represents more of Maine, in terms of all the types of areas of the state we have, different counties and towns and people in the state. It is a good looking plate and also if you look at the representation, the graphic images of the two plates that have been in some of the press clippings, I think you will agree that the numbers and letters on the chickadee plate are bolder and show up more clearly. The space for the letters is a little more narrow on the lighthouse plate and in addition, the upright lighthouse on the far left is closer looking to a number or a letter and in a way, it is a little more confusing to the eye from a distance. It is harder to determine the letters and numbers. I think the graphic image of the chickadee plate is pleasing and fits better with the use of a license plate, which is primarily to help law enforcement officers to identify cars. Please vote against this motion and let's move along and get this plate settled. Thank you.

The SPEAKER: The Chair recognizes the Representative from Houlton, Representative Clukey.

Representative CLUKEY: Madam Speaker, Ladies and Gentlemen of the House. We had a rather long and lighthearted debate last week on this question. Both plates, as far as I am concerned, are very attractive plates and I would be happy to have either one of them on my car. I went with the Majority Report because of the other respects for the process. We spent 14 months looking into this question and there is more to the situation than just the plate, just what is going to be on the plate. They spent 14 months going through the details of this reissuance, including what was going to be on the plate. Today, we are at a point where the rubber hits the road, because, ladies and gentlemen, as you vote this morning, what we are really voting on is to support the Majority Report or to support the lobster plate. If we stay in non-concurrence, we stay with the status quo. From what I have seen during my tenure in the Legislature, it would be extremely rare for a committee of conference to come to any kind of agreement on this. I don't recall that they have ever come to an agreement of any bill that we have sent to a committee of conference. It would be very rare for them to do that, I believe.

I just ask you, ladies and gentlemen, that as you vote this morning that a no vote is a vote for the lobster plate.

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative Bouffard.

Representative BOUFFARD: Madam Speaker, Men and Women of the House. There was an editorial in the *Kennebec Journal* this week that said that the lighthouse is occupied. It does ask the question, does anyone realize that the lighthouse motif is already in use? For about a year now, Massachusetts has offered a lighthouse on the left hand side of a special designer plate called the Capen Island. Not only that, but the structure, representative of a Cape Cod Lighthouse, is red and white. It is remarkably similar to the West Quoddy Head design. A lot of legislators have said that they don't care what is on our license plate. Well, if any of you feel that way, I want you to know that those of us who were on the Majority Report and the

people of the task force, do care. If you have no preference, we sincerely ask you to support the Majority Report. Thank you.

The SPEAKER: The Chair recognizes the Representative from Union, Representative Savage.

Representative SAVAGE: Madam Speaker, Ladies and Gentlemen of the House. I know you have heard an awful lot on chickadees and lighthouses. I am sorry to continue this debate, but I just want to point out one thing to you. The task force never intended to open this up to be a contest, statewide. If we accept the lighthouse plate that one school presented to us, then we have disenfranchised every school student in the State of Maine.

Also, I would like to point out to you that the task force chose this plate because of its qualities, so similar to we, the people of the State of Maine. It is hearty, friendly, dependable, cheerful and so forth. Thank you.

The SPEAKER: The Chair recognizes the Representative from Calais, Representative Driscoll.

Representative DRISCOLL: Madam Speaker, Men and Women of the House. I would like to answer a statement of the good Representative who spoke awhile back, talking about bureaucrats and politicians. The task force that I worked on was a nonpartisan force that came together to work for our people in the State of Maine. As we worked on that task force, we did not consider ourselves bureaucrats or politicians. I might add that we did not get per diem or pay. We worked hard all summer and all fall to try to come up with a good design that would help all the people of the State of Maine that would bring in tourism and give us something we could be proud of on our plate. I hope that you will see that we did not work as politicians or bureaucrats, but as someone who wanted to help the people of Maine. Thank you.

The SPEAKER: The Chair recognizes the Representative from Eliot, Representative Wheeler.

Representative WHEELER: Madam Speaker, Men and Women of the House. Nothing has changed over the last few days. There are still 20 or 30 other states that have the chickadee as their state bird. There is only one West Quoddy Lighthouse and that is in Maine. Nothing has changed. My standing up and trying to have the Recede and Concur defeated is not to prolong the lobster on the license plate. I do not like the lobster on the license plate and if comes down to where we are going to keep that, I will back off. I just ask that please allow us to have a committee of conference. Let's let it work. If there is a difference between bodies, let us talk and let each idea that we have out and see if we can come up with a compromise. I beg you please to defeat the motion to Recede and Concur.

The SPEAKER: The Chair recognizes the Representative from Auburn, Representative Winglass.

Representative WINGLASS: Madam Speaker, Men and Women of the House. Today, I am very proud of two of our colleagues, Representative Wright and Representative MacDougall. These two are really industrious and persuasive House freshmen, have advanced cogent arguments, and when they are carefully scrutinized, in my judgment, their arguments are of substance. Their enthusiasm, articulation and the merit of their presentations are compelling. I will be supporting these two gentlemen of the House, because they are and have been the bills' major advocates who are other than on the committee, as Representative Wheeler and I are. I urge you to do the same. If we, the members of this House, I remind you, the people's body, join together to defeat this motion, we can move on and entrust the ultimate decision to a conference committee appointed by our wise and very respected Madam Speaker. Thank you everyone.

The SPEAKER: The Chair recognizes the Representative from Orono, Representative Stevens.

Representative STEVENS: Madam Speaker, Men and Women of the House. While I was driving down this morning, I was listening to talk radio to get a better understanding of what people are talking about while we are sequestered away here during these last final weeks. Sure enough, they are talking about the license plate bill currently before us. Lest anyone in this chamber think that we have debated this issue at length, I will assure you that those on the airwaves of talk radio have debated it longer. There was overwhelming support for the chickadee plate, I will add. I join my seatmate, Representative Chartrand, in support of the chickadee plate. Our last license plate had a marine theme and I think it is time for those of us partial to the forest to have a little bit of visibility on our license plates, so please join me and my seatmate and vote to Recede and Concur. Thank you.

The SPEAKER: The Chair recognizes the Representative from Berwick, Representative Wright.

Representative WRIGHT: Madam Speaker, Men and Women of the House. I am the last person who wants to prolong this debate. As I said before, we spent a lot of time speaking about barking dogs, lighthouses and such. I would also add that there has already been an informal committee of conference and we are working on a compromise. I would ask you to support the motion to defeat this and move for a committee of conference. Thank you.

The SPEAKER: The Chair recognizes the Representative from Northport, Representative Lindahl.

Representative LINDAHL: Madam Speaker, Men and Women of the House. I don't think the plain plate is dead. I urge you to vote against the motion to Recede and Concur. In 1996, the Department of Conservation took in \$743,000 from the loon plate. Inland Fisheries and Wildlife took in \$495,000 from the loon plate. So far, through April of this year, they are already at more than 50 percent of what they took in the previous year. Conservation has already taken in \$433,000 for parks. The Department of Inland Fisheries and Wildlife has taken in \$288,000. That is from the sale of the conservation plate. If we adopt either one of these, the lighthouse plate or the chickadee plate, the sale of these plates is going to suffer. There is no doubt about it. I urge you to vote against the Recede and Concur and go to a committee of conference and hopefully, the committee of conference will adopt a plain plate for those in Maine who do not want either theme. There is a possibility that the committee of conference could also make both of these plates a specialty plate. If you want one of these nice looking plates, you pay extra for it. That money could be dedicated toward something like preservation of lighthouses or chickadees. I don't know, but anything. I urge you to take and give the people of the State of Maine the opportunity to have a plain plate. Thank you.

The SPEAKER: The Chair recognizes the Representative from Rockport, Representative Powers.

Representative POWERS: Madam Speaker, Men and Women of the House. Lighthouses are dear to me, as a longtime sailor, as member of the Island Institute and as a coastal resident. They mean a lot to me. However, in representing these two coastal towns, I need to let you know, that I heard from no residents in my district. This was an issue that they needed to have me represent to see that we got the lighthouse on our plates. I am next door to a neighbor who spearheaded the federal preservation project for lighthouses. I did not hear from him. What my job here, as a Representative, is to represent my district, but I am also here to find solutions, which serve in the best interest of the whole state. My wish for us is to come up with that solution. Therefore, I support the Recede and Concur.

The SPEAKER: The Chair recognizes the Representative from Buxton, Representative Vedral.

Representative VEDRAL: Madam Speaker, Men and Women of the House. I have just completed an informal survey of our honorary pages and I want to assure you that their votes were overwhelmingly in favor of the chickadee plate. I would like you to consider that in your vote.

The SPEAKER: The Chair recognizes the Representative from Hartland, Representative Stedman.

Representative STEDMAN: Madam Speaker, Ladies and Gentlemen of the House. My testimony may be ruled as not germane to the subject, but I would like to say that, Sam DiPietro, where are you now?

The SPEAKER: The Chair recognizes the Representative from Westbrook, Representative Lemke.

Representative LEMKE: Madam Speaker, Men and Women of the House. I purchased my books at Barnes and Noble. That is why, for \$1.25, a book called *America*, by Charles Hillinger with a forward by Charles Kuralt, evidently, if you are Charles, you write books about people and places in all 50 states. I flipped through this to see if there was any state where there was a story related to birds. I found one. It is Minnesota. The looniest state in the lower 48. I looked at Maine and lo and behold, they didn't pick the chickadee. They picked a lighthouse and the title is, *Maine, Islanders of Maine, a hardy bunch*. Ladies and gentlemen, I meet with chickadees every morning when I am not up here. They are up back and I go out and commune with them. They are a pleasant cheery little bird. My grandmother used to teach, in class, a song. Dear little birds, feed the birds, dear little birds feed us. That will be the closest to poultry that I will ever perform on the floor, which Representative Gamache is immediately assenting to. Hardy bunch, no funny thing about Maine. Nothing about being loony. What do they associate it with, they associate it with the islands. In this case, the islands of Casco Bay and the lighthouses there.

I submit to you that when anybody in the United States thinks of Maine, they might think of the lobster. Very obviously they might. Probably the way they think of it is the way we have it, red and cooked. I have talked to many of them who have told me when they go up to the lobster pound, those aren't lobsters, they ain't red. The fact of the matter is though, many people associate Maine with lighthouses. As the good Representative from Auburn said so eloquently before, the lighthouse represents the character of the people of the State of Maine. In all deference, I am an animal lover and I like to see animals in various places. I see a lot of them in the road. Nevertheless, I think we should represent the people, the character of the state. The lighthouse which stands out there, particularly when the fog comes in. I grew up on the coast. I have a lot of knowledge of fog. It comes in useful. When the fog comes in, you don't see the lighthouse, but you see the light. Even if you don't see the light when you are out to sea, which I have often been, you hear the horn. I will tell you, that is a very reassuring sound, because it means the shore is still there, home is still there and Maine is still there.

As long as there is a State of Maine, the lighthouses will be there. Ladies and gentlemen, the lighthouse definitely should be there on the plate.

The SPEAKER: The Chair recognizes the Representative from Calais, Representative Driscoll.

Representative DRISCOLL: Madam Speaker, Men and Women of the House. I am not going to speak a long time here. I think you all have made up your mind. This is a good plate. This is a good issue. This is good for the State of Maine. There are four other states that have lighthouses. When I am out in a boat coming in through the fog, the lighthouse to me, tells me to

stay away, because usually a lighthouse is on a point of land that we do not want to go near, but, at the same time, it does say that close at hand there is a harbor. That task force that I was on, we talked about what was best for the state. We decided that the chickadee, which is the state bird and the pine tassel, which is the state flower and the pine tree, which is the state tree, was what the people in this state would like.

In my area downeast, we have a lighthouse, but I never got one call or one letter saying that I should vote for a lighthouse. I did get quite a few saying vote for the chickadee. I would just like to say a couple of other things here, if I could get to my notes. The loon plate is already ahead of last year and is expected to double this year. We don't consider that the chickadee plate is going to hurt the loon plate because they are buying that plate so that they can put that money into conservation, which is necessary. I agree with that wholeheartedly.

One other thing, the lighthouse can in no way be considered a statewide plate. That pretty much takes that for granted. I submit to you that the chickadee is a statewide resident and does represent a part of our statewide character. Finally, I have had two or three Representatives come to me and tell me that they really don't care either way. To them and to others in the hall of the House who may have that view, I say to you, in all sincerity, I do care. That task force that I worked on all summer and all fall, they care. We were no bureaucrats and we were not politicians. We were people of the State of Maine who wanted to see something good for this state. If it really doesn't matter to you, I ask for your support to Recede and Concur.

This chickadee came in here from the other side to the hall of the House where it belongs with great honor. That bird, we made the state bird in 1927 in this very hall. I believe that there is some honor with this bird. Once again, I ask for your support for this plate that we have worked so hard to come up with. Thank you.

The SPEAKER: The Chair recognizes the Representative from Rumford, Representative Cameron.

Representative CAMERON: Madam Speaker, Ladies and Gentlemen of the House. I have just a couple of comments. If they have been said, I apologize. I had to step out for a few minutes. One thing that I think is important to remember, we have heard that the children came up with this, it is a good idea. They worked hard. They learned about the process of democracy. Somebody mentioned in the last debate that the process of democracy doesn't always mean that you win. The piece that bothers me about this, and I think everyone understands, that I am opposed to the lighthouse plate, but if that is what it is, so be it. The piece that bothers me about this is what I understand happened in the committee. The committee had accepted the task force report and it was pretty much a done deal. The children came and out of respect to the children, they let them testify. There were other people with other opinions that didn't get an opportunity. I have concern about that. To say that we are doing it because of the children, I have a real problem because those folks had other opinions did not have an opportunity to testify in the public hearing because the decision had been made and others had been told it is a done deal and there isn't going to be any more debate about it. The committee didn't hear the input from all of the factions around the state and I have a concern about that. I would suggest that if we are going to ignore the task force, that we don't create any more. It makes a lot of sense to me that we just don't create them, if we are going to ignore them. Why spend the money? Thank you.

The SPEAKER: The Chair recognizes the Representative from Westbrook, Representative Lemke.

Representative LEMKE: Madam Speaker, Men and Women of the House. I will repeat what I said yesterday, like the south, I won't rise again, but I do want to respond to the comments from the good Representative from Rumford. In fact, there was not just the one bill for the lighthouse that was heard after the committee had made its taskforce vote. There was another bill and I know because I presented it and it essentially was a prochoice license plate bill, which would have had a plain plate. Many people, talking about calls, I would say that it broke the calls that I got. Lighthouse was number one, a very close second the plain plate and trailing somewhat, the chickadee. There is a great concern for that. The bill that I put in, you would have gotten the plain plate directly pay for that, with the option of having other items if you wish to pay the specialty plate cost. In fact, through the decal system, we have high resolution quality decals, they are not like the old ones we used to have on campers and then you could have whatever. You could have loons or chickadees or whatever else. I was a bit upset, but I understand how the process worked. The committee had also voted the task force before my bill was heard, as well as that representing the children. That is the record and that is that as far as that is concerned.

The other thing I would like to address is the issue of the children putting forward a plate. I will confess that when this first came up, I had memories of our fist go round with the children, I believe, from the Saco area who came in for the lobster and the House and Senate voted for it. I learned two things in the process. The first thing I learned was historical. That is, when the children pushed the lobster, in fairness to them, they pushed a real live lobster. Somehow after the vote it got transmuted and changed into the squashed dead crustacean that showed up on the plate. In fairness to those kids, they didn't get on the plate what they wanted any more than many people did.

The second thing I learned was an educational thing. It relates in some ways of what we have been saying about education. You shouldn't downgrade the ability of our children. They made a very effective case and I think everybody argued that the case they made in that committee was easily as impressive as what has been seen in that or in the committee that I have been seated on. They were very articulate. They had done their homework. They gave a compelling case. They never lost their temper as some of us do when they didn't seem to be getting their way. They were perfect gentlepersons on this. On the basis of their presentation, it would be totally wrong to say that this is one of these feel good kiddy things, because it was not. To me, it demonstrated that even without some forms, our children can do very well and speak very well for themselves I don't think it is fair, certainly in terms of these children, to say it was a kiddy thing. I wasn't a kiddy thing. It was a very adult thing the way it was presented. Again, I will adhere to my promise to the good Speaker. I shall not rise again, but I certainly urge you to vote correctly on this so we can move on to get a license plate, which represents the people of Maine, not the bird population.

The SPEAKER: The Chair recognizes the Representative from Rockland, Representative Chartrand.

Representative CHARTRAND: Madam Speaker, Men and Women of the House. I just would warn us that if we do not Recede and Concur and end up with a committee of conference, one of the possibilities is, as Representative Lindahl said, a plain plate. We might lose the opportunity to have either of these nice graphic representations of the state. That is a danger here, if we can't agree with the overwhelming vote in the Senate. I would hate to see us lose both of these designs today. I would urge you to vote green for the chickadee. Thank you.

The SPEAKER: The Chair recognizes the Representative from Berwick, Representative Wright.

Representative WRIGHT: Madam Speaker, Men and Women of the House. As I said before, there is compromise in the works. If we simply Recede and Concur, this compromise cannot go forward. Let's make the whole process work. Let's go to the committee of conference and get this compromise hammered out. Thank you.

The SPEAKER: The Chair recognizes the Representative from Calais, Representative Driscoll. Having spoken twice now requests unanimous consent to address the House a third time. Is there objection? Chair hears no objection, the Representative may proceed.

Representative DRISCOLL: Madam Speaker, Men and Women of the House. I am sorry to stand up for the third time, but there is one thing I did not say. I would like to thank the way that this House, this body, and the other body have used this bill, the students and the teachers from the other areas. I do hope that you will vote to Recede and Concur. The committee did say that the children's plate would not be lost. When the moratorium comes off the vanity plates, they could seriously consider coming in to us with a vanity plate and I think it probably would pass. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is to Recede and Concur. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 186

YEA - Ahearn, Bagley, Baker JL, Barth, Belanger DJ, Belanger IG, Berry DP, Bolduc, Bouffard, Bragdon, Bruno, Bull, Bumps, Bunker, Cameron, Campbell, Chartrand, Clark, Clukey, Colwell, Cowger, Cross, Desmond, Donnelly, Driscoll, Etnier, Fisher, Gagne, Gagnon, Gamache, Gieringer, Gooley, Hatch, Jabar, Jones SL, Jones SA, Joy, Kneeland, Kontos, Labrecque, LaVerdiere, Lovett, Madore, McAleve, McElroy, Meres, Mitchell JE, Morgan, O'Neil, Paul, Peavey, Perkins, Perry, Pinkham WD, Poulin, Povich, Powers, Quint, Rines, Rowe, Samson, Savage, Saxl JW, Saxl MV, Sirois, Skoglund, Stedman, Stevens, Tessier, Thompson, Tobin, Townsend, Tripp, Vedral, Vigue, Wheeler EM, Winsor, Madam Speaker.

NAY - Baker CL, Berry RL, Bigl, Bodwell, Brennan, Brooks, Buck, Carleton, Chick, Chizmar, Cianchette, Davidson, Dexter, Dunlap, Dutremble, Farnsworth, Fisk, Foster, Frechette, Fuller, Gerry, Goodwin, Green, Honey, Jones KW, Joyce, Joyner, Kane, Kasprzak, Kerr, Lane, Layton, Lemaire, Lemke, Lemont, Lindahl, MacDougall, Mack, Mailhot, Marvin, Mayo, McKee, Murphy, Muse, Nass, Nickerson, O'Brien, O'Neal, Ott, Pendleton, Pieh, Pinkham RG, Plowman, Shannon, Shiah, Snowe-Mello, Spear, Stanley, Taylor, Treadwell, True, Tuttle, Underwood, Usher, Volenik, Waterhouse, Watson, Wheeler GJ, Winglass, Winn, Wright.

ABSENT - Richard, Sanborn.

Yes, 78; No, 71; Absent, 2; Excused, 0.

78 having voted in the affirmative and 71 voted in the negative, with 2 being absent, the motion to Recede and Concur did prevail.

Non-Concurrent Matter

JOINT RESOLUTION (H.P. 1240) RELATIVE TO MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO REQUEST THAT THE BALANCED BUDGET AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES BE SUBMITTED TO THE STATES FOR RATIFICATION which was read and adopted in the House on April 8, 1997.

Came from the Senate, failing of adoption in non-concurrence.

Representative DONNELLY of Presque Isle moved that the House Insist.

The same Representative requested a roll call on the motion to Insist.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: A roll call has been ordered. The pending question before the House is to Insist. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 187

YEA - Barth, Belanger DJ, Belanger IG, Berry DP, Bigl, Bodwell, Bragdon, Bruno, Buck, Bumps, Cameron, Campbell, Carleton, Chick, Chizmar, Cianchette, Clukey, Colwell, Cowger, Cross, Dexter, Donnelly, Fisk, Foster, Gerry, Gieringer, Goodwin, Gooley, Honey, Jones SA, Joy, Joyce, Joyner, Kasprzak, Kerr, Kneeland, Labrecque, Lane, Layton, Lemke, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, Marvin, Mayo, McAlevey, McElroy, Meres, Murphy, Nass, Nickerson, O'Brien, Ott, Peavey, Pendleton, Perkins, Pinkham RG, Pinkham WD, Plowman, Povich, Savage, Snowe-Mello, Spear, Stedman, Taylor, Tobin, Treadwell, True, Tuttle, Underwood, Usher, Vedral, Vigue, Waterhouse, Wheeler EM, Wheeler GJ, Winglass, Winsor.

NAY - Ahearne, Bagley, Baker CL, Baker JL, Berry RL, Bolduc, Bouffard, Brennan, Brooks, Bull, Bunker, Chartrand, Clark, Davidson, Desmond, Driscoll, Dunlap, Dutremble, Etnier, Farnsworth, Fisher, Frechette, Fuller, Gagne, Gagnon, Gamache, Green, Hatch, Jabar, Jones KW, Jones SL, Kane, Kontos, LaVerdiere, Lemaire, Mailhot, McKee, Mitchell JE, Morgan, Muse, O'Neal, O'Neil, Paul, Perry, Pieh, Powers, Quint, Rines, Rowe, Samson, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Stanley, Stevens, Tessier, Thompson, Townsend, Tripp, Volenik, Watson, Wright, Madam Speaker.

ABSENT - Poulin, Richard, Sanborn, Winn.

Yes, 81; No, 66; Absent, 4; Excused, 0.

81 having voted in the affirmative and 66 voted in the negative, with 4 being absent, the motion to Insist does prevail.

COMMUNICATIONS

The following Communication: (S.P. 650)

118TH MAINE LEGISLATURE

May 12, 1997

Senator Sharon Treat
Representative Steven Rowe
Chairpersons
Joint Standing Committee on Natural Resources
118th Legislature
Augusta, Maine 04333

Dear Senator Treat and Representative Rowe:

Please be advised that Governor Angus S. King, Jr. has nominated Dennis L. Higgins and Warren Balgooyen for appointment as members of the Land for Maine's Future Board.

Pursuant to Title 5, MRSA Section 6204, this nomination will require review by the Joint Standing Committee on Natural Resources 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 **Natural Resources**.

Was read and referred to the Committee on **Natural Resources** in concurrence.

The following Communication: (H.C. 254)

**STATE OF MAINE
OFFICE OF THE GOVERNOR
1 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0001**

May 13, 1997

To Honorable Members of the 118th Legislature,

Enclosed please find H.P. 426, L.D. 576, "An Act to Increase the Number of High-stakes Beano Games," which I am returning without my signature or approval.

This was a difficult decision. It was made with the full understanding that economic development opportunities must be expanded for Maine's two Indian tribes and for all Maine people, particularly those who live Downeast where unemployment remains high. We must and we will continue to work on improving both the quantity and quality of jobs for people in eastern Maine by expanding such long-term economic opportunities as cranberry production, aquaculture and wood processing.

But expanding opportunities for people to gamble their weekly paychecks is not economic development. The experience of other states has shown that gambling doesn't create wealth for local communities, but instead results in a decline in spending at local restaurants, hardware stores, bowling alleys and other establishments as more and more people spend their discretionary dollars at gambling operations. And make no mistake: this bill would turn what is now an occasional weekend pastime into a major year-round gambling enterprise. A 40 weekend-a-year high-stakes beano operation would change the character of the community in which it is located and change the character of Maine for the worse.

High-stakes gambling has its fast-buck appeal, but as a long-term economic strategy, it is the wrong approach. No matter what group proposes to sponsor these operations - be it the Indian tribes or any other organization - I will continue to oppose the expansion of high-stakes gambling in Maine. I am simply not persuaded that they are the right direction for our state.

Because of the objections outlined above, I am in firm opposition to L.D. 576 and I respectfully urge you to sustain my veto.

Sincerely,
S/Angus S. King, Jr.
Governor

Was read and ordered placed on file.

The accompanying Bill "An Act to Increase the Number of High-stakes Beano Games" (H.P. 426) (L.D. 576)

On motion of Representative TUTTLE of Sanford, tabled pending reconsideration and later today assigned.

**PETITIONS, BILLS AND RESOLVES REQUIRING
REFERENCE**

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

Health and Human Services

Resolve, Regarding Legislative Review of Chapter 6: Regulations Relating to Coordination and Oversight of Patient Care Services by Unlicensed Health Care Assistive Personnel, a Major Substantive Rule of the Maine State Board of Nursing (EMERGENCY) (H.P. 1328) (L.D. 1877) (Submitted by the

Maine State Board of Nursing pursuant to the Maine Revised Statutes, Title 5, section 8072.)

Legal and Veterans Affairs

Resolve, to Allow Certain Employees to Continue to Sue the State to Recover Wages Improperly Denied under Federal Wage and Hour Laws (H.P. 1327) (L.D. 1876) (Presented by Representative KONTOS of Windham) (Cosponsored by President LAWRENCE of York and Representatives: MITCHELL of Vassalboro, SAXL of Portland, Senators: PINGREE of Knox, RAND of Cumberland) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.)

Utilities and Energy

Bill "An Act to Permit the Public Utilities Commission to Grant an Emergency Rate Increase" (EMERGENCY) (H.P. 1325) (L.D. 1875) (Presented by Representative JONES of Bar Harbor) (Cosponsored by Senator CAREY of Kennebec and Representatives: COLWELL of Gardiner, JOY of Crystal, LaVERDIERE of Wilton, O'NEAL of Limestone, TAYLOR of Cumberland, USHER of Westbrook) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.)

By unanimous consent, all matters having been acted upon were ordered sent forthwith.

SPECIAL SENTIMENT CALENDAR

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

Recognizing:

Elizabeth Manchester, of Litchfield, Principal of the Mount Ararat Middle School, in Brunswick, who is the recipient of the National Distinguished Principal of the Year 1997 award by the Maine Principals' Association. We extend our congratulations on this occasion; (SLS 202)

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

On further motion of the same Representative, tabled unassigned pending passage.

REPORTS OF COMMITTEES

Ought to Pass Pursuant to Joint Order (H.P. 1316)

Representative VIGUE from the Committee on **Business and Economic Development** on Bill "An Act to Provide Regulation of Payroll Processing Companies" (H.P. 1329) (L.D. 1878) reporting "**Ought to Pass**" Pursuant to Joint Order (H.P. 1316)

Report was read and accepted. The Bill read once and assigned for second reading Thursday, May 15, 1997.

Divided Report

Majority Report of the Committee on **Taxation** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-451) on Bill "An Act to Grant Tax-exempt Status to the Scottish Rite Masonic Children's Learning Centers, Inc." (H.P. 158) (L.D. 200)

Signed:

Representatives: TRIPP of Topsham
GREEN of Monmouth
GAGNON of Waterville
MORGAN of South Portland
SPEAR of Nobleboro
LEMONT of Kittery
CIANCHETTE of South Portland
ROWE of Portland
TUTTLE of Sanford

Minority Report of the same Committee reporting "**Ought Not to Pass**" on same Bill.

Signed:

Senators: RUHLIN of Penobscot
DAGGETT of Kennebec
MILLS of Somerset

Representative: BUCK of Yarmouth

Was read.

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

The SPEAKER: The Chair recognizes the Representative from Carmel, Representative Treadwell.

Representative TREADWELL: Madam Speaker, Ladies and Gentlemen of the House. I would just like to speak on this bill to explain what the Scottish Rite Masonic Learning Centers what they are about and what they do. The centers are supported by donations. No tax dollars are used for the establishment or operation of the centers. They are similar to a couple of other organizations that most of you are probably already familiar with, The Shriner's Hospital for Crippled Children and the Shiner's Burn Centers. The Learning Centers provide screening and remedial training programs for school age children with dyslexia. As the educators here know, early detection of dyslexia is very important for an affected child.

The first center in Maine opened in Bangor on April 1st of this year. With three students from Millinocket, Bangor and Brewer. The second class with three students from Glenburn, Milford and Bucksport has already started. One of those children has since been removed from the class because that child's disability was not related to dyslexia. When the fall class starts in September, the center will be ready to expand to its capacity to 36 students. It is possible that one or more additional centers will open in Portland, Lewiston, Auburn, Augusta and Rockland. This bill asks only for sales tax exemption for materials and supplies purchased by the centers. There is a fiscal note, which is Committee Amendment "A" attached to the bill, which will cost from the general fund and revenue sharing for a total of \$215 and \$12 respectively for the first year and \$710 and \$38 respectively for the second year. It is a total of \$975 on the fiscal note.

These centers are already tax exempt under Internal Revenue Service, Rule 501C3. Surely the service that they provide and the savings to our schools and communities will more than repay for this lost revenue. The state has 77 different categories of sales and businesses that are sales tax exempt. Last year the cost of these exemptions was more than \$850 million. The following is a small sample of those exemptions. As I read these, please try to compare the merits of these exemptions to the learning centers. Private schools and colleges, camp rentals, coin operated vending machines, railroad track materials, incorporated nonprofit animal shelters, providers of sports systems for single parent families, organizations that create and maintain a registry of Vietnam veterans, state chartered credit unions, seedlings for commercial forestry use, amusement and recreational services. Before we adjourn this session, we will be asked to vote on \$100 million credit package for Bath Iron Works.

The question is not, should we grant this exemption, but the question is how can we justify not granting the exemption?

The Chair ordered a division on the motion to accept the Majority "**Ought to Pass**" as amended Report.

A vote of the House was taken. 89 voted in favor of the same and 8 against, the Majority "**Ought to Pass**" as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (H-451) was read by the Clerk and adopted. The Bill was assigned for second reading Thursday, May 15, 1997.

Divided Report

Majority Report of the Committee on **Agriculture, Conservation and Forestry** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-445) on Bill "An Act to Provide Information to the Maine Land Use Regulation Commission" (H.P. 757) (L.D. 1034)

Signed:

Senators: KILKELLY of Lincoln
PARADIS of Aroostook
CASSIDY of Washington

Representatives: BUNKER of Kossuth Township
SAMSON of Jay
VOLENIK of Brooklin
SHIAH of Bowdoinham
GOOLEY of Farmington
BAKER of Dixfield
McKEE of Wayne
CROSS of Dover-Foxcroft

Minority Report of the same Committee reporting "**Ought Not to Pass**" on same Bill.

Signed:

Representatives: LANE of Enfield
DEXTER of Kingfield

Was read.

On motion of Representative BUNKER of Kossuth Township the Majority "**Ought to Pass**" as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (H-445) was read by the Clerk and adopted. The Bill was assigned for second reading Thursday, May 15, 1997.

Divided Report

Majority Report of the Committee on **Transportation** reporting "**Ought Not to Pass**" on Bill "An Act to Require That a Person under 16 Years of Age Wear Protective Headgear when Riding a Bicycle" (H.P. 761) (L.D. 1038)

Signed:

Senators: O'GARA of Cumberland
CASSIDY of Washington

Representatives: FISHER of Brewer
JOYCE of Biddeford
CLUKEY of Houlton
CHARTRAND of Rockland
LINDAHL of Northport
DRISCOLL of Calais
BOUFFARD of Lewiston
SAVAGE of Union

Minority Report of the same Committee reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-450) on same Bill.

Signed:

Representatives: WINGLASS of Auburn
WHEELER of Eliot

Was read.

On motion of Representative SAXL of Portland, tabled pending the acceptance of either Report and later today assigned.

Divided Report

Majority Report of the Committee on **Banking and Insurance** reporting "**Ought Not to Pass**" on Bill "An Act to Establish the Maine Single-payor Health Care Plan and to Restructure the State Tax System" (H.P. 1229) (L.D. 1741)

Signed:

Senators: LaFOUNTAIN of York
MURRAY of Penobscot
ABROMSON of Cumberland

Representatives: MAYO of Bath
PERRY of Bangor
DAVIDSON of Brunswick
SAXL of Bangor
WINN of Glenburn
O'NEIL of Saco
BRUNO of Raymond
STANLEY of Medway
JONES of Pittsfield

Minority Report of the same Committee reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-447) on same Bill.

Signed:

Representative: CARLETON of Wells

Was read.

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

Representative CAMPBELL of Holden requested a roll call on the motion to accept the Majority "**Ought Not to Pass**" Report.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: The Chair recognizes the Representative from Brooklin, Representative Volenik.

Representative VOLENIK: Madam Speaker, Men and Women of the House. I urge you to vote against the pending motion. I intend to spend a few minutes explaining why. This is undoubtedly the longest speech you will hear from me during this year. I apologize in advance for spending so much time on a 12 to 1 report.

One hundred and fifty thousand Mainers, including 36,000 children have no health insurance. Thirteen percent of Mainers with health insurance are underinsured. High deductibles mean large out-of-pocket expenses often for those who can least afford them. In 1993, the average Maine family spent \$4,350 per year for health care. Low-income families spend 33 percent of their income for health care and state and local taxes combined. Wealthy families, on the other hand, spend only 18 percent of their income for health care and state and local taxes. Managed care is growing less popular as recipients find their choice of providers limited and providers find their ability to prescribe treatment compromised by medical decisions made by insurers nurturing bottom line profits, rather than by providers who see firsthand what treatment is necessary.

Private insurance profits in overhead vary from 20 to 30 percent. Proven single-payor systems can operate at 5 percent in administrative costs on a nonprofit basis. Thus, switching to a single-payor system would save Maine people between \$300 and \$800 million annually in medical costs. Health care for employees is a major payroll cost to businesses in this state. If health care payroll costs are too high, it will be difficult to attract

or grow new businesses in Maine. For businesses, money spent on health care means fewer resources to invest in other priorities, such as higher wages, capital improvements, research and development or job training.

What is the cost to businesses currently? Eighty-nine percent of firms paying over 12 percent of payroll for health care are small businesses with fewer than 20 employees. It is time to remove payroll health care costs from the many burdens faced by Maine businesses. The paperwork reduction alone will free up at least \$30 million employee hours annually for more productive work and huge cost savings to the employer. As single-payor systems will also reduce paperwork, time and cost for providers so the provider can spend more time providing health care. In its 1995 report, the Maine Health Care Reform Commission wrote, and I quote, "The Maine Health Care Reform Commission adopted as one of its guiding principles the tenant that all Maine residents should have coverage for and access to affordable and high-quality health care services. This access is facilitated by a second principle stating that all benefit packages should include coverage of essential health services with an emphasis on wellness and prevention."

LD 1741 carries out these principles. Here is what the bill does. It establishes the Maine single-payor health care plan to provide health care coverage to all citizens of the state. It emphasizes cost containment, choice of provider and access to comprehensive, preventive and long-term care. It establishes the Department of Health Security to administer the plan, to set reimbursement rates, adopt rules, contract with providers, develop a budget and conduct public hearings regarding resource allocations, revenue and services. Covered services will include inpatient and outpatient provided by health care facilities, medical and other professional services including prenatal, maternity, hearing and eye care, dental, immunizations, preventive care, long-term care, prescription drugs and mental health. This system will combine state and federal financing of health care with the continued private delivery of health care. Costs will be shared among the entire population of the state and risks will be shared. In a sense, this is the way insurance is supposed to work. We are all in the pool and we all share the costs. The sick cannot be weeded out of the system through higher premiums and providers cannot be eliminated because they prescribe treatment not authorized by a distant insurance company cost analysis. No longer will doctors be forced to prescribe only what an insurance company authorizes.

When this plan is fully implemented long-term care will be front loaded. By paying for this care now through our tax system, no one need lose his house or his assets in order to receive long-term care. Individuals will have free choice of all providers in the state, the department being the only insurer in the state, will be the single bargaining entity and by its size will maximize its ability to negotiate contracts with providers. The department will seek waivers to bring Medicaid and Medicare recipients into the system. The system will be funded through the general fund. Corporate and individual income tax rates will increase. Most sales tax exemptions and exclusions will be eliminated. As amended, food will still be exempt from the sales tax. Medicaid, Medicare and other federal programs will be folded into the system as will medical coverage for state employees, retirees and state payments for public health. Administrative savings and elimination of insurance company profits will leave a net cost to the system of between \$1.5 and 2 billion annually to be raised through taxes. Eliminating sales tax exemptions and exclusions will draw in more revenue from tourists and nonresidents. An average Maine family may see a \$300 annual increase in sales tax based on \$5,000 worth of newly taxable products or services. Loss of some of the exemptions will negatively impact some

business, but it will create a level playing field and will broaden the tax base to provide tax stability through up turns and down turns of the economy. If more revenue is generated than anticipated, the sales tax rate may be reduced to 5 percent or less. Alternately, those exemptions or exclusions valued more highly by the Legislature may be retained or reinstated as deemed appropriate.

Increasing income tax rates will have varying impact on taxpayers at different income levels. Rates will be simple, 10 percent, 15 percent and 20 percent. As in current Maine law, single filers will move to higher rates at lower incomes than families. A lower income family with high health insurance premiums or high out-of-pocket medical expenses would see a considerable decrease in total state taxes and health care costs under the new system. For instance, if you earn \$22,500 and support a family of four, you would pay \$2,400 a year for high-deductible insurance policy. That is \$1,200 in out-of-pocket costs for health care, glasses, dental, prescription drugs, etc. That is \$466 in state income tax and \$300 in state sales taxes. The total, \$4,366. Under the new health plan, you might pay \$0 for health insurance, \$100 in copayments, \$1010 in state income tax and \$600 in sales taxes. The total, \$1,710 for an annual savings of \$2,656. For most lower and middle income people, this new system will save money. About 90 percent of residents who pay for health insurance will have more disposable income from this plan. If the new tax rates begin to bring in more revenue than needed or if we become healthier, because of increased attention to prevention of health problems, rather than their emergency management, of course, rates can be adjusted downwards.

Corporate income tax rates will also go up. They will range from 7 to 25 percent. About 87 percent of Maine businesses will be at the 7 percent rate. Businesses will see much lower payroll expenses. Companies with low bottom line profits and small companies with low income and high health care payroll taxes will see lower costs and more disposable income. Without the fear of high health care costs, businesses would perceive Maine to be an excellent climate for relocation, expansion or new development. We would finally be able to compete with our Canadian neighbors, whose lower health care costs and lack of insurance company profits and overhead allow Canadian business to undercut us in salmon, wood pulp and other across border trade items. Where an employer pays less under the single-payor plan, the employer could pass part of the savings on to the employee in higher wages, thus further stimulating the local economy and offsetting any tax increase to the employee.

One major problem faced by all states facing health care reform is the Federal Retirement Income Security Act. Single-payor systems run by the state or federal government and funded through general fund taxation, should not run into the Federal Retirement Income Security Act problems and this was the problem last year with the single-payor system that the Health Care Reform Commission came up with. It was to be partially financed through a payroll tax. However, the Supreme Court has not yet ruled on a state run single-payor plan and there is always the threat that this proposed plan could be challenged in the court system by insurance companies, which stand to lose operating ability, income and profits from a switch to a single-payor plan. Self-insuring businesses operating across state lines will find it more lucrative not to self-insure in Maine and will probably not contest the system in the courts.

The transition period necessary to set up the plan will undoubtedly face unforeseen problems, existing insurance contracts must be honored or negotiated out, initial phase in problems and expenses overcome. Expertise may be difficult to obtain and estimates of both cost and revenue may prove to be

inaccurate. Despite these problems, the plan will eventually become as vital as our highway system, our education system, our defense system and our retirement system. Health care will become a right and a community and business asset rather than a privilege. Maine will once again lead the nation in economic and social vision. Thank you for considering this proposal. The key provision of the bill is that it simply be voted out to the people to decide in referendum in November of 1998. If you have reservations about this plan, or even if you prefer the more expensive and less inclusive system that we now have, you should give the people the ultimate choice through referendum. The people of Maine are smart enough to figure out for themselves in the give and take of a referendum debate what health care delivery system will work best for the people of this state. I urge you to vote against the pending motion. Thank you.

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

Representative SAXL: Madam Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative SAXL: Madam Speaker, Ladies and Gentlemen of the House. To the Representative from Wells, Representative Carleton, I am just curious about the Representative's position on this issue and why he chose to take out a Minority Report.

The SPEAKER: The Representative from Portland, Representative Saxl has posed a question through the Chair to the Representative from Wells, Representative Carleton. The Chair recognizes that Representative.

Representative CARLETON: Madam Speaker, Ladies and Gentlemen of the House. I reported this bill out of committee by voting yes at the request of the sponsor of the bill.

The SPEAKER: The Chair recognizes the Representative from Bangor, Representative Saxl.

Representative SAXL: Madam Speaker, Men and Women of the House. I ask you to support the committee report, which was 12 to 1 report in opposition to this bill. It is with a great deal of respect to Representative Volenik, who I admire a great deal for the courage of his convictions, who believes in the single-payor plan, as many of us do and went on to spend a great deal of time studying and writing this legislation. However, my more practical side says to me that the State of Maine cannot afford this bill. It costs \$2 billion annually. That is exclusive of any indirect economic impacts that may result from such a substantial increase and I am afraid that that might very well leave the state in a financially difficult position. It would appear that no single-payor plan can be enacted by a state alone because of the fiscal implications. I would ask you to join with me, regretfully, in voting for this plan.

The SPEAKER: The Chair recognizes the Representative from Bath, Representative Mayo.

Representative MAYO: Madam Speaker, Ladies and Gentlemen of the House. I would like to join the good Representative from Bangor, the House Chair of the Banking and Insurance Committee, in urging you to accept the Majority "Ought Not to Pass" Report. I won't take much of your time to debate a 12 to 1 committee report. It is unfortunate, I think, that we do have the one vote, which did lead us into this discussion. I would remind those people who were in the House in the 117th, that this issue was before us at that time and I would remind you that the committee voted it out, unanimously, "Ought Not to Pass." It is correct that the Health Care Reform Commission did discuss this issue. However, they too did not feel that it was proper to bring it before this Legislature because the state could not afford the cost. Personally, I think, at some point, we will see some type of a single-payor or universal health care system.

However, to be realistic, it must be done on a national level. State by state, it is impossible. If we move forward with the good Representative's bill, this state would become a wasteland as far as businesses are concerned. The tax upon business to support it would quickly see all of the major businesses in this state exit through Kittery and across the bridge into New Hampshire. Ladies and gentlemen, I urge you to accept the committee recommendation, which is "Ought Not to Pass." Thank you.

Representative TUTTLE of Sanford moved that the Bill and all accompanying papers be indefinitely postponed.

The same Representative requested a roll call on his motion to indefinitely postpone the Bill and all accompanying papers.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of the Bill and all Accompanying Papers. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 188

YEA - Ahearne, Bagley, Baker JL, Barth, Belanger DJ, Belanger IG, Berry DP, Berry RL, Bigl, Bodwell, Bouffard, Bragdon, Bruno, Buck, Bumps, Bunker, Cameron, Campbell, Carleton, Chartrand, Chick, Chizmar, Cianchette, Clukey, Colwell, Cross, Davidson, Desmond, Dexter, Donnelly, Driscoll, Dutremble, Etnier, Farnsworth, Fisher, Fisk, Foster, Frechette, Gagnon, Gamache, Gerry, Gieringer, Goodwin, Gooley, Hatch, Honey, Jabar, Jones SL, Jones SA, Joy, Joyce, Joyner, Kane, Kasprzak, Kneeland, Kontos, Labrecque, Lane, LaVerdiere, Layton, Lemaire, Lemke, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, Mailhot, Marvin, Mayo, McAlevey, McElroy, Meres, Murphy, Muse, Nass, Nickerson, O'Brien, O'Neal, O'Neil, Ott, Paul, Peavey, Pendleton, Perkins, Perry, Pieh, Pinkham RG, Pinkham WD, Plowman, Poulin, Povich, Powers, Quint, Rines, Rowe, Savage, Saxl JW, Saxl MV, Sirois, Snowe-Mello, Spear, Stanley, Stedman, Taylor, Tessier, Thompson, Tobin, Townsend, Treadwell, Tripp, True, Tuttle, Underwood, Usher, Vedral, Vigue, Waterhouse, Wheeler EM, Wheeler GJ, Winglass, Winn, Winsor, Wright, Madam Speaker.

NAY - Baker CL, Bolduc, Brennan, Brooks, Bull, Clark, Cowger, Dunlap, Fuller, Gagne, Green, Jones KW, McKee, Mitchell JE, Samson, Shannon, Shiah, Skoglund, Stevens, Volenik, Watson.

ABSENT - Kerr, Morgan, Richard, Sanborn.

Yes, 126; No, 21; Absent, 4; Excused, 0.

126 having voted in the affirmative and 21 voted in the negative, with 4 being absent, the Bill and all accompanying papers were indefinitely postponed and sent up for concurrence.

CONSENT CALENDAR

First Day

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

(S.P. 88) (L.D. 268) Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$20,000,000 for Landfill Closure and Remediation" Committee on **Appropriations and Financial Affairs** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-213)

(S.P. 382) (L.D. 1241) Bill "An Act to Improve the Delivery and Financing of Long-term Care" Committee on **Health and Human Services** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-208)

(S.P. 557) (L.D. 1683) Bill "An Act to Clarify Issuance of the Writ of Possession" Committee on **Legal and Veterans Affairs**

reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-212)

(H.P. 755) (L.D. 1032) Bill "An Act to Simplify the Filing of Claims in Probate Estates" Committee on **Judiciary** reporting "**Ought to Pass**"

(H.P. 1285) (L.D. 1830) Bill "An Act to Provide Funding for Mental Retardation Day Services for Nonclass Members" (EMERGENCY) Committee on **Appropriations and Financial Affairs** reporting "**Ought to Pass**"

(H.P. 251) (L.D. 315) Bill "An Act to Amend the Laws Regarding Fees Charged in the Elver Fishery" Committee on **Marine Resources** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-457)

(H.P. 626) (L.D. 851) Bill "An Act Directing the Department of Human Services to Apply for a Medicaid Waiver to Allow Spouses to Be Paid as Personal Care Attendants" (EMERGENCY) Committee on **Health and Human Services** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-455)

(H.P. 969) (L.D. 1349) Bill "An Act to Reduce Insurance Premiums by Discouraging Insurance Fraud" Committee on **Banking and Insurance** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-446)

(H.P. 1169) (L.D. 1646) Bill "An Act to Increase the Effectiveness of the Maine Blueberry Commission" (EMERGENCY) Committee on **Agriculture, Conservation and Forestry** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-444)

Under suspension of the rules, Second Day Consent Calendar notification was given.

There being no objection, the Senate Papers were 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.

ENACTORS

Emergency Measure

An Act to Create the Pleasant River Standard Water District (H.P. 1251) (L.D. 1770) (C. "A" H-360)

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. 120 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, Establishing a Blue Ribbon Commission to Study the Effect of Government Regulation on Small Businesses in Maine (S.P. 422) (L.D. 1343) (C. "A" S-183)

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. 122 voted in favor of the same and 10 against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

Emergency Mandate

An Act to Require Prisoners to Pay Court Fines and Family Support (H.P. 781) (L.D. 1069) (C. "A" H-378)

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

On motion of Representative KONTOS of Windham, tabled pending passage to be enacted and specially assigned for Thursday, May 15, 1997.

Emergency Mandate

An Act to Amend the Washington County Budget Process (H.P. 1135) (L.D. 1591) (C. "A" H-385)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. In accordance with the provisions of Section 21 of Article IX of the Constitution, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 129 voted in favor of the same and 7 against, and accordingly the Mandate was passed to be enacted, signed by the Speaker and sent to the Senate.

An Act to Provide Reimbursement to Counties for Persons Jailed on Probation Revocations (H.P. 39) (L.D. 64) (C. "A" H-380)

An Act to Increase the Penalty for Burglary When the Actor has Prior Convictions for Certain Enumerated Crimes (H.P. 264) (L.D. 328) (C. "A" H-384)

An Act to Encourage Collaboration and Cooperation among Agencies in the Interests of Juveniles within the Juvenile Court System (H.P. 376) (L.D. 521) (C. "A" H-379)

An Act to Clarify the Laws Regarding the Board of Licensure in Medicine and Ensure That Physician Discipline Is Reported to the Appropriate Licensing Board (H.P. 394) (L.D. 539) (C. "A" H-359)

An Act to Make Appeals to the Law Court From Revocation of Probation Proceedings Conditional and to Clarify the Matter of Bail Pending Final Disposition of a Motion for Revocation of Probation (H.P. 397) (L.D. 542) (C. "A" H-377)

An Act to Provide Protection from Assault for Emergency Medical Care Providers (H.P. 453) (L.D. 616) (C. "A" H-376)

An Act to Expand the Definition of "Aggravated Criminal Mischief" to Make It a Class C Crime to Damage Property by Fire (H.P. 480) (L.D. 651) (C. "A" H-383)

An Act to Create a Helper Registration Category, to Exempt Certain Persons from Licensure under the Propane and Natural Gas Act and to Eliminate the Tagging Requirement (H.P. 546) (L.D. 737) (C. "A" H-358)

An Act Increasing from 12 Hours to 18 Hours the Time Limit for Registering Deer and Bear (H.P. 643) (L.D. 896) (C. "A" H-370)

An Act to Establish Basic Standards and Procedures for Personal Services Contracting by the State (S.P. 294) (L.D. 945) (C. "A" S-98)

An Act to Ensure That Crime Victims Are Informed of Their Rights (H.P. 783) (L.D. 1071) (C. "A" H-381)

An Act to Provide Flexibility and Costs-savings in Department of Transportation Property Acquisition Procedures (H.P. 1049) (L.D. 1466) (C. "A" H-362)

An Act to Amend the Composition of the Information Services Policy Board and Establish a Task Force on Information Technology in the Public Sector (H.P. 1133) (L.D. 1589) (C. "A" H-357)

Resolve, Requiring the Department of Human Services to Establish a Maximum Contaminant Level for MTBE (H.P. 487) (L.D. 658) (C. "A" H-386)

Resolve, Designating a World War II Monument in Bangor an Official State Memorial and Authorizing the Department of Transportation to Erect Signs Identifying That Memorial (H.P. 1232) (L.D. 1749) (C. "A" H-363)

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

An Act to Prohibit the Inhaling of Toxic Vapors for Effect (H.P. 241) (L.D. 305) (C. "A" H-382)

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

On motion of Representative KONTOS of Windham, was set aside.

On further motion of the same Representative, tabled pending passage to be enacted and specially assigned for Thursday, May 15, 1997.

An Act to Transfer Funds from the Maine Forest Service to the Waldo County Soil and Water Conservation District (H.P. 823) (L.D. 1128) (H. "A" H-375 to C. "A" H-220)

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

On motion of Representative KONTOS of Windham, was set aside.

On further motion of the same Representative, tabled pending passage to be enacted and specially assigned for Thursday, May 15, 1997.

An Act to Remove Restrictions on Items that May Be Auctioned by Public Broadcasting Stations (H.P. 953) (L.D. 1316) (C. "A" H-270; S. "A" S-190)

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

On motion of Representative GAGNE of Buckfield, was set aside.

The same Representative moved that the Bill and all accompanying papers be indefinitely postponed.

Representative MITCHELL of Portland requested a roll call on the motion to indefinitely postpone the Bill and all accompanying papers.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: The Chair recognizes the Representative from Sanford, Representative Tuttle.

Representative TUTTLE: Madam Speaker, Men and Women of the House. This body had voted previously by a significant margin to support this bill. This is a 10 to 2 report of the Committee on Legal and Veterans Affairs. The bill allows brewery, winery and wholesales to donate gift certificates to the Public Broadcasting Station for the purpose of auction. As I said before, the Maine Public Broadcasting Network is seeing significant declines in revenues from both the federal and state government. Maine is one of the few states that presently has this prohibition. The State of New Hampshire does not, and others in the New England states. I think with the growth of microbreweries in Maine, I think it could be a win-win situation for both the Maine Public Broadcasting system and microbreweries and wineries. I think this is a tremendous potential for source of revenue and from our public hearing, as I mentioned before, Maine Public Broadcasting is to committed closely monitoring the process.

The bill also requires that the Bureau of Alcohol be notified in writing for any winery or brewery that makes a donation. The Public Broadcasting Station must ensure that the recipient of the gift certificate is 21, which was a question that was asked previously in the debate. In a sense, this is a double check as

the individual will have to have their ID checked when they redeem their certificate. I would encourage you to support this bill. We did it, as I said before, by a significant margin before and I hope for your continued support. Please defeat the motion.

The SPEAKER: The Chair recognizes the Representative from Rockland, Representative Chartrand.

Representative CHARTRAND: Madam Speaker, Men and Women of the House. I urge you to vote for Indefinite Postponement on this bill. I hate to get up and speak against motherhood, apple pie and Maine Public Broadcasting, but we are doing something with this bill that I just don't think is good public policy, which is to change a liquor law for the benefit of one nonprofit organization in the state. If the committee chose to examine whether this should be permissive for any nonprofit organization or any charity, I would be more inclined to support it. Why we should pick one organization to have a major advantage in their fundraising by being able to auction wine, beer and other spirits just amazes me that we would move in that direction. This organization already has a major advantage in terms of the media at their disposal, television and radio to promote their auction and they do a good job at that and that certainly is their prerogative. To take this advantage in law and be able to use that media power to auction wine and beer, in some other states there are public broadcasting companies that now do that and actually have auctions, once a year, specifically for those kinds of products. Whether or not you support that in concept, I certainly think you should not support it for one organization. I would encourage you to vote for Indefinite Postponement, if for no other reason. We can't be making laws for individual groups and individuals. In this case, this is a major financial advantage and I would caution us against making those kinds of commitments. Thank you.

The SPEAKER: The Chair recognizes the Representative from Westbrook, Representative Lemke.

Representative LEMKE: Madam Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative LEMKE: Madam Speaker, Men and Women of the House. From what I have heard this may be a potentially controversial issue, does the Chief Executive have a position on this issue?

The SPEAKER: The Chair would advise that it is information that is inappropriate for floor debate.

The SPEAKER: The Chair recognizes the Representative from Wayne, Representative McKee.

Representative MCKEE: Madam Speaker, Men and Women of the House. A couple of things I think need to be remembered here. Number one, students participate in those auctions, manning those telephones and follow very closely what items are being auctioned. Number two, families participate in these auctions at home. Children and families decide what they are going to bid on. I think it is a totally inappropriate place to be advertising beer, wine or alcohol. Thank you.

The SPEAKER: The Chair recognizes the Representative from Rumford, Representative Cameron.

Representative CAMERON: Madam Speaker, Ladies and Gentlemen of the House. I urge you to support this motion to Indefinitely Postpone this bill and all its papers. I would ask you to think about the money that we continually try to find. We never have enough for substance abuse. It doesn't make sense to me that we can support, while public broadcasting is a great organization, this with state dollars and support trying to reduce substance abuse with state dollars and now we say to them it is okay for you to be selling the very materials that contributes to the substance abuse problem. While Maine Public Broadcasting does some great things and the auction raises a lot of money, I

don't think there is anybody in this room that doesn't think that Maine Public Broadcasting is a good organization and money well spent by us. I would be very uncomfortable with giving the green light to them to say that you can go ahead and contribute to a problem that goes through our entire economy or our entire society, should I say, which is substance abuse. Some of the previous speakers have talked about children watching this and I just think it is bad public policy and I think it sends the wrong message to our children that a respected organization, like this, is condoning a problem that we have throughout the state. I would encourage you to support the Indefinite Postponement.

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

Representative O'BRIEN: Madam Speaker, Ladies and Gentlemen of the House. In deference to the late hour, I know we have so much more to do, I will just say to Representatives McKee, Cameron and Chartrand a resounding ditto.

The SPEAKER: The Chair recognizes the Representative from Fryeburg, Representative True.

Representative TRUE: Madam Speaker, Ladies and Gentlemen of the House. I am sorry. I put away the notes. I thought this was all taken care of. Two things, one is certainly that I would not be in favor of anything that I thought the young people of today would be able to do willy nilly. However, two things in our observations and our discussion with the committee of jurisdiction. There was no objection from the liquor people that look into these things relative to the laws of the State of Maine. It is in statute that these particular types of programs can do this as long as the safeguards are there. I think this would be far less, I am going to put in a couple of bills myself after hearing some of this about other things that are on TV. I can think of a lot of them. I haven't heard anyone objecting to those. This is not, in the feeling of the committee, something that is open so that this will happen. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Winslow, Representative Vigue.

Representative VIGUE: Madam Speaker, Ladies and Gentlemen of the House. I have been involved in numerous fund raising activities and this should not restrict items that can be used. We are taxing, supposedly, sin items. With the sin dollars that we receive from taxes, we provide money for a lot of programs. I fail to see the difference between taxing and utilizing the dollars that we receive from this tax on alcohol or tobacco or using it as an auction item that is also being used to benefit the people that need it. Ladies and gentlemen, I think that we should oppose the pending motion and go on and support the legislation. Thank you.

The SPEAKER: The Chair recognizes the Representative from Westbrook, Representative Lemke.

Representative LEMKE: Madam Speaker, Men and Women of the House. I have always been a strong supporter of the microbrewery industry in the State of Maine and also of public television. I must rise once to agree with Representative Chartrand, Representative Cameron and others that I am a bit troubled by the message that would be sent if we enacted this. I will also follow the lead of Representative O'Brien and say ditto, although I am not in danger of being a ditto head on this. I urge you to vote for the pending motion. It sends the wrong message, which is appropriate for public broadcasting, I suppose.

The SPEAKER: The Chair recognizes the Representative from Yarmouth, Representative Buck.

Representative BUCK: Madam Speaker, Ladies and Gentlemen of the House. I would remind the good Representative from Westbrook that there is no shame in being a ditto head.

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

Representative MITCHELL: Madam Speaker, Men and Women of the House. I want to echo what Representative True said. There was no opposition at the public hearing. This was really put in in an effort to help public broadcasting whose revenues have declined steadily. I would be very open to expanding this. The bill is for, again, public broadcasting. I would also promote our microbrewery industry. It is seen as partially an economic development tool. I also want to remind us that we auctioned off beer and wine at the legislative auction. I fail to see the problem.

The SPEAKER: A roll call has been ordered. The pending question before the House is to Indefinitely Postpone the Bill and Accompanying Papers. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 189

YEA - Ahearne, Baker JL, Belanger DJ, Belanger IG, Berry RL, Bragdon, Brennan, Buck, Bumps, Cameron, Campbell, Chartrand, Cianchette, Clukey, Dexter, Dutremble, Farnsworth, Foster, Gagne, Honey, Jones SL, Jones SA, Joy, Joyce, Joyner, Kane, Kasprzak, Kneeland, Lane, Layton, Lemke, MacDougall, Mack, Mayo, McAlevey, McElroy, McKee, Meres, Morgan, Nass, Nickerson, O'Brien, Ott, Peavey, Perkins, Pinkham WD, Plowman, Powers, Savage, Skoglund, Snowe-Mello, Spear, Stedman, Tobin, Treadwell, Underwood, Vedral, Waterhouse, Wheeler EM, Winglass, Winn, Winsor.

NAY - Bagley, Baker CL, Barth, Berry DP, Bigl, Bodwell, Bolduc, Bouffard, Bruno, Bull, Bunker, Carleton, Chick, Chizmar, Clark, Colwell, Cowger, Cross, Desmond, Donnelly, Driscoll, Dunlap, Etnier, Fisher, Fisk, Frechette, Fuller, Gagnon, Gamache, Gerry, Gieringer, Goodwin, Gooley, Green, Hatch, Jabar, Jones KW, Kerr, Kontos, Labrecque, LaVerdiere, Lemaire, Lindahl, Lovett, Madore, Mailhot, Marvin, Mitchell JE, Murphy, Muse, O'Neal, O'Neil, Paul, Pendleton, Perry, Pieh, Pinkham RG, Poulin, Povich, Quint, Rines, Rowe, Samson, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Stanley, Stevens, Taylor, Tessier, Thompson, Townsend, Tripp, True, Tuttle, Usher, Vigue, Volenik, Watson, Wheeler GJ, Wright, Madam Speaker.

ABSENT - Brooks, Davidson, Lemont, Richard, Sanborn.
Yes, 62; No, 84; Absent, 5; Excused, 0.

62 having voted in the affirmative and 84 voted in the negative, with 5 being absent, the Bill and all accompanying papers were not indefinitely postponed.

The SPEAKER: The Chair recognizes the Representative from Wayne, Representative McKee.

Representative MCKEE: Madam Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose her question.

Representative MCKEE: Madam Speaker, Ladies and Gentlemen of the House. To anyone who can answer, are beer or wine advertisers allowed to advertise on a children or family show on commercial television?

The SPEAKER: The Representative from Wayne, Representative McKee has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Gardiner, Representative Colwell.

Representative COLWELL: Madam Speaker, Men and Women of the House. I would suggest that sports shows are probably family shows.

Subsequently, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

The Chair laid before the House the following item which was tabled earlier in today's session:

Divided Report

House Divided Report - Committee on **Transportation** - (10) members "**Ought Not to Pass**" - (2) members "**Ought to Pass**" as amended by Committee Amendment "A" (H-450) on Bill "An Act to Require That a Person under 16 Years of Age Wear Protective Headgear when Riding a Bicycle" (H.P. 761) (L.D. 1038) which was tabled by Representative SAXL of Portland pending acceptance of either Report.

On motion of Representative DRISCOLL of Calais the Majority "**Ought Not to Pass**" Report was accepted.

On motion of Representative BRENNAN of Portland, the House reconsidered its action whereby the Majority "**Ought Not to Pass**" Report was accepted.

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

Representative BRENNAN: Madam Speaker, Men and Women of the House. I ask you not to support the current motion. I want to explain why. I believe this is a significant public health and public safety issue that is facing the state. I want to explain why. Earlier today there was a letter that was handed out by Dora Mills, who is the chief public health officer for the State of Maine. What she pointed out is that three-fourths of bicycle deaths in Maine are caused by head injuries and that the risk of head injuries to unhelmeted cyclists are 6.5 times greater than those who wear helmets. More importantly, Maine statistics show that between 1990 and 1994 children under the age of 15 were involved in half of all bicycle crashes. During the same period, five bicycle related deaths occurred to children between five and 14.

In this state every year we spend millions of dollars trying to protect the health and safety of our children. Sometimes that money that we spend is well spent and it achieves the ends that we want to achieve. In this particular instance in the State of Maine now, we do not have a law that requires children to wear bicycle helmets, even though the information and the research is beyond question. The research absolutely shows that in states that have laws where children are required to wear bicycle helmets, there are, in fact, fewer deaths and fewer accidents and lower medical costs. In the State of Maine, we don't have that. Sixteen other states have laws that require bicycle helmets. Eleven other states are currently anticipating or looking at legislation that requires the same laws. Some might say that this is not a public health issue, but this is an individual rights issue. What I would say to you, I believe this is a public health issue and a public safety issue because we also regulate, for minors, the use of alcohol. We regulate licenses for driving. We also have significant legislation regulating the use of tobacco by minors. This issue falls into that category. I urge you to vote against the pending motion so that we can go on to adopt the Minority Report. Thank you.

The SPEAKER: The Chair recognizes the Representative from Manchester, Representative Fuller.

Representative FULLER: Madam Speaker, Men and Women of the House. I would like to support the recommendation of Representative Brennan. He spoke about deaths as a result of head injuries. Deaths tell only part of the story. We know that for every death, 580 children are admitted to emergency rooms, even mild and moderate head injuries have been known to cause lifelong learning disabilities and related problems that interfere with children's lives. I can tell you that as the former director of the Medicaid program, traumatic brain injuries were a major issue that we dealt with frequently. Many of those traumatic brain injuries were the results of bicycle accidents. Considerable

financial burden is associated with these head injuries in addition to the suffering experienced by families.

A child with a head injury potentially faces five to ten years of extensive health care services with an estimated lifetime cost of \$4 million. These statistics reinforce the need to pass this legislation.

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative Bouffard.

Representative BOUFFARD: Madam Speaker, Men and Women of the House. The Majority "Ought Not to Pass" Report was not taken lightly. Every one of us in the committee listened to the testimony that was given. One of the important facts that persuaded me is that a representative from the bicycle coalition came down and testified that many of the helmets that are sold in the retail market today, unless they are properly fitted, they don't work. What needs to be done is that proper education on what type of helmet to be purchased, whether it is fitting that person. That is the type of thing that we need to have done. The bicycle coalition is doing this actively and for the schools. They go into the schools and they really tell the people what needs to be done. I don't think that passing a law that says that you can buy a helmet any place or what have you that may or may not work isn't going to change the amount of deaths that we have or the amount of injuries. What will happen, to reduce injury what everybody needs to do is slow down a little bit. Thank you Madam Speaker.

The SPEAKER: The Chair recognizes the Representative from Auburn, Representative Winglass.

Representative WINGLASS: Madam Speaker, Ladies and Gentlemen of the House. I rise to oppose the motion that is pending before us and I do so because of a personal experience that I had in this business of bicycle helmets. I was returning from work one evening in Maryland, I was greeted by an ambulance up the street. Curious, I walked up the street only to find lying in a pool of blood, my daughter. My daughter was five years old. She had fallen from a bicycle and she had terrible, terrible wounds on her face and head. She was evacuated by State Police helicopter and moved to Johns Hopkins. Johns Hopkins has, in fact, provided us with statistics that reinforce the position that Representative Brennan has taken on this important bill. It was one of the most difficult days in my life and my wife's. We went to Johns Hopkins and, fortunately, our daughter recovered. She didn't recover however until she had had the grueling experience of several days in Johns Hopkins. She was a frequent visitor to the plastic surgeon and an awful lot of pain and anguish. Much of which, in my judgment, could have been prevented had she been wearing a helmet, even one perhaps that wasn't affective as it might have been. I wish she could have had a helmet. I wish I would have been there to insist that she did. Thank you.

The SPEAKER: The Chair recognizes the Representative from Eliot, Representative Wheeler.

Representative WHEELER: Madam Speaker, Ladies and Gentlemen of the House. I rise to oppose the Majority "Ought Not to Pass" Report. I do this too because I had a personal experience. My brother went for a ride with his twin daughters and his older daughter one day and decided to jump on one of their bikes. As he was riding down the hill, he flipped off. He wasn't wearing a helmet. He was taken to the hospital. We sat there for I don't know how many days wondering if he was going to live. This would not have occurred if he had been wearing a helmet. I was guilty of this, but after seeing what my brother went through, he did come around, by the way, I wear a helmet every day now when I ride a bike. I really think this is a good tool to start educating our children at a young age to wear a helmet. As they grow older, they will continue this process.

Maine already has the nations most active statewide programs for distributing low-cost and no-cost helmets. Mandatory use doesn't have to deprive any child of fun bicycling. I just urge you to defeat the pending motion so that we can inherit a law that will help with safety for children riding bicycles.

The SPEAKER: The Chair recognizes the Representative from Penobscot, Representative Perkins.

Representative PERKINS: Madam Speaker, Colleagues of the House. When it comes to children, we all have different ways of looking at the role of government in people's lives. We take a much more protective role. In this situation, as sad and tragic as the anecdotes were, these were family things and there again, they could have decided to ask their children or their relatives, or suggested to wear, with all due respect. Once again, we are asking for a mandate. Are we mandating before we educate? Representative Bouffard suggested we educate and I highly suggest we try that first. I have three questions. First, before we mandate, have we exhausted all efforts at education? The second, in the bill, as far as I can read it and the amendment, it doesn't say where you would be required to wear this helmet. It just says all children under these ages would be required to wear a helmet. It doesn't say along a public way, driveway or field. That part I would like to know about. Third, when you went door-to-door campaigning, did you hear anybody say we need more laws? Specifically, did you hear anybody say that we need a law forcing everybody's children to wear helmets.

The SPEAKER: The Representative from Penobscot, Representative Perkins has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Portland, Representative Quint.

Representative QUINT: Madam Speaker, Men and Women of the House. I am not going to answer those questions, but let me give you an employer's perspective. I developed a supportive employment program at my previous employer and we had to deal with traumatic head injury victims who were either entering or re-entering the job force. I have to tell you that there is nothing more traumatic and more difficult to see than someone having to enter or re-enter the job force as a result of a bicycle accident from not wearing a helmet. Every one of those individuals who entered into that program had said to me that they wished that they were wearing a helmet. You can talk about education and I think that certainly should be a part of all this, but I think it is not irresponsible to mandate the use of a helmet for people riding bicycles under the age of 16. I just have to underscore the cost of what it took to spend weeks, months and sometimes years retraining or training these individuals trying to enter into the workforce was astronomical. Thank you.

The SPEAKER: The Chair recognizes the Representative from Dexter, Representative Tobin.

Representative TOBIN: Madam Speaker, Ladies and Gentlemen of the House. This is a grassroots effort on my part for the last 20 years. I have been a member of the Dexter Sunrise Kiwanis. The major objective of Kiwanis is the safety and protection of youth. For the last 17 years, we have been giving out protective headgear to the fourth graders in the towns of Ripley, Garland, Exeter and Dexter. It has been a very worthwhile project. I have learned a lot about this issue over the last 17 years. I also submitted a bill, very similar to Representative Brennan's bill. As a matter of fact, it was so similar that I decided to withdraw it and support his bill. I went to the committee hearing and was surprised at the great number of people who testified in favor of this bill. I didn't get a chance to go to the work session. Like many of you, we would like to be in two or three places at the same time, but we just don't have that time. I was rather surprised to see the report come out as it did out of committee. There are other laws in the State of Maine in

regards to the wearing of helmets. Children must wear helmets when they are on the back of a motorcycle. They must wear helmets when they are on the back of recreational vehicles. Children who are placed in automobiles must be put in approved car seats and buckled down. Yes, this is another mandate, but we already have several.

I would like to speak briefly of consistency of purpose. I am a new legislator and I learn here every day. I thank the voters in my district for that. I have seen, often times, our will is sometimes broken. To give you an example, I serve on the Criminal Justice Committee and there has been a big effort to come down harder on OUIs. We all know the tremendous influence alcohol has on crime in the State of Maine, especially in domestic abuse. Yet, here we sit and are proposing two new liquor stores in the State of Maine. The gambling issue, we argue over the Passamaquoddy Tribe having a few more weekends for high-stakes beano. Yet, we sell thousands of lottery tickets in this state every day. I ask you. Let's be consistent in the purpose of protecting our most valued resource in this state. We have heard about the whitetail deer. We have heard about our air and our clean water. I ask you to take a second and look at some of these pages that are here today. Let's be consistent in our purpose to protect the children of the State of Maine. Thank you.

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

Representative O'BRIEN: Madam Speaker, Ladies and Gentlemen of the House. You will probably never see me stand and support a motorcycle helmet law. You will never see me support a seatbelt law. I think that is a matter of choice. I see it as very different. This issue is very different. This is a mandate, but I fully am in support of this mandate. We are talking about children. I agree with Representative Bouffard that education needs to be done. The fitting of helmets is very, very important. I will admit that my children's helmets need to be refitted. I say that we do that in conjunction with this law. I would urge you to reject the "Ought Not to Pass" report. I agree as a parent that I should be requiring my children to wear helmets, but it would make it an awful lot easier to say it is the law.

The SPEAKER: The Chair recognizes the Representative from Northport, Representative Lindahl.

Representative LINDAHL: Madam Speaker, Ladies and Gentlemen of the House. You look at both sides of this report and it is bipartisan. You have to think that the majority on this listened to all the testimony on both sides. I wasn't swayed by the personal rights issue. I was swayed by two bicycle safety instructors that came in there wearing all the proper gear and helmets. They sited that proper helmets do save kids from injuries. That is true, but what I was swayed by is improperly fitted helmets can increase injuries. It gives a false sense of protection that you actually do not have. This was the Maine Bike Coalition, two bicycle safety instructors that said this is not a good idea. Thank you.

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

Representative BRENNAN: Madam Speaker, Men and Women of the House. I will respond to a couple of issues that have been raised. The first one having to do whether or not this is education vs. bicycle helmets. One of the people that testified at the public hearing was Dr. David Bockman, who is the Director of Pediatric Emergency Services at Maine Medical Center. He was speaking on behalf of the Executive Committee of the Maine Chapter of the American Academy of Pediatrics. He has done extensive research on this particular issue. What he sited in a Journal of American Association Report in December of 1996, he showed the use of helmets can reduce the risk of serious head

injury by 74 to 85 percent. Absent of education, just the simple use of the helmet, having a helmet on your head, reduces serious injury by 74 to 85 percent. Certainly, education combined with a helmet is the optimum and the best situation, but simply having the helmet has a direct and positive benefit.

Secondly, the issue was raised from the Bicycle Coalition coming and testifying. What I interpreted their testimony as saying is that they thought that education was very important and correctly, they pointed out that if somebody was wearing a helmet and was not wearing it properly, that it may not achieve the ends that you would want it to achieve. Those two people that testified were also helmet salespersons. They were also there talking about the importance of having helmets that cost \$50, \$100 or several hundred dollars. I would say that some of their testimony also reflected an interest they had in making sure that people continue to purchase, unnecessarily, helmets of very high costs.

The Coalition for Safe Children, they get a loan from People's Heritage Bank and each year they bulk purchase over 5,000 helmets. By having this loan and bulk purchasing these helmets, they are able to distribute helmets for \$8 to \$10 across the state to children who are of low income or children who need helmets and don't have sufficient income. These helmets, even though they are sold for \$8 and \$10 meet all the safety requirements. They are shell approved and they meet all the other certifications for approved helmets. When I hear people say that it is more important to have education than wearing a helmet, the facts simply do not support that statement.

The last thing that I want to point out is that there was just recently distributed in the House, by myself, a letter from Gerry Talbot. Gerry Talbot served in this House from 1976 to 1978. He was one of the most distinguished members who ever served in this House. In fact, he was the first African American to ever serve in the State of Maine in the House of Representatives. He has been a friend of mine for the last 20 years. Last summer Gerry was out riding his bicycle and he had a bicycle accident. He was not wearing a helmet. He spent three months in New England Hospital for Rehabilitation recovering from the injuries that he incurred as a result of that bicycle accident. Three weeks ago we had a meeting in Portland for members of the public. Gerry came to that meeting and said, "I will never be the same again. I will never fully recover from the injuries that I had because of the bicycle accident and it is only because I was not wearing a helmet that I sustained the type of injuries that I sustained. I beg you to go back and pass a bicycle helmet law." I think Gerry knows that if we pass this law today, it will not have helped him and it would not have helped you or me, but it would help his grandchildren and the future. Thank you.

The SPEAKER: The Chair recognizes the Representative from Union, Representative Savage.

Representative SAVAGE: Madam Speaker, Men and Women of the House. I was on the "Ought Not to Pass" report. I need to explain my position. We heard some very compelling testimony. It was a hard decision for me to make. I went door-to-door in my district and some of you know what my district consists of. I climbed over or tripped over many, many bicycles. Some of those bicycles were taped together and wired together. They were just holding on. Probably the only thing those kids have to enjoy. Some of those families have four, five or six kids. I ask you, even at \$8 or \$10, how many of those families can afford the helmets? They are going to have to tell their kids that you can't ride that bike anymore. We might just as well take it to the landfill. I agree with everything that has been said in support of this issue, but that was my reason for voting "Ought Not to Pass." Thank you.

The SPEAKER: The Chair recognizes the Representative from Brunswick, Representative Pinkham.

Representative PINKHAM: Madam Speaker, Men and Women of the House. I think it would be wonderful if we were living in a perfect world and we could get every kid in the State of Maine to have a properly fitted helmet on his head. I don't see that is going to happen even if this legislation was passed. I think it is time that we got more responsible for our own actions. I think we have to be responsible for our children's actions. I think that is where the problem lies. I think if a parent wants to protect his child, that he should certainly get him a helmet and that he should wear it at all times. I don't think it is a decision that should be made in this chamber. I would urge you to go along with the "Ought Not to Pass."

The SPEAKER: The Chair recognizes the Representative from Hampden, Representative Plowman.

Representative PLOWMAN: Madam Speaker, Men and Women of the House. This past Saturday was Bike Safety Day sponsored by the Bangor Kiwanis. We gave away hundreds of helmets to families who showed up. You could only get a helmet by going through a safety course. Not only was there education, but there was free helmets and there are hundreds of children that are riding with helmets this week. It didn't cost the family \$6, \$8 or \$10. We are not the only Kiwanis group that does that. There are many groups that do that. I don't think small children should be given the option of deciding what is safe and not safe. They are not able to do that yet. I am going to break another one of my rules and say that we really should make children use helmets. Thank you.

The SPEAKER: The Chair recognizes the Representative from Eliot, Representative Wheeler.

Representative WHEELER: Madam Speaker, Men and Women of the House. I apologize for rising again, but, I too, was in the hearings when they took place. I asked a question about whether free helmets are available. The Safe Kids Coalition say they make helmets available throughout the state. I don't have the exact number in front of me, but the a lot of the area police departments have helmets available to them that they pass out. Madam Speaker, may I request a roll call?

Representative WHEELER of Eliot requested a roll call on the motion to accept the Majority "Ought Not to Pass" Report.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: The Chair recognizes the Representative from Calais, Representative Driscoll.

Representative DRISCOLL: Madam Speaker, Men and Women of the House. We debated this thoroughly, I believe, in Transportation. We also debated it in the 117th and probably in the 116th. I think we all came to the same decision. We defeated it in the last term. Of course, the problem is, simply stated, it is a mandate. I feel sorry and saddened by the stories of accidents, like what happened to Representative Winglass's family and that cannot be helped. I would just like to read you a couple of things that we did here in committee. This is from the Bicycle Coalition of Maine. The Bicycle Coalition of Maine is a nonprofit organization advocated for bicycling safety, education and access. The Bicycle Coalition aggressively promotes helmet use as part of safety bicycle driving practices. This legislation, in front of you, if it was passed, would add another law that police officers are unlikely to enforce. Simply wearing a helmet does nothing to improve your survival in an accident unless the helmet is correctly fitted and adjusted. Most importantly is the emphasis that this legislation puts on helmet use, as if it is the cure for all bicycle safety. As much as we encourage helmet use, we strongly feel that bicycle safety education is the most important component of safe bicycling. His final statement was that we

therefore feel that education not mandatory helmet legislation is the key to improving bicycle safety.

Once again, this is a mandate that the committee felt was not necessary. I know a little story from my own experience. I was out in my backyard the other day on the deck and my four grandchildren were all playing around in the yard. One of them went over and got a bicycle. My son was standing there. He said, "Be sure and put your helmet on." I feel that education is a big issue and parents or people who supervise children have to do this. Thank you.

The SPEAKER: The Chair recognizes the Representative from Dover-Foxcroft, Representative Cross.

Representative CROSS: Madam Speaker, Men and Women of the House. I guess the thing that bothers me the most about this is being in Corrections a couple years ago when I was down here, we don't have any juvenile detention halls. I am wondering where we are going to put all these kids, if we are going to arrest them if they aren't wearing a helmet? Thank you.

The SPEAKER: The Chair recognizes the Representative from Penobscot, Representative Perkins.

Representative PERKINS: Madam Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative PERKINS: Madam Speaker, Men and Women of the House. Actually, I am asking one of the three that I asked before. In this bill, if this were to pass, would that mean that my 14 year old wouldn't be allowed to ride a bike in our driveway or on our own property? It doesn't say anything in this bill regarding where this would be.

The SPEAKER: The Representative from Penobscot, Representative Perkins has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Portland, Representative Brennan.

Representative BRENNAN: Madam Speaker, Men and Women of the House. The bill is silent on that issue.

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

Representative QUINT: Madam Speaker, Men and Women of the House. I just have to say one more time from an employer's erspective, one traumatic brain injury changes a child's life forever. It changes their opportunity to compete for educational opportunities and it changes their ability to compete for work opportunities. Having these young adults who become adults in a competitive job market makes it very difficult for them

to compete, if not impossible. The amount of training and retraining it takes to put these individuals into competitive job markets is astronomical. If we can prevent this from occurring, I see this as an opportunity to that. Thank you.

The SPEAKER: A roll call has been ordered. 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.

ROLL CALL NO. 190

YEA - Bagley, Barth, Belanger DJ, Belanger IG, Berry DP, Berry RL, Bigl, Bodwell, Bolduc, Bouffard, Buck, Bumps, Bunker, Cameron, Campbell, Carleton, Chick, Cianchette, Clark, Clukey, Colwell, Cross, Davidson, Donnelly, Driscoll, Dunlap, Dutremble, Fisher, Fisk, Foster, Frechette, Gagne, Gamache, Gerry, Goodwin, Gooley, Hatch, Honey, Jabar, Jones SL, Jones SA, Joy, Joyce, Joyner, Kasprzak, Kerr, Kneeland, Kontos, Labrecque, Lane, Layton, Lemont, Lindahl, MacDougall, Mack, Madore, Meres, Nass, Nickerson, O'Neal, O'Neil, Ott, Pendleton, Perkins, Perry, Pinkham RG, Pinkham WD, Poulin, Povich, Rines, Savage, Skoglund, Snowe-Mello, Stanley, Stedman, Stevens, Taylor, Treadwell, Tuttle, Vedral, Volenik, Waterhouse, Wheeler EM, Winn.

NAY - Ahearne, Baker CL, Baker JL, Brennan, Brooks, Bruno, Bull, Chizmar, Cowger, Desmond, Dexter, Etnier, Farnsworth, Fuller, Gagnon, Gieringer, Green, Jones KW, Kane, LaVerdiere, Lemaire, Lemke, Lovett, Mailhot, Marvin, Mayo, McAlevey, McElroy, McKee, Mitchell JE, Morgan, Murphy, Muse, O'Brien, Paul, Peavey, Pieh, Plowman, Powers, Quint, Rowe, Samson, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Spear, Tessier, Tobin, Townsend, Tripp, True, Usher, Watson, Wheeler GJ, Winglass, Wright.

ABSENT - Bragdon, Chartrand, Richard, Sanborn, Thompson, Underwood, Vigue, Winsor, Madam Speaker.

Yes, 84; No, 58; Absent, 9; Excused, 0.

84 having voted in the affirmative and 58 voted in the negative, with 9 being absent, the Majority "**Ought Not to Pass**" Report was accepted and sent up for concurrence.

On motion of Representative CIANCHETTE of South Portland, the House adjourned at 12:30 p.m., until 9:00 a.m., Thursday, May 15, 1997 in honor and lasting tribute to Carl Ervin Cianchette.