

MAINE STATE LEGISLATURE

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

Volume II

First Special Session

May 16, 1997 - June 20, 1997

Second Regular Session

January 7, 1998 - March 18, 1998

ONE HUNDRED AND EIGHTEENTH LEGISLATURE
FIRST SPECIAL SESSION
29th Legislative Day
Monday, May 19, 1997

The Speaker resumed the Chair.

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

Prayer by Reverend Karla J. Frost, Elm Street Congregational Church, Bucksport.

National Anthem by Callista Young, Brunswick.

Pledge of Allegiance.

The Journal of Friday, May 16, 1997 was read and approved.

SENATE PAPERS

Divided Report

Majority Report of the Committee on **Labor** reporting "**Ought Not to Pass**" on Resolve, to Exempt Matthew Scott from Maine State Retirement System Restrictions on Income Earned as Deputy Commissioner of Inland Fisheries and Wildlife (EMERGENCY) (S.P. 94) (L.D. 373)

Signed:

Senators: CATHCART of Penobscot

MILLS of Somerset

TREAT of Kennebec

Representatives: SAMSON of Jay

BOLDUC of Auburn

RINES of Wiscasset

STANLEY of Medway

JOY of Crystal

JOYCE of Biddeford

TREADWELL of Carmel

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

Signed:

Representatives: HATCH of Skowhegan

CLARK of Millinocket

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

Was read.

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

On further motion of the same Representative, tabled pending her motion to accept the Majority "**Ought Not to Pass**" Report and later today assigned.

Divided Report

Majority Report of the Committee on **Labor** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-235) on Bill "An Act to Expand the Family Medical Leave Laws" (S.P. 196) (L.D. 624)

Signed:

Senators: CATHCART of Penobscot

MILLS of Somerset

TREAT of Kennebec

Representatives: HATCH of Skowhegan

BOLDUC of Auburn

CLARK of Millinocket

RINES of Wiscasset

STANLEY of Medway

PENDLETON of Scarborough

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

Signed:

Representatives: JOY of Crystal

TREADWELL of Carmel

Came from the Senate with the Majority "**Ought to Pass**" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-235).

Was read.

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

On further motion of the same Representative, tabled pending her motion to accept the Majority "**Ought to Pass**" as amended Report and later today assigned.

Divided Report

Majority Report of the Committee on **Labor** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-236) on Bill "An Act to Strengthen the Sanctions for Failure to Respond to an Employee's Request for Reason for Termination of Employment" (S.P. 309) (L.D. 1018)

Signed:

Senators: CATHCART of Penobscot

MILLS of Somerset

TREAT of Kennebec

Representatives: HATCH of Skowhegan

SAMSON of Jay

BOLDUC of Auburn

CLARK of Millinocket

RINES of Wiscasset

STANLEY of Medway

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

Signed:

Representatives: JOY of Crystal

PENDLETON of Scarborough

TREADWELL of Carmel

Came from the Senate with the Majority "**Ought to Pass**" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-236).

Was read.

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

On further motion of the same Representative, tabled pending her motion to accept the Majority "**Ought to Pass**" as amended Report and later today assigned.

Non-Concurrent Matter

Bill "An Act to Ban All Smoking within Workplaces, Restaurants and Public Accommodations" (S.P. 134) (L.D. 413) (C "A" S-198) on which the Bill and accompanying papers were indefinitely postponed in the House on May 15, 1997.

Came from the Senate with that Body having insisted on its former action whereby Report "B" "**Ought to Pass**" as amended of the Committee on **Health and Human Services** was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-198) as amended by Senate Amendment "A" (S-225) thereto in non-concurrence.

The House voted to Adhere.

Non-Concurrent Matter

Bill "An Act to Amend the Enhanced 9-1-1 Laws" (H.P. 712) (L.D. 976) which was passed to be engrossed as amended by

Committee Amendment "A" (H-355) in the House on May 8, 1997.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-355) as amended by Senate Amendment "B" (S-224) thereto in non-concurrence.

The House voted to Recede and Concur.

COMMUNICATIONS

The following Communication: (H.C. 264)

**STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON AGRICULTURE, CONSERVATION AND
FORESTRY**

May 15, 1997

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

Dear President Lawrence and Speaker Mitchell:

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

L.D. 1366 An Act Regarding Qualifications of Land Use Regulation Commissioners

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

Sincerely,

S/Sen. Marge L. Kilkelly S/Rep. George H. Bunker, Jr.
Senate Chair House Chair

Was read and ordered placed on file.

The following Communication: (H.C. 265)

**STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON EDUCATION AND CULTURAL AFFAIRS**

May 15, 1997

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

Dear President Lawrence and Speaker Mitchell:

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

L.D. 556 Resolve, to Establish a Study Group to Examine the Issue of School Choice

L.D. 1080 An Act to Establish Public Charter Schools

L.D. 1165 An Act to Allow School Choice

L.D. 1203 An Act Regarding Student Financial Aid Programs

L.D. 1353 An Act to Establish a Pilot School Choice Program

L.D. 1363 Resolve, that the Department of Education Establish a Grant Program to Promote Consolidation and Efficiency in Education

L.D. 1404 An Act to Create School Enrichment Funds for Public Schools

L.D. 1545 An Act to Amend the Laws Governing Correction of Student Education Records

L.D. 1685 An Act to Encourage the Development of Charter Schools

L.D. 1772 Resolve, to Promote the Health of Maine's Children

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

Sincerely,

S/Sen. Peggy A. Pendleton S/Rep. Shirley K. Richard
Senate Chair House Chair

Was read and ordered placed on file.

The following Communication: (H.C. 266)

**STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON HEALTH AND HUMAN SERVICES**

May 15, 1997

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

Dear President Lawrence and Speaker Mitchell:

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

L.D. 445 An Act to Assist Low-income Working Parents

L.D. 1021 An Act to Promote the Establishment of Individual Development Accounts by Low-income Families

L.D. 1117 An Act to Assist Low-income Parents to Obtain Access to Education

L.D. 1757 An Act to Further Maine's Welfare Reform Initiatives and Establish Maine's Temporary Assistance for Needy Families Program

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

Sincerely,

S/Sen. Judy Paradis S/Rep. J. Elizabeth Mitchell
Senate Chair House Chair

Was read and ordered placed on file.

The following Communication: (H.C. 267)

**STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON JUDICIARY**

May 15, 1997

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

Dear President Lawrence and Speaker Mitchell:

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

L.D. 1400 An Act to Provide Notice of Municipalities When a For-profit

L.D. 1443 Corporation Intends to Obtain Nonprofit Status
Resolve, Directing the Family Law Advisory Commission to Review Proposals Concerning the Use of Ethical Decision-making in Family Law Cases

L.D. 1681 An Act Regarding the Receipt of Benefits by a Child Based on a Parent's Disability and the Calculation of Parental Support Obligations

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

Sincerely,
S/Sen. Susan W. Longley S/Rep. Richard H. Thompson
Senate Chair House Chair
Was read and ordered placed on file.

The following Communication: (H.C. 268)

STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON LEGAL AND VETERANS AFFAIRS
May 15, 1997

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

Dear President Lawrence and Speaker Mitchell:

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

L.D. 5 An Act to Amend the Election Laws Concerning Vacancies in the Office of State Representative

L.D. 1212 An Act to Strengthen Legislative Ethics Laws

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

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

The following Communication: (H.C. 269)

STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON TRANSPORTATION
May 15, 1997

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

Dear President Lawrence and Speaker Mitchell:

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

L.D. 1382 An Act to Reimburse Law Enforcement Agencies for Their Costs Related to the Prosecution of Criminal and Traffic Violations

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

Sincerely,
S/Sen. William B. O'Gara S/Rep. Joseph D. Driscoll
Senate Chair House Chair
Was read and ordered placed on file.

The following Communication: (H.C. 270)

STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON UTILITIES AND ENERGY
May 15, 1997

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

Dear President Lawrence and Speaker Mitchell:

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

L.D. 1785 An Act to Provide for a Simplified Restructuring of the Electric Industry

L.D. 1794 An Act to Create a Competitive Market for Electricity While Protecting Consumers and the Environment

L.D. 1798 An Act to Permit Electric Utilities to Restructure in Ways That Improve the Economy of the State

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

Sincerely,
Sen. Richard J. Carey S/Rep. Kyle W. Jones
Senate Chair House Chair
Was read and ordered placed on file.

The following Communication: (H.C. 271)

STATE OF MAINE
OFFICE OF THE GOVERNOR
1 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0001
May 16, 1997

To the Honorable Members of the 118th Legislature:

Enclosed please find H.P. 88, L.D. 113, "An Act to Prohibit the Employment of Professional Strikebreakers," which I am returning without my signature or approval.

I cannot approve the legislation because the provisions are unconstitutional, and if enacted, likely would subject the State of Maine to liability under the federal civil rights laws. The legislation sends a false message to the working community of Maine in that it unreasonably raises the hope of workers that the State has a role to play in federally regulated labor issues. An equally compelling reason is the competitive disadvantage this law would impose on Maine businesses and Maine workers.

Judicial precedent and recent advice from Maine's Attorney General make clear that L.D. 113 is unconstitutional. In 1989, the Maine Superior Court struck down the provisions of existing Maine law (26 MRSA §595(3) and (4)) limiting an employer's right to hire replacement workers as unconstitutional, finding the law to be preempted by the federal National Labor Relations Act ("NLRA") (29 USC §151 et seq.). The court emphasized that state regulation of labor practices is generally preempted under the NLRA, and found that the Maine law's imposition of

significant restrictions on an employer's ability to continue business in the initial stages of a strike were unlawful restrictions on the employer's federally protected use of economic self help weapons under the NLRA. In a June 1989 Opinion of the Justices, the Maine Supreme Judicial Court Justices reinforced the same theme when they reviewed the provisions of another bill that limited the right of an employer to hire replacement workers during a labor dispute by imposing a 45 day cooling off period upon a specified vote by striking employees. They cautioned that "the right of an employer to continue his operations in the face of a strike by hiring replacement workers is one of the weapons of economic pressure that Congress left unregulated and to be controlled by the free play of economic forces." Finally, on May 8, 1995, the Maine Attorney General issued an Opinion finding that the substantively identical terms of L.D. 686 pending before the Second Regular Session of the 117th Legislature were unconstitutional, preempted by the NLRA.

The guidance of the courts and Attorney General in this matter is clear. This law is unconstitutional because it is designed to significantly limit an employer's federal right to maintain operations in the face of an employee strike by limiting the pool of skilled replacement workers available for hire. It effectively would change the careful balance of economic rights and remedies set out for employers and employees under the NLRA. Furthermore, to ignore the clear guidance of the courts places the State of Maine at risk of liability of a federal civil rights action similar to that in Golden State Transit Corp. v. City of Los Angeles, 493 U.S. 103 (1989), where the United States Supreme Court ruled that an employer could bring a federal civil rights action against a governmental entity which interfered with the employer's federally protected use of economic options in labor disputes.

Enactment of this bill would create only an illusory remedy against the use of professional strikebreakers. The illusion could be very damaging for employees in a labor dispute, potentially leaving them stranded after they have decided to strike based upon their perceived advantage under this legislation, only to find later that the law is unconstitutional and that the employer can use its federally protected self help right to employ replacement workers from firms specializing in strike operations.

My overriding concern in all my actions as Governor is developing and maintaining quality jobs for Maine people. By sending a negative signal to those whose investment decisions underlie all our job creation efforts, this bill would substantially undermine this goal and put at risk the job prospects of the very workers it is designed to protect.

Because of the objections outlined above, I am in firm opposition to L.D. 113 and I respectfully urge you to sustain my veto.

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

Was read and ordered placed on file.

On motion of Representative KONTOS of Windham, the accompanying Bill "An Act to Prohibit the Employment of Professional Strikebreakers" (H.P. 88) (L.D. 113) was tabled pending reconsideration and later today assigned.

The following Communication: (H.C. 272)
STATE OF MAINE
OFFICE OF THE GOVERNOR
1 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0001
May 16, 1997

To the Honorable Members of the 118th Legislature:

Enclosed please find H.P. 41, L.D. 66, "An Act to Prohibit an Employer from Hiring Replacement Workers During a Strike," which I am returning without my signature or approval.

My reasons for withholding my approval on L.D. 66 are the same outlined in my accompanying veto message returning L.D. 113 to the Legislature: L.D. 66, section 2 is unconstitutional and would send a false message to the working community of Maine that the State of Maine may intervene in federally regulated labor issues.

I cannot support L.D. 66 in light of judicial precedent, recent advice from Maine's Attorney General, and more general concerns about the legislation's effect on our ability to attract and maintain quality jobs in the state. The provisions of section 2 would require that a contract between an employer and replacement workers must provide that when the strike is settled or if the employees offer unconditionally to return to work at any time after striking, replacement workers will not be retained in preference to the strikers. This significantly impairs the right of the employer to hire permanent replacement workers at all times during a strike. In a 1989 Opinion, 571 A.2d 805 (Me. 1989), the Justices of the Maine Supreme Judicial Court reviewed the provisions of less restrictive legislation that limited the right of an employer to hire replacement workers during a labor dispute by imposing a 45 day cooling off period upon a specified vote by striking employees. The Justices found that the less restrictive 45 day delay of the employer's right to hire permanent replacement workers would be preempted by the NLRA and was, therefore, repugnant to the Supremacy Clause of the United States Constitution. Their reasoning would be equally applicable to the more restrictive provisions of L.D. 66 that effectively would limit the employer's right to contract with permanent replacement workers at any time after the strike if certain specified conditions (all controlled by the striking employees) were satisfied. Applying the analysis of the Justices to the provisions of L.D. 66, it is clear that the legislation would invade the employer's right to economic self help to maintain his operations in the face of a strike that is protected by the NLRA and would disrupt the balance intended by Congress between the tools of economic pressure available to the employer and striking employees. This conclusion is further reinforced by the May 8, 1995 Opinion of the Attorney General which found that the very similar provisions of legislation pending before the Second Regular Session of the 117th Legislature, effectively preventing employers from hiring permanent replacement workers, would be preempted by the NLRA and, therefore, unconstitutional.

For the same reasons expressed in my accompanying veto message on H.P. 88, L.D. 113, "An Act to Prohibit the Employment of Professional Strikebreakers," I must withhold my approval on L.D. 66. This legislation has the same constitutional flaws that could expose the State to potential federal civil rights liability. It also shares the serious flaw of creating an illusory remedy for workers who could rely to their detriment on the state law, while sending a negative signal to the business community that Maine will not honor employers' federally protected rights in labor disputes.

My overriding concern in all my actions as Governor is developing and maintaining quality jobs for Maine people. By sending a negative signal to those whose investment decisions underlie all our job creation efforts, this bill would substantially undermine this goal and put at risk the job prospects of the very workers it is designed to protect.

Because of the objections outlined above, I am in firm opposition to L.D. 66 and I respectfully urge you to sustain my veto.

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

Was read and ordered placed on file.

On motion of Representative KONTOS of Windham, the accompanying Bill "An Act to Prohibit an Employer from Hiring Replacement Workers During a Strike," (H.P. 41) (L.D. 66) was tabled pending reconsideration and later today assigned.

REPORTS OF COMMITTEES

Divided Report

Majority Report of the Committee on **State and Local Government** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-488) on Bill "An Act to Provide Legal Counsel for Legislative Committees" (H.P. 847) (L.D. 1152)

Signed:

Senators: NUTTING of Androscoggin
LIBBY of York

Representatives: AHEARNE of Madawaska
BUMPS of China
FISK of Falmouth
BAGLEY of Machias
GERRY of Auburn
LEMKE of Westbrook
GIERINGER of Portland
KASPRZAK of Newport
SANBORN of Alton
DUTREMBLE of Biddeford

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

Signed:

Senator: GOLDTHWAIT of Hancock
Was read.

On motion of Representative AHEARNE of Madawaska the Majority "**Ought to Pass**" as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (H-488) was read by the Clerk and adopted. The Bill was assigned for second reading later in today's session.

CONSENT CALENDAR

First Day

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

(S.P. 110) (L.D. 389) Bill "An Act to Exclude from the Definition of 'Employment' Services Provided by Lessees of Taxicabs" Committee on **Labor** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-237)

(S.P. 150) (L.D. 429) Bill "An Act to Protect the Potato Industry from the Spread of Serious Disease" (EMERGENCY) Committee on **Agriculture, Conservation and Forestry** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-241)

(S.P. 290) (L.D. 941) Bill "An Act to Enhance the Potato Industry" Committee on **Agriculture, Conservation and Forestry** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-240)

(S.P. 372) (L.D. 1231) Bill "An Act Regarding the Leasing of Buildings" (EMERGENCY) Committee on **Judiciary** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-242)

(S.P. 439) (L.D. 1385) Bill "An Act to Promote Parity in the Regulation of Insurance Sales by Federally and State-chartered

Financial Institutions" (EMERGENCY) Committee on **Banking and Insurance** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-234)

(S.P. 547) (L.D. 1665) Bill "An Act to Amend the Charter of the Hebron Water Company" Committee on **Utilities and Energy** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-239)

(H.P. 950) (L.D. 1313) Bill "An Act to Amend Certain Laws Administered by the Department of Environmental Protection" Committee on **Natural Resources** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-491)

(H.P. 982) (L.D. 1362) Bill "An Act to Improve the Administration of Animal Welfare Law" Committee on **Agriculture, Conservation and Forestry** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-492)

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 as amended and sent up for concurrence.

(S.P. 574) (L.D. 1731) Bill "An Act to Amend the Election Laws" Committee on **Legal and Veterans Affairs** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-230)

On motion of Representative KONTOS of Windham, was removed from the First Day Consent Calendar.

The Committee Report was read and accepted. The Bill was read once. Committee Amendment "A" (S-230) was read by the Clerk.

On further motion of the same Representative, tabled pending adoption of Committee Amendment "A" (S-230) and later today assigned.

UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment Friday, May 16, 1997, have preference in the Orders of the Day and continue with such preference until disposed of as provided by House Rule 502.

An Act to Make Technical Changes in the Laws Relating to the Sale of Alcoholic Beverages (S.P. 510) (L.D. 1572) (C. "A" S-182)

TABLED - May 15, 1997 (Till Later Today) by Representative KONTOS of Windham.

PENDING - Passage to be Enacted.

On motion of Representative KONTOS of Windham, tabled pending passage to be enacted and later today assigned.

Resolve, to Create a Task Force to Develop a Single Payment System for State and Federal Taxes for Small Businesses (H.P. 988) (L.D. 1368) (H. "A" H-416 to C. "A" H-240)

TABLED - May 15, 1997 (Till Later Today) by Representative KONTOS of Windham.

PENDING - Final Passage.

On motion of Representative KONTOS of Windham, tabled pending final passage and later today assigned.

HOUSE DIVIDED REPORT - Majority (8) "**Ought to Pass**" as amended by Committee Amendment "A" (H-395) - Minority (5)

"Ought Not to Pass" - Committee on **Agriculture, Conservation and Forestry** on Bill "An Act to Permit Forest Fire Wardens and Forest Rangers to Carry Weapons" (H.P. 472) (L.D. 643)

TABLED - May 15, 1997 (Till Later Today) by Representative BUNKER of Kossuth Township.

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

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

The Bill was read once. Committee Amendment "A" (H-395) was read by the Clerk.

Representative BUNKER of Kossuth Township presented House Amendment "B" (H-489) to Committee Amendment "A" (H-395), which was read by the Clerk.

On motion of Representative GOOLEY of Farmington, tabled pending adoption of House Amendment "B" (H-489) to Committee Amendment "A" (H-395) and later today assigned.

An Act to Amend the Laws Regulating Occupational Therapy Practice (H.P. 1151) (L.D. 1616) (C. "A" H-282)

TABLED - May 15, 1997 (Till Later Today) by Representative KONTOS of Windham.

PENDING - Passage to be Enacted.

On motion of Representative KONTOS of Windham, tabled pending passage to be enacted and later today assigned.

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

TABLED - May 15, 1997 (Till Later Today) by Representative KONTOS of Windham.

PENDING - Passage to be Enacted.

On motion of Representative POVICH of Ellsworth, the rules were suspended for the purpose of reconsideration.

On further motion of the same Representative, the House reconsidered its action whereby the Bill was passed to be engrossed.

On further motion of the same Representative, the rules were suspended for the purpose of further reconsideration.

On further motion of the same Representative, the House reconsidered its action whereby Committee Amendment "A" (H-378) was adopted.

The same Representative presented House Amendment "A" (H-476) to Committee Amendment "A" (H-378) which was read by the Clerk and adopted.

Committee Amendment "A" (H-378) as amended by House Amendment "A" (H-476) thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-378) as amended by House Amendment "A" (H-476) thereto in non-concurrence and sent up for concurrence.

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

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

TABLED - May 15, 1997 (Till Later Today) by Representative KONTOS of Windham.

PENDING - Passage to be Enacted.

On motion of Representative KONTOS of Windham, tabled pending passage to be enacted and later today assigned.

Resolve, to Establish a Maine Mobility Fund Task Force (EMERGENCY) (S.P. 429) (L.D. 1377)

TABLED - May 15, 1997 (Till Later Today) by Representative SAXL of Portland.

PENDING - Adoption of Committee Amendment "A" (S-206).

Representative DRISCOLL of Calais presented House Amendment "A" (H-493) to Committee Amendment "A" (S-206), which was read by the Clerk and adopted.

Committee Amendment "A" (S-206) as amended by House Amendment "A" (H-493) thereto was adopted.

Under suspension of the rules the Resolve was given its second reading without reference to the Committee on **Bills in the Second Reading**.

Under further suspension of the rules the Resolve was passed to be engrossed as amended by Committee Amendment "A" (S-206) as amended by House Amendment "A" (H-493) thereto and sent up for concurrence.

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

HOUSE DIVIDED REPORT - Majority (7) **"Ought to Pass"** - Minority (6) **"Ought Not to Pass"** - Committee on **Legal and Veterans Affairs** on Bill "An Act to Repeal the Requirement That Race Tracks Be Assigned Certain Race Dates" (H.P. 202) (L.D. 255)

TABLED - May 15, 1997 by Representative TUTTLE of Sanford.

PENDING - Acceptance of Either Report.

On motion of Representative KONTOS of Windham, tabled pending acceptance of either Report and later today assigned.

HOUSE DIVIDED REPORT - Majority (11) **"Ought to Pass"** as amended by Committee Amendment "A" (H-468) - Minority (2) **"Ought Not to Pass"** - Committee on **Judiciary** on Bill "An Act to Decrease Infectious Disease Transmission" (H.P. 287) (L.D. 351)

TABLED - May 15, 1997) by Representative THOMPSON of Naples.

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

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

Representative WATERHOUSE: Madam Speaker, Ladies and Gentlemen of the House. Sometimes in debating matters up here, some people feel like they are the last person in the building and they are being asked to turn out the lights when they leave. This is one of the cases with this issue here. This bill would attempt to establish a needle exchange program for heroin addicts, which will, supposedly, cut down on the rate of HIV infection and transmission. This policy is being predicated on studies of needle exchange programs across the country and their results. I must say, in the committee, I had no information or data showing to the contrary that these programs were effective. I have proceeded, since February to gather information on these various studies from across the country, with the help of the Law Library. That is a terrific bunch of people we have down there. They did a great job. I consider

this issue or this bill to have good intentions, but I think it is bad public policy.

Having looked at all the programs, the studies, none of them, I say again, none of them, will say that the result is less spread of HIV. A study in Montreal showed a thorough conversion rate of 5 percent of needle exchange program participants, more than twice as high as that found among needle exchange participants. A thorough conversion is when you have a needle and you are injecting it and you get some blood in that needle. Several studies that are mentioned, one of them is New Haven, the people that looked at that study said there was an overall reliance on self-reported behavior by addicts who are notoriously unreliable in those very reports that they are getting. A San Francisco study, the lead author of the San Francisco study, needles provided John Waters was found dead of an IV heroin overdose. Another needle exchange program worker fetches New York City's Brian Wheel, who was instrumental in starting up these needle exchange programs, has also died, recently, from a heroin overdose.

Christy Todd Whitman, the Governor of New Jersey, after the New Jersey Bureau of the Health approved the program down there and wanted to implement it, she vetoed it. She cited that it was bad public policy and the scientific evidence was not anywhere near conclusive to support experimenting with this program. The same thing happened in California where Governor Pete Wilson also vetoed a similar program. The conclusion and order of this information that I have got on these needle exchange programs, I will cite one of the conclusions. A rapid spread of AIDS has promoted officials of some American cities to institute programs that distribute clean needles to intravenous drug users. Such programs are questionable public policy, however, because they facilitate addicts' continued use of drugs and undercut the credibility of society's message that drug use is illegal and morally wrong. Further, there is no compelling research that needle exchange programs are effective in preventing intravenous drug users from sharing needles, reducing the spread of AIDS or encouraging addicts to seek drug treatment. I just cited two of the lead sponsors of those needle exchange programs who obviously were not encouraged to seek drug treatment. If they did, they certainly didn't get it because they died of a drug overdose.

The single most effective and compassionate way to drastically reduce the number of heroin, cocaine or other injections and thus diminish the spreading of AIDS is to get the addict to stop using needles, dirty or clean, by providing detoxification or treatment programs where oral substitutes can be given. I looked at all these programs, ladies and gentlemen, every single one of them that were cited in committee and every one that I could dig up and research and none of them have conclusive results. In fact, the big one that I got from the Law Library was big research that was done by the Center for Disease Control Prevention. It was a 300 page document. It was a big book. At the end of that whole study, it was very comprehensive, it looked at all the needle exchange programs across the country and, in fact, across the world. Their conclusion was that studies of the effect of the needle exchange programs and HIV infection rates do not, in part, due to the need for large sample sizes and the multiple impediments to randomization, probably cannot provide clear evidence that need exchange programs decrease HIV infection rates.

In a Montreal study, this is a little bit confusing to the experts, it certainly would be to me if I was doing these studies. The study of nearly 1,600 Montreal injection drug users found that those participating in the city's needle exchange programs had a 33 percent cumulative probability of HIV thorough conversion compared to 13 percent for injection drug users who did not

participate in the program. They have a higher rate in this program for HIV transmission than people who are not in the program. Another thing about these programs, needle exchange programs, was that they found the participants in these programs are older drug users. They are not younger drug users. People, older heroin addicts or intravenous drug users, supposedly, according to the experts, the people who do the studies, are not predisposed to share. The younger ones, the ones who are coming into it, the drug culture, sharing their work is part of the culture. A lot of these studies said that they have no way of knowing if they were still using these needles and sharing these needles, because it was part of the drug culture. If they got a clean needle, they would go in and pass it around anyway. You have to ask yourself how many of these people are going to seek out a clean needle when they want to get a fix.

As I mentioned, John Waters, of San Francisco, a researcher who helped pioneer the use of needle exchanges and bleach to prevent the spread of AIDS has died of an apparent drug overdose. He was 47. This was in 1995. This study was done in Vancouver by a doctor Stephanie, I can't pronounce her last name, but she is a Canadian epidemiologist. She did quite a bit of research up there. Since May of 1996, the Vancouver injection drug use study has periodically blood tested, interviewed and counseled roughly 900 intravenous cocaine and heroin users. Forty percent of those who knew they were HIV positive, nevertheless, reported having lent contaminated needles to other drug users in the preceding six months. Fully 60 percent of the test group, including those still clear of the virus, reported having borrowed somebody else's used needle in the preceding six months. This is the key right here, all this despite the fact that 95 percent of the drug users under the study of Vancouver, routinely received sterile hypodermic syringes, free of charge from a well-financed public needle exchange program. That program is mammoth. The government of British Columbia distributed 2.3 million clean needles in 1996. This is a quote from people involved in that program up there. "We always thought we were lucky to have a great needle exchange program. We had a problem, but now we have an even bigger problem." Some of the comments in the article said that proponents of the needle exchange programs have won a receptive media audience.

The National Academy of Science employed criteria and it admits what would be classified as relatively weak when measured against traditional scientific standards, the one that researched all these studies and looked them over. The National Academy of Science panel, in their judgment, obvious methodological limitations, inadequate sample populations, high drop out rate, improper study controls and problematic or incomplete data analysis. These are scientific studies we are talking about here. This is what they are saying about these studies. Another study by the President's Office on Drug Control Policy. We are talking about these research programs. The research showing what these programs are like. All the needle exchange programs studies have yielded either ambiguous or discouraging results. Moreover, the methodology used to conduct these studies has been flawed. It goes on and on. I won't quote all of these. I will save some for later if we are going to get some more debate on this.

The key thing in looking at proposing to do this is, is it medically sound? I really question that and so do all the studies. Even if it was sound public policy, what kind of message are we sending out to everybody when we say that the use of heroin is illegal. It is deadly. It can kill you. Actually, anybody who knows anything about intravenous drug users knows that it debilitates the body so that they are susceptible to all kinds of diseases and ailments. Everything government does sends a message.

Governmental action is Western Union on a grand scale. You can't tell me that supplying 15 year old boys with condoms in the public schools doesn't imply social sanction of adolescent sex. We do it anyway. We just wink, nod and say we know you are going to do it, but be safe. We are saying the same thing, heroin. We don't want you to do it, but we know you are going to do it anyway, so here is a needle, go ahead and do it. Instead of trying to get these people off the strayed and off heroin and stop them from dying that way.

The other thing we have to look at is the neighborhoods that institute these programs. I tell you, all the research I got in all these different areas that had these programs, it is unbelievable what is happening to these areas. You are getting drug addicts coming into the area to get clean needles, those ones that want clean needles. Guess what folks, the people who arrest the drug pushers, the ones that sell the drugs to the kids, are not being arrested in these areas because the police in all these different areas, I have report after report after report from New York City, Bridgeport, Connecticut, Massachusetts and all the neighborhood watch people who were trying to get people off drugs are saying, our police officers won't even go in these areas now because it is politically incorrect to go in there because you are going to scare away the needle exchange program participants, so guess what, that is where all the addicts go, at least the ones that participate. That is where all the drug pushers go. Now you have a neighborhood that has drug addicts congregating, drug pushers congregating and no police enforcing that drug enforcement.

Reading these researches on these needle exchange programs argument that these improve the situation. Charlie Wrangle today, the African American congressman from New York City, Chairman of the House Narcotics Abuse Committee, wrote a letter. He was guest columnist. He wrote a letter about these needle exchange programs. "Our goal should be to eliminate drug abuse, not to find a safer, cleaner way to do it. The free needle idea defeats the whole purpose of promoting comprehensive prevention, education, treatment and rehabilitation. If we say drugs are dangerous, but in the same breath we say drugs are okay if you use a clean needle, we are sending a conflicting message to our youth." It goes on further in another paragraph talking about the drug culture and sharing works is an integral part of the drug culture. "I do not think we can rely on addicts to be responsible enough to avoid needle sharing during drug sessions. Law enforcement officials tell me that in raids of shooting galleries, they often found packages of syringes, unused, while other needles are being passed around." It goes on the say, "Supporters of free needles have their hearts in the right place, but they have overlooked some very important considerations. These people should enlist in efforts to expand comprehensive treatment and rehabilitation services to stop needle use altogether."

This is an article from Bridgeport, Connecticut, I will read just part of it. "Bridgeport needle exchange program has contributed to a user friendly environment for drug addicts that police don't combat, all in the name of preventing the spread of the virus. People living in neighborhoods plagued by drugs are prisoners within their own homes. Needle exchange only makes it worse because police hesitate to control where the needles are being handed out for fear of scaring addicts away from their source of clean needles. Do we have to forget about everybody else? Numerous grass root groups have taken a stand against needle exchange in Worcester. I expect the city council to do the same because needle exchange invites junkies to come into the neighborhoods where the people have been fighting to keep them out. It is the small number of addicts that wreak havoc on

communities and needle exchange sends the message that cities think it is okay."

From Worcester, Massachusetts, needle exchange programs teach our youth that drugs are all right if you use a clean needle. Outreach programs that provide education, counseling and treatment for addicts were far more effective in reducing drug use than the needle exchange programs. They are having the same problems as far as policing. It sounds good folks. We want to stop people from getting infected with HIV, who wouldn't? Giving clean needles out sounds like a very compassionate thing to do, I guess. Like my good friend, Representative Bruno said, on other issues last week talking about marijuana, show me the scientific evidence. I have been studying this issue since February. Like I said, I have gone over all the scientific studies and I realize there is no opposition to this. I realize the public health department wants to do this. Other public health departments in other parts of the country have wanted to do this and the people have said no.

Are we sending a mixed message? Are we really helping these folks by doing this? Are we destroying neighborhoods in the name of helping people? I urge you to vote against the pending motion.

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

Representative THOMPSON: Madam Speaker, Men and Women of the House. I would ask you to support the Majority "Ought to Pass" Report. I would like to tell you what this LD does and what it doesn't do. First of all, it requires the Bureau of Health to adopt rules governing needle exchange programs and labels them as major substantive rules and requires them to come back next session for the approval of the Legislature of those rules. It does not, at this time, establish needle exchange programs. It also changes some of the criminal laws to make it clear that trafficking in hypodermic needles is a felony, furnishing is a misdemeanor and possession is a misdemeanor of more than 10 needles. It excludes, there is no criminal offenses for someone who is lawfully in possession for any medical condition. It also excludes other obvious people who use hypodermics in their possession, such a veterinarians. In the hearing on this bill, there was no opposition. Let me repeat that. There was zero opposition. It was endorsed by the Maine Chief's of Police. There were no law enforcement officers testifying against this bill. It was supported by the Bureau of Health.

Dr. Mills' testimony has indicated that the AIDS epidemic in Maine has changed over the last few years. Several years ago only 10 percent of the cases of the AIDS in Maine were traced to use of needles. Today, that is up to 25 percent of the cases in Maine. It has become an increasing cause of the spread of the HIV virus through the use of dirty needles. Although the scientific evidence is not crystal clear on how much it reduces the spread of HIV, there is specific evidence that needle exchange programs have reduced, significantly, the sharing of dirty needles. It is much more difficult to trace that the next step to how much it reduces HIV. In a study in Connecticut, they found that they have caused a reduction of 40 percent in the number of shared needles.

The National Academy of Sciences endorses syringe exchange programs. It indicates in its written handout to us that well-implemented needle exchange programs can be effective in preventing the spread of HIV and do not, I repeat, do not increase the use of illegal drugs. There was no studies that showed that they increased the use of illegal drugs. The study I was referring to in Connecticut was done by the Center for Disease Control in 1995 showed that Connecticut decreased by 40 percent the needle sharing among IV drug users. This is a

very reasonable piece of legislation. I would ask you to join me in supporting the Majority "Ought to Pass" Report. Thank you.

Representative KONTOS of Windham assumed the Chair.
The House was called to order by the Speaker Pro Tem.

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

Representative WATERHOUSE: Madam Speaker, Men and Women of the House. I just want to comment on a few things that the good Representative Thompson just said. He says that this bill does not immediately start a needle exchange program. He is correct. It sends us down that road. That is where we are heading for. That is what we will end up with. He talking about the New Haven, Connecticut studies. It said and I have a 30 percent reduction, not a 40 percent reduction. We won't quibble with numbers. This is what it says about that New Haven study. This is from the National Academy of Science. This is that 300 page document that at the end of it and I will read the conclusion briefly again, when I finish, studied all these. This is what it said about the New Haven one. "The New Haven study was artificially based on a mathematical model and did not even measure serum conversion rates in addicts. The supposed fall of 30 percent of HIV zero thorough positively in anonymous needles in the first three months of the New Haven needle exchange program is best explained by sampling error. This occurred in street needles as well as program needles. Also, like many of the nonscientific studies," did you hear that folks, "nonscientific studies, the same thing we had to deal with last week, there was overreliance on self-reported behavior by addicts who are notoriously unreliable."

Going back to the conclusion of the National Academy of Sciences conclusion of all these studies, all these studies, everyone that is going to be mentioned on the floor today, unless they had one in 1997, studies of the effects of needle exchange programs on HIV infection rates do not, I repeat, do not, it doesn't say may, it doesn't say could, it says do not, in part due the need for large sample sizes in the multiple impediments to randomization probably cannot provide clear evidence that needle exchange programs decrease HIV infection rates.

One of the things that wasn't mentioned yet, it probably wouldn't be if I didn't mention it, because I am on the other side of the issue. In that research and also in the committee, I asked Dorian Mills, how did you get at this result that HIV, what percentage is being transferred by needle exchange? She said it was a mathematical model. I don't know how many people took statistical analysis in college, but mathematical models are very, very undependable. I think any research that you read when you mention mathematical models and all this research indicated this. I went on to ask, how do you know that a lot of this transfer of HIV isn't from sex? We have heroin addicts who are trying to buy heroin, hanging around the drug culture and unless they are monogamous and they are notoriously not, because they have to have money to buy these drugs, guess what folks, you don't have to exchange needles. One of the big things is and it is well known that crack cocaine users have a very, very high rate of HIV. In fact, they don't use needles. They do have sex, because they need money to buy their drugs. Think long and clear folks. The road we are heading down. I wish I could wave a magic wand, I am not being sarcastic, I wish nobody could die from anything. This is a lousy public policy. I don't care how many people showed up to testify for it. I mentioned when I first started speaking, I feel like the person leaving the building, the last one

out. I could have let this thing go. It is not going to affect me. I am not from the city. I may never see a needle.

God didn't bless me with children so I don't have to worry about that. I am fighting this because I couldn't sleep at night knowing I didn't. If I don't win this, I will still be able to sleep because I fought it. No scientific evidence, mixed message and deteriorating neighborhoods if that is what you want, vote for this. I don't. I hope you don't. Madam Speaker, when the vote is taken, I request the yeas and nays.

Representative WATERHOUSE of Bridgton requested a roll call on the motion to accept the Majority "Ought to Pass" as amended Report.

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

The SPEAKER PRO TEM: The Chair recognizes the Representative from Farmingdale, Representative Watson.

Representative WATSON: Madam Speaker, Men and Women of the House. I rise today as a member of the Judiciary Committee who sat through the public hearing and our good chair, Representative Thompson, did let you know earlier that we had no one speak in opposition to this bill. I am obviously supporting the Majority "Ought to Pass" Report. I want to speak to my colleagues here in the House Chamber today as a woman who knows something about AIDS. I have had the privilege in the past few years to be appointed by the Governor to serve on the HIV Advisory Committee to the Department of Human Services. I was appointed as a member of an organization primarily made up of woman. My role on that committee was to serve on behalf of women in the State of Maine. The HIV Advisory Committee is made up of 23 members representing a broad diversity of stakeholder groups throughout the state who have an interest in HIV and AIDS prevention and hopefully can some day be part of a possible cure.

While on the committee, what I could bring to that committee was my experiences working with people with AIDS here in the State of Maine. Some of you may know that over a dozen years, I have been a hospice volunteer. In the last few years because of the rising incidence of HIV and AIDS here in the State of Maine, worked with families who were caring for a loved one that was dying of AIDS. As a freshman legislator here in this chamber, I was asked to take on the last case as an active family support volunteer. While working with that patient who was dying of AIDS, I made a promise to myself and to her that if I ever had an opportunity to do anything on behalf of women and men in this state to decrease their suffering in some way, but more importantly, to act on their behalf towards prevention of this horrendous disease. In Maine the statistics show that over 41 percent of the women who become infected become infected because of injections by drug users. These are women that I know that have relationships with male partners, who themselves have become infected through sharing of dirty needles. Nationally over 50 percent of the infants in this country who are born infected with HIV, the primary cause of that infection has been through injection drug users.

I don't know that we have infants in this state that are infected because of drug use, but I know there are women who have been. I urge my colleagues here in the House to never ever let another Susan happen. A innocent victim of someone else's use, illegal use, of drugs. This needle exchange program can decrease dramatically infections. I urge you all, please, for the sake of not just women, but of any unfortunate person who is addicted to a drug, who uses needles to allow that person to at least get a clean needle, if they can't and won't stop using. Thank you for your attention.

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

Representative NASS: Madam Speaker, Men and Women of the House. This is a very difficult issue, especially for people on the conservative side that would like to believe that there are perhaps simple solutions to some of these difficult problems. This is a case where there is not. The studies are inclusive, obviously, you have heard a lot about that today. I will repeat a couple of things because I think it is important. First of all, at the public hearing, there were no opponents to this proposal. Also, as the good chairman of the Judiciary Committee has indicated, this bill has been completely rewritten by the committee. It requires the State Bureau of Public Health to adopt rules governing hypodermic apparatus exchange programs. The rules must address at least the following. The safe disposal of hypodermic apparatus tracking the distribution and collection of hypodermic apparatus and finally the drug abuse and prevention and treatment education. This bill declares these rules to be major substantive rules, which will require legislative review prior to final adoption by the agency. Once the rules are in place, the Bureau of Health may certify hypodermic exchange programs to meet the requirements of the rules.

The Bureau of Public Health must report to the Judiciary Committee and the Health and Human Services Committee on the hypodermic apparatus exchange program beginning in January of 1999 and every year thereafter. It is not as if we are not going to get a chance to review the effects of this program. This bill has been set up by the Judiciary Committee to require more than the usual review that we would require on most programs that we pass in this body. I would like to talk about some of the people who were there or who provided testimony. Sacred Heart and St. Domenic Parishes in Portland in support of the bill. The Maine Chief's of Police Association, Executive Board, supported the bill. Chestnut Street United Methodist Church, Portland, supported the bill. The Maine Public Health Association supports the bill. The City of Portland, Public Health Division, supports the bill. Dr. Mills, our relatively new Public Health Officer, supports the bill. Director of the Office of Substance Abuse in the Department of Mental Health and Mental Retardation and Substance Abuse supports the bill.

Finally, relative to studies there apparently is a 1997 study out or at least an opinion offered to the US Senate that needle exchange programs are an effective way to combat the spread of HIV. I believe we have to at least give this program a chance. It is with great reluctance that I support it, but the weight of the testimony that we heard at the public hearing leads me to believe that we need to at least try this. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Standish, Representative Mack.

Representative MACK: Madam Speaker, Right Honorable Men and Women of the House. I wasn't expecting to speak on this today, but after hearing the debate, I urge you to vote against the pending motion. If you look at where the incentives are in this, it is all wrong. We are encouraging people to be drug addicts. We are giving them paraphernalia to be drug addicts. We should be getting tougher on the drug addicts, not giving them safe havens where they can go and use drugs and not worry about the police. This is in the wrong direction. This is encouraging drug addicts. If they are having a problem with getting clean needles, I am not sure how much a shot of heroin costs, but I am sure it is at least \$25 or \$30, but a needle can't cost much more than 25 or 30 cents. Evidently, they are having trouble purchasing a needle, which is about 1 percent the cost of heroin they buy. Again, this is encouraging drug abuse. We should have tougher penalties and discourage drug abuse. This goes in the wrong direction and sends the wrong message. I urge you to vote against the pending motion.

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

Representative SAXL: Madam Speaker, Men and Women of the House. This is on the verge of becoming a long debate and I wanted to briefly stand up and say what this bill does and does not do. What this bill does is helps stop the spread of AIDS in Maine. It has been estimated that this bill, a similar piece of legislation passed in Connecticut stopped the sharing of needles by over 40 percent, reducing the spread of AIDS as a whole by a full third. That is what the bill does. It helps stop the spread of AIDS. What does this bill not do? This bill does not encourage drug use. In fact, this legislation in Connecticut helped get users the treatment they need, increasing referrals by 78 percent. This bill does not make communities establish needle exchange programs, rather, it gives them guidelines. It instructs our Department of Health and Human Services to promulgate rules so that if a community on their own decides to do that, they will be doing that with appropriate and safe guidelines. This is a very simple step forward that the committee which advises the Governor on HIV and AIDS has been recommending since its inception. That is not a committee that is looking forward to supporting drug use in the State of Maine or which has any comfort level with supporting the spread of AIDS. The sole goal of this legislation is to stop the spread of AIDS in the State of Maine. I recommend and I hope that you will join me in supporting it.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Raymond, Representative Bruno.

Representative BRUNO: Madam Speaker, Men and Women of the House. In 1993, we passed legislation in this body allowing anyone to purchase a syringe without a prescription as long as you were over 18 years old. What happened in that 1993 legislation is that we did not change the criminal statute. All your diabetics that came into the pharmacy that came in and picked up a box of syringes, were actually in violation of the criminal statute. This bill clarifies that. It says if you purchase syringes under that statute, you are not in possession of drug paraphernalia anymore. Remember, this bill has two parts to it. One, is that it clarifies the criminal statute on syringes. The second one is to allow the Department of Health to set up rules, major substantive rules, to come back to the committee to look at whether or not the State of Maine should set up a needle exchange program. It says nothing in it that it will. The committee will have a second look at it after they set up the rules.

You have to take this bill and remove all your moral judgments on drug use. No one in this state condones drug use. One group that was not mentioned by the Representative from Acton was the Maine Pharmacy Association. They were in support of this bill also. Recent studies have shown that needle exchange programs do work. They do work in reducing the spread of AIDS, which is the most important thing. Like I said, the 1993 legislation allowed anybody to purchase syringes anywhere. If there was going to be a dramatic increase in the use of drugs, you would have already seen it. It didn't do that. The Chief's of Police in 1993 opposed the needle bill. They said that we were going to find syringes all over the place. We were going to find them on the ground and everywhere. Four years later after implementation of that law, they came back and supported this bill because they realized they were wrong in 1993. They did not find syringes all over the place.

The only way to get a drug abuser help is face to face contact with that drug abuser and say, do you want help with your problem? I am sure that the Department of Health, when it makes its rules, will make it mandatory to ask any drug abuser whether or not they want help. I urge you to accept the Majority

"Ought to Pass" Report. It is good public policy, not bad public policy. Anytime we can stop the spread of a disease, it is a good thing. The Center for Disease Control supports this type of bill. I ask you to vote with the Majority "Ought to Pass" Report.

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

Representative MAYO: Madam Speaker, Men and Women of the House. I, too, had not intended to speak on this bill this morning, but listening to the debate, it reminded me of the fact that I served on the first Governor's Advisory Committee on AIDS, which was appointed in 1979 and continued to serve on that group for seven years. In either 1981 or 1982, we made the recommendation to the then commissioner of Human Services that an experimental program of needle swap be instituted in the state. The commissioner and the Governor, at that time, both chose not to accept the committee's recommendation. However, it is my understanding that each year since then, that recommendation since then has been made. I personally am happy to see that this legislation is moving forward. As the previous speaker mentioned, it does correct a mistake or something that was left out in 1993. From my experience serving on the Governor's task force on AIDS and from my professional background as a funeral director, anything, ladies and gentlemen, that will decrease the spread of AIDS ought to be given a chance. I would urge your acceptance of the "Ought to Pass" report. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Bridgton, Representative Waterhouse. 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 WATERHOUSE: Madam Speaker, Ladies and Gentlemen of the House. I heard all the things that my good friend and colleague on the Judiciary Committee said, Representative Watson. I don't agree with her very often, but I recognize the fact that she is a very compassionate and caring person. I understand where she is coming from having served on that commission. I share the same concerns for those women. What I am saying to you, Representative Watson, is that this will not help those women. Representative Saxl again referred to the New Haven, Connecticut, study. I don't know if he was in the House when I mentioned and read from the National Academy of Science reporting on that study, but it is a bogus study. It is a nonscientific flawed study. Referring to the testimony of the debate from my other colleague, Representative Nass, he said nobody was in the committee to testify against it. That is true. People that I talked to in groups were unaware that this was a needle exchange program bill. It is the old case of coming to a party, but nobody came.

I talked to the representative of the Maine Police Chiefs when I found out that he supported this and I asked him why. He said that he got no information to show my side of the issue. Much to my chagrin, I didn't get that information to him. When I go to a committee hearing, whether it is my own committee or any other committee and I see a policy of this nature that has no opposition, it makes me very, very curious and I dig deep to find out the other side of the story. As Paul Harvey would say, "Now, for the rest of the story." It is true that nobody testified against this issue. I am just telling you what the science says and Representative Bruno said that the latest scientific data says these are good. I don't know where that scientific data is. I studied all these reports. I called up Washington, DC and asked for the latest studies on these issues. I realize that some of these agencies have come out recently in support of this, but there is no science behind it. There is no scientific studies.

This does not create a needle exchange program today, but it will down the road. That is what the bill says. For all practical purposes, if you vote for this bill, you are going to vote for needle exchange. The rules are going to come back and be approved by us. It is going to establish a needle exchange. I just told you and sighted the different areas of the country and the cities that are having problems with an outbreak of crime with an outbreak of drug pushers or heroin users and the police don't enforce it because it is politically incorrect to go into these places because you will scare away the needle exchange program participants. They don't work and they cause big problems. Thank you.

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

Representative MITCHELL: Madam Speaker, Men and Women of the House. Let's just say for the sake of argument that the experts don't know. I happen to dispute that, but let's just say that the evidence is inclusive. Let's talk to the people who are addicted to heroin, because a number of them came before the committee and a number of them have come before my committee on various issues. They are totally consumed by their addiction and nothing is going to get them to stop, including dirty needles. Something that is conclusive is that this just says no idea is utterly ineffective. They are going to use their drugs. This population has one of the highest risks of AIDS because they use dirty needles. It is the fastest growing group of people infected with AIDS in Maine. There is some common sense in the idea that if they are using clean needles, there is going to be a less spread of AIDS and because it is a needle exchange, they have to bring in their dirty needles to get back a clean needle. It gets dirty needles off the streets, literally. One of the addicts said that when he was worried about getting caught, he threw dirty needles on the streets. The idea that this encourages drug use is simply unfounded. No one is going to start using drugs because they get a free needle. No one is. It doesn't make sense. We have to deal with reality. Again, this is the fastest growing cause of AIDS in Maine. We have a population of drug users who aren't going to quit no matter how hard we wish for it. They are getting AIDS and they are spreading AIDS. It is not good policy to allow for that to continue. We have an opportunity with this bill to look at options for ways to decrease that spread. I hope you will support the pending motion.

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

Representative QUINT: Madam Speaker, Ladies and Gentlemen of the House. I wasn't going to testify today, partially because I am the most obvious person, I think, to testify for this. After the debate, I decided that perhaps I should. I want to talk a little bit about Representative Waterhouse's question about where this mathematical model comes from. Any of you who have been tested for HIV or AIDS knows that the questionnaire that you are asked during the interview before the test covers many different categories. One of which, do you use needles to inject drugs? That information, of course, is compiled because there are anonymous tests compiled statewide. I would say that much of the information that we have statistically, as a state, is accurate.

I am a member of the AIDS Project, Board of Directors in Portland as well as a member of the Advisory Board for the Maine AIDS Community Partnership. We deal with statistical information relative to national standards as well as Maine standards. This information is particularly of importance and I would like to share it with you. "In Maine, injection drug use is the second highest risk category in the AIDS pandemic. AIDS is the leading cause among Americans between the ages of 25 and 44. Approximately two-thirds of the new HIV infections stem from injection drug use. Fifty percent through sharing of infected

syringes and the additional portion through fetal transmission or sexual conduct involving injection drug use. Seventy-one percent of all female AIDS cases and 70 percent of all pediatric AIDS cases originate from infected drug use. In the United States, in 1994, 6,000 HIV positive women gave birth. Fifty-three percent of all AIDS cases in the northeastern United States are related to injection drug use, either directly or indirectly, sex with or birth from an injection drug user." Those are supportive and conclusive facts. I would ask you to consider that when you cast your vote.

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

Representative NASS: Madam Speaker, Men and Women of the House. There has been some comment this morning relative to the Maine Chief's of Police Association and their input to this proposal. I want to just read part of what they provided to us. It indicates to me a thoughtful process that they arrived in support of this bill. This is not an off the cuff decision they made. It was made by the Associations Executive Board. After considerable deliberation, they identified the following issues. "The intermediate drug user does not represent the traditional drug consumer and it is a very limited class of people. Therefore, this proposal poses little risk of increased drug usage by the general population. There is a clear need to get contaminated needles off the street and thereby reduce the exposure potential to innocent citizens and specifically to the police community itself. Any used needs encountered by police would continue to remain in the category of contraband. It would be considered illegal and allow for appropriate police action and prosecution. We have been assured by the Department of Health of the State of Maine that the needle exchange program implementation would include law enforcement collaboration and guideline policy development. There would be an attendant vehicle developed to provide counseling opportunities for drug users and hopefully provide an intake opportunity for long-term rehabilitation and drug withdrawal." They summarize in their belief that the benefits for such a program outweigh the risks. It is probably the right thing to do in the interests of the state. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Bridgton, Representative Waterhouse. Having spoken three times now requests unanimous consent to address the House a fourth time. Is there objection? Chair hears no objection, the Representative may proceed.

Representative WATERHOUSE: Madam Speaker, Ladies and Gentlemen of the House. I apologize for rising a fourth time. I will make this my very last. I don't question Representative Quint's remarks. What I am telling you is that this is not the point. The point is and you can go around this as much as you want, none of the studies that I have looked at from across the country and I read them all since February, say that this helps. You can say it doesn't increase drug use, but the studies say they don't know that either. What we do know, this is fact, is that neighborhoods that have these are coming apart. They have drug dealing problems in those neighborhoods. They have drug addicts shooting up in public. They have police who will not go in there to enforce this because it is politically incorrect. This is what is happening in these cities that have this. You can ignore that, it is not a scientific study, it is a fact. I will quote one more thing from all these studies. It is from the Office of National Drug Policy and I have every single study that has come out so far and there is no new ones, since I have been studying this that I know of, unless it came out in the last week. "Reports on these programs are scientifically weak and present very few objective indicators of success. All claims that needle exchange reduces the number of needles shared, but none of the programs conducted the blood tests necessary to make that

determination." None of these studies conducted a blood test. You can go ahead and put this into law if you want. You think you are doing something good, but usually when you do something like this, you have sound science, not politics behind this.

Think deep about this. It may be compassionate to vote for this because you think you are doing the right thing in helping these people, but you are not, not in my eyes. You have the two leading advocates of these programs, these very same people you are supposed to help, to get them in contact with these people, guess what, the pioneer died of a heroin drug overdose. Brian Wells, founded the city's needle exchange program, died of a heroin overdose. John Waters, 47 years old, heroin overdose. These are the founders of these programs. Again, I will stress one more time. Sex, you get this disease from sex too, folks. If you are in this drug culture, sharing needles, shooting up or even with a clean needle, does that mean I am not have sex when I get together with my group. All I ask you to do is think about all these things. Don't think with your heart. It is hard enough to do, believe me. Vote the right way. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from South Portland, Representative Muse.

Representative MUSE: Madam Speaker, Ladies and Gentlemen of the House. Very briefly, I would just like to point out because amazingly enough, I haven't heard it mentioned in all of what has turned into a lengthy debate. What we haven't heard mentioned is Hepatitis B and Hepatitis C, which is something that the people in this room are far more at risk to than HIV, at this stage. That is working on the assumption that nobody in the room is an IV drug user or behaving in a sexually promiscuous manner. Hepatitis B is far more rugged in the world of viruses than HIV. To break away from Connecticut for a moment. A study from Tacoma, Washington demonstrated a seven fold decrease in the acquisition of Hepatitis B, as well as Hepatitis C among needle exchange clients.

I would like to pose a question if I may to Representative Waterhouse, the gentlemen who we have heard cited, who was the founder of this study, who died of a drug overdose, do we know if he was using an exchanged needle or a dirty needle?

The SPEAKER: The Representative from South Portland, Representative Muse has posed a question through the Chair to the Representative from Bridgton, Representative Waterhouse. The Chair recognizes that Representative.

Representative WATERHOUSE: Madam Speaker, Ladies and Gentlemen of the House. I was just walking in. I think the question was do I know whether the gentlemen died of clean needle or a dirty needle. I don't know that, but I know he died from a drug overdose. One of the parameters of these programs is they are supposed to get you in for counseling so they can get you off the drug. Like Congressman Wrangle said, "Let's get them off the drugs." Heroin kills people, folks. You can be just as debilitated and die from this as anything else, AIDS or whatever, it kills you. It makes it very susceptible to any kind of diseases. I don't know if he had a clean needle. I don't know if anybody knows that, but I know he died from one of the things that these programs are supposed to do. Drug counseling to get them off drugs. He died from a drug overdose.

The SPEAKER PRO TEM: A roll call has been ordered. The pending question before the House is acceptance of the Majority "Ought to Pass" Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 208

YEA - Bagley, Baker CL, Baker JL, Berry RL, Bolduc, Bouffard, Brennan, Brooks, Bruno, Bull, Bunker, Cameron, Chartrand, Chick, Chizmar, Clark, Colwell, Cowger, Cross,

Davidson, Driscoll, Dunlap, Dutremble, Etnier, Farnsworth, Fisher, Fisk, Frechette, Fuller, Gagne, Gagnon, Gieringer, Goodwin, Gooley, Green, Hatch, Jabar, Jones KW, Jones SL, Jones SA, Joyner, Kane, Kerr, Kontos, Labrecque, LaVerdiere, Lemaire, Lemke, Lemont, Lovett, Mailhot, Mayo, McKee, Meres, Mitchell JE, Morgan, Murphy, Muse, Nass, O'Neal, O'Neil, Paul, Peavey, Pendleton, Perkins, Perry, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Savage, Saxl JW, Saxl MV, Shannon, Shiah, Skoglund, Stanley, Stevens, Tessier, Thompson, Townsend, Tripp, Usher, Vigue, Volenik, Watson, Winn, Wright, Madam Speaker.

NAY - Ahearne, Barth, Belanger IG, Berry DP, Bigl, Bodwell, Bragdon, Buck, Bumps, Campbell, Carleton, Cianchette, Clukey, Desmond, Foster, Gerry, Honey, Joy, Joyce, Kasprzak, Kneeland, Lane, Layton, Lindahl, MacDougall, Mack, Marvin, McAlevey, McElroy, Nickerson, O'Brien, Pinkham RG, Pinkham WD, Sirois, Snowe-Mello, Stedman, Taylor, Tobin, Treadwell, Underwood, Vedral, Waterhouse, Wheeler EM, Wheeler GJ, Winglass, Winsor.

ABSENT - Belanger DJ, Dexter, Donnelly, Gamache, Madore, Ott, Pieh, Plowman, Spear, True, Tuttle.

Yes, 94; No, 46; Absent, 11; Excused, 0.

94 having voted in the affirmative and 46 voted in the negative, with 11 being absent, the Majority "**Ought to Pass**" as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (H-468) was read by the Clerk and adopted.

Representative MACK of Standish objected to suspending the rules in order to give the Bill its second reading without reference to the Committee on **Bills in the Second Reading**.

The Chair ordered a division on suspension of the rules.

A vote of the House was taken. 89 voted in favor of the same and 24 against, the rules were suspended and the Bill was given its second reading without reference to the Committee on **Bills in the Second Reading**.

Representative MACK of Standish moved that the Bill be tabled pending passage to be engrossed and later today assigned.

Representative THOMPSON of Naples requested a division on the motion to table.

The Chair ordered a division on the motion to table.

A vote of the House was taken. 44 voted in favor of the same and 80 against, the motion to table did not prevail.

Subsequently, the Bill was passed to be engrossed as amended by Committee Amendment "A" (H-468) and sent up for concurrence.

Representative MACK of Standish objected to sending all matters forthwith.

Representative SAXL of Portland requested a division on the motion to suspend the rules.

The Chair ordered a division on the motion to suspend the rules.

A vote of the House was taken. 68 voted in favor of the same and 39 against, the motion to suspend the rules did not prevail.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Oxford, Representative Underwood who wishes to speak on the record.

Representative UNDERWOOD: Madam Speaker, Men and Women of the House. A parliamentary inquiry. Under suspension of the rules, does it not say two-thirds of the voting members to suspend the rules?

The SPEAKER PRO TEM: The Chair would answer in the affirmative. The motion to suspend the rules did not prevail.

The Speaker resumed the Chair.

The House was called to order by the Speaker

HOUSE DIVIDED REPORT - Majority (12) "**Ought Not to Pass**" - Minority (1) "**Ought to Pass**" - Committee on **State and Local Government** on Bill "An Act to Deorganize the Town of Cooper" (H.P. 1033) (L.D. 1450)

TABLED - May 15, 1997 by Representative AHEARNE of Madawaska.

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

Subsequently, the Majority "**Ought Not to Pass**" Report was accepted.

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

On further motion of the same Representative, tabled pending the motion of Representative AHEARNE of Madawaska to accept the Majority "**Ought Not to Pass**" Report and later today assigned.

Bill "An Act to Remove Restrictions on Items that May Be Auctioned by Public Broadcasting Stations" (EMERGENCY) (H.P. 953) (L.D. 1316)

- In House, Passed to be Engrossed as amended by Committee Amendment "A" (H-270), House Amendment "A" (H-471) and Senate Amendment "A" (S-190) on May 15, 1997.

- In Senate, Senate Insisted on its former action whereby the Bill was passed to be Engrossed as amended by Committee Amendment "A" (H-270) and Senate Amendment "A" (S-190).

TABLED - May 15, 1997 by Representative Saxl of Portland.

PENDING - Further Consideration.

On motion of Representative KONTOS of Windham, the House voted to Insist and ask for a Committee of Conference. Sent up for concurrence.

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

House Divided Report - Committee on **State and Local Government** - (12) members "**Ought Not to Pass**" - (1) member "**Ought to Pass**" - on Bill "An Act to Deorganize the Town of Cooper" (H.P. 1033) (L.D. 1450) which was tabled by Representative GOODWIN of Pembroke pending the motion of Representative AHEARNE of Madawaska to accept the Majority "**Ought Not to Pass**" Report.

The SPEAKER: The Chair recognizes the Representative from Pembroke, Representative Goodwin.

Representative GOODWIN: Madam Speaker, Men and Women of the House. I rise to oppose the "Ought Not to Pass" Report. I represent 8,000 people in my district. One hundred and forty-one of them live in Cooper, Maine. Over the last nine months, I have met dozens of times agonizing over a serious matter, to deorganize into a township. After going through all the hoops, the state voted to start the process. This included contacting me as their newly elected Representative. I submitted this bill it was necessary for this body and the other body to allow the process to go forward. That is, this bill provides for the deorganization of the Town of Cooper in Washington County,

subject to the approval at local referendum. There is no other method to use. It is in disbelief that I see a 12 to 1 report of "Ought Not to Pass." No citizen from Cooper spoke against the bill in the hearing. The county commissioners did not take a position at the hearing. They know the town is taking the step they determined was in their best interests. Although it requires them to submit this act to the legal voters in this case, in November, two-thirds of the legal voters voting must approve this act and the total numbers of voters at the polls must exceed 50 percent of the total votes cast for Governor at the last gubernatorial election.

The deorganization committee met with the state officials, as the law requires, including debts that may exist, unexpended school funds, withdrawal from School Union #107, provision for educational services, assessment of taxes and a referendum question. The deorganization committee followed the process. Madam Speaker, men and women of the House, we complied with the law. There is no other entities to apply to deorganize. All cities and towns, county commissioners included, are required to apply, if you will, to this body and the other body to change charters, establish authority or even as Knox County has done to increase the number of county commissioners to five from three. That is in LD 1408, amendment (H-475). Other towns will apply because of inequities in the school funding formula. Taxes have risen to unacceptable levels in our smaller towns. The deorganization of Cooper will not put a burden on the state. All property in the unorganized territories that Cooper wants to join will be assessed by the State Tax Assessor to raise revenue to pay for all necessary services for the entire 10.5 million acres.

I ask for your support. Vote no for the majority. Allow the people of Cooper to vote in November, yea or nay on deorganization. I thank the Speaker and I ask for the yeas and nays.

Representative GOODWIN of Pembroke 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. There is two ways of pronouncing Cooper. You can pronounce it Cooper, like we do in Calais or Coopa, like they do down on the coast. Needless to say, this town is a very small town. It is in need of help because the educational formula has put them in such a spot that they cannot survive. At the present time, they send their students to various schools throughout the district and they send their elementary students to a school that is within five miles of their towns. I think the problem that arises is, the state does have a law that if they did deorganize, what would happen is that they would have to send their students 60 miles round trip to a school in Edmund where, I don't know if it is the best education or not. I know the school they are going to in Alexander, which is right along side of them, is an excellent school and the children get an excellent education. I think we have a problem here because this school, as I said before, they cannot afford to stay the way they are. They have got to go into the unorganized district. I don't know what the solution is, but I hope that you will vote the "Ought to Pass" so that we can do something for this town. They need help badly. Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative CAMERON: Madam Speaker, Men and Women of the House. To anyone from the committee, this is certainly not precedent setting and what is the opposition? It would be very helpful. Thank you.

The SPEAKER: The Representative from Rumford, Representative Cameron has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Madawaska, Representative Ahearne.

Representative AHEARNE: Madam Speaker, Ladies and Gentlemen of the House. To address concerns raised, in part, to the question that the good Representative from Rumford brought up, there is a process of deorganization. The Town of Cooper decided not to follow one section of the deorganization procedure. That procedure is in Title 30A, Section 7205. What that section says is, that at the local committee, with the assistance of the commission shall develop a deorganization procedure, which at a minimum shall consist of the following components." Under paragraph 2, "The provision of education services, the deorganization procedure shall provide for educational services, including school transportation's services for all students in the municipality for which the deorganization is proposed." Under paragraph A, "The Commissioner of Education is responsible for implementing this subsection for incorporation in the deorganization procedure."

The people of Cooper decided not to follow that procedure. They decided they would implement their own education purposes. The Attorney General's Office, in an opinion, has said that that section is specifically clear that the Department of Education will oversee the education services and the implementing of this education plan. It states in the opinion, "It is my opinion based on the plain words of Section 7205 that the commission is responsible for the educational services provided after deorganization occurs and for incorporating that program into the deorganization procedure. The statute could not be clearer on this point. If further proof of supporting my interpretation of 7205 is needed, then interpretation is fully consistent with commissioners authority in providing educational services to all unorganized territories."

Finally, it is simply absurd that a local committee, not ultimately responsible for the payment or provision of education services could bind the commissioner who is responsible for paying and providing the services. Under the plan, in the bill, the cost would be an additional \$72,000. The unorganized territories will have to pick up that cost. Under the statute because the education of the unorganized territories is under the control of the Department of Education, they would have to look at this at what is the best and what is at the lowest cost. The \$72,000 additional would have to be picked up by the unorganized territories. For that one major reason, is why we have a 12 to 1 report. I believe that the testimony given by the Department of Education sums it up best when it is said in three points that this does not follow the statutory prescribed procedure for deorganization of a municipality. It does not include educational services developed by the commissioner of Education and does require the unorganized territory, Education and Services Fund, they incur higher costs than those proposed by the commissioner of Education. Furthermore, this may be seen by other Maine communities as a precedent to establish individual deorganization procedure in order to gain specific benefits.

There is a procedure, ladies and gentlemen of the House, that must be followed. Unfortunately the Town of Cooper did not follow that one procedure and that is the major reason why the committee issued a 12 to 1 report. I ask you to accept the Majority "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Kossuth Township, Representative Bunker.

Representative BUNKER: Madam Speaker, Men and Women of the House. Here we are. We are dueling technicalities. It is a problem. The commission to deorganize was supposed to assist this town to follow the proper procedure. All this town wants is to have the right to vote at the local level. If, in fact, the state is going to mandate the education components, then great, when the people vote on this bill in their local municipality, when we ask them permission to vote to deorganize. They are going to know. When the people in this town votes to deorganize, they are going to know that they are not going to be able to control where their kids go to school. Do not take away their right to make that decision. This town is in very dire financial straits. I understand why they are deciding to deorganize, but I also understand the education problem. I live in the unorganized territory and, quite frankly, I will absorb the additional cost of Cooper into the unorganized budget. I will gladly pay the little bit extra it takes to allow those kids to go 17 miles instead of 30 some odd miles. If, as Representative Ahearne says, the Attorney General decides that the state, through the Unorganized Territory Education Office can dictate exactly where those kids go and how those kids go. Great, but don't take the town of Coopers right to deorganize away from them just when they vote locally, they will understand that they are not going to say where the kids go. Please vote against the pending motion and go on to approve the bill. Thank you.

The SPEAKER: The Chair recognizes the Representative from Pembroke, Representative Goodwin.

Representative GOODWIN: Madam Speaker, Men and Women of the House. I went to the work session. I went to the hearing. I presented this bill. I heard from the director of the unorganized territories dealing with education. He said several times that there are six or more towns contemplating deorganization and he said that if this committee approved this, it would be a positive on other towns. The very next town next to it is Dennysville, right next door to Cooper. They have started the process to deorganize. It is an agonizing decision. They have been towns since the Revolutionary War. They don't want to do this. They have been forced into it. For nine months, they have worked with every department in the State of Maine. As the good Representative from Kossuth said, if they had a problem, they should have addressed it over the last nine months and not come before the committee in the final stages and say you didn't follow every rule, dot every I or cross every T. I am asking this body to support the Town of Cooper and allow them, next November, to either deorganize or not. It is still very uncertain. If in the next two and a half weeks this body can produce a document that will give the education formula, education reform and allow these folks to do something different. It will be a moot point. There will be no votes cast in November if we can get the money down to these small towns. Thank you.

The SPEAKER: The Chair recognizes the Representative from China, Representative Bumps.

Representative BUMPS: Madam Speaker, Men and Women of the House. Just briefly I would like to add to some of the things that Representative Ahearne so eloquently described to the members of this body. To explain in as plain terms as I can some of the confusion that might surround this issue. Most of us who do not live in the unorganized territories understand that a municipality is responsible for providing certain services to its members. Among those services are things like fire and police protection. One of the more costly of those services is probably education. For those of us who don't live in a municipality and who live in the unorganized territories, the state becomes responsible for providing those very same services.

In the case of the Town of Cooper, the cost of providing those services has become too burdensome. They have decided to deorganize. It is fully within their right and they have gone through a portion of the process, as they should have, and have come to the Legislature and asked for our endorsement. The key to this entire issue and this is important to understand if you are not familiar with the terrain or the geography around Cooper, is that there are two schools in very close proximity to the Town of Cooper, relatively speaking, of course. The first school is one that is controlled by a municipality, a neighboring municipality. The second school is one of the approximately 60, I believe, my seatmate will correct me if I am wrong, schools in the unorganized territories that the state controls. On the one hand we have a school that we are already paying for in the unorganized territories and on the other hand we have a school that a neighboring municipality is paying for. In the event that we allow the Town of Cooper to deorganize, we could be faced with paying \$72,000 a year to tuition these kids out to school that is in a neighboring municipality or we could send them to the state operated, already funded, school that is in the unorganized territory.

It is less a question of process and whether or not we followed the process, but I would suggest that this whole issue does set a great deal of precedent for other towns, which are thinking of deorganizing. It eliminates the biggest component of a deorganization equation, that being the provision of education. When we talk about allowing people who are thinking about deorganizing to select their schools and to send the state the bill for sending these students to any school they wish, that is a fairly big decision. In this case, I would ask that you support the Majority "Ought Not to Pass" Report and to ask the Town of Cooper that if they are sincerely interested in deorganizing, that they think through all of these issues surrounding education and understand that when deorganization occurs that they have given up a certain amount of their control that they have currently over educational services. Thank you.

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

Representative VOLENIK: Madam Speaker, Men and Women of the House. Our system of funding education is totally out of control. Every community or school district should receive a per pupil reimbursement from the state that is equal to every other school district. My vote is going to be for deorganization and it will be a protest against the current school funding mechanisms.

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. 209

YEA - Ahearne, Baker CL, Baker JL, Belanger IG, Berry DP, Berry RL, Bigl, Bragdon, Brennan, Brooks, Bruno, Bull, Bumps, Cameron, Campbell, Carleton, Chartrand, Chick, Cianchette, Clukey, Cowger, Cross, Davidson, Dunlap, Dutremble, Etnier, Fisher, Fisk, Frechette, Fuller, Gagne, Gagnon, Gerry, Gieringer, Gooley, Green, Hatch, Honey, Jones SL, Joy, Joyce, Joyner, Kane, Kasprzak, Kneeland, Kontos, Labrecque, Lane, LaVerdiere, Lemaire, Lemont, Lindahl, Lovett, Marvin, Mayo, McAlevey, McElroy, McKee, Meres, Mitchell JE, Morgan, Murphy, Muse, O'Neil, Peavey, Pendleton, Perry, Pinkham RG, Povich, Powers, Quint, Richard, Rowe, Samson, Sanborn, Savage, Saxl JW, Saxl MV, Shannon, Stedman, Stevens, Thompson, Tobin, Townsend, Tripp, Usher, Vigue, Watson, Winn, Winsor.

NAY - Bagley, Barth, Bouffard, Buck, Bunker, Chizmar, Clark, Colwell, Desmond, Driscoll, Foster, Goodwin, Jones SA, Kerr, Layton, Lemke, MacDougall, Mack, Mailhot, Nass, Nickerson,

O'Brien, O'Neal, Paul, Perkins, Pinkham WD, Poulin, Rines, Shiah, Sirois, Skoglund, Snowe-Mello, Stanley, Taylor, Tessier, Treadwell, True, Underwood, Vedral, Volenik, Waterhouse, Wheeler EM, Wheeler GJ, Winglass, Wright.

ABSENT - Belanger DJ, Bodwell, Bolduc, Dexter, Donnelly, Farnsworth, Gamache, Jabar, Jones KW, Madore, Ott, Pieh, Plowman, Spear, Tuttle, Madam Speaker.

Yes, 90; No, 45; Absent, 16; Excused, 0.

90 having voted in the affirmative and 45 voted in the negative, with 16 being absent, the Majority "**Ought Not to Pass**" Report was accepted and sent up for concurrence.

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

The House recessed until 2:00 p.m.

(After Recess)

The House was called to order by the Speaker.

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

SENATE DIVIDED REPORT - Committee on **Labor** (10) members - "**Ought Not to Pass**" - (2) members "**Ought to Pass**" on Resolve, to Exempt Matthew Scott from Maine State Retirement System Restrictions on Income Earned as Deputy Commissioner of Inland Fisheries and Wildlife (EMERGENCY) (S.P. 94) (L.D. 373) which was tabled by Representative HATCH of Skowhegan pending her motion to accept the Majority "**Ought Not to Pass**" Report.

The SPEAKER: The Chair recognizes the Representative from Millinocket, Representative Clark.

Representative CLARK: Madam Speaker, Men and Women of the House. I hope you will join me today in defeating the pending motion. Mr. Scott, who is the Deputy Commissioner of Inland Fisheries and Wildlife, is working about 60 to 70 hours a week, but since he is a retired person, he cannot collect his full pay because he is in the retirement system. The regular pay for Mr. Scott is around \$57,000 a year. Mr. Scott will be getting done in September so once he gets done, this bill becomes null and void. All it is a little token for Mr. Scott so he can resume his pay that is due to him with all the numbers of hours that he works. I wish that you would defeat the pending motion and follow my light. Thank you.

The SPEAKER: The Chair recognizes the Representative from Scarborough, Representative Pendleton.

Representative PENDLETON: Madam Speaker, Ladies and Gentlemen of the House. This individual is trying to collect his full retirement pension from the Maine State Employees Association and collect his full salary from his job. This body passed very specific rules dealing with retirement and the retirement issues, as to how much time you can work and not have a deduction from your salary. This gentleman is trying to have us void out that problem just for him. I, myself, had an opportunity to return to work for the State of Maine, but because I was receiving a pension, I made the decision that I did not want to go through the problem of having it deducted and I did not return to the State of Maine. Anybody who is receiving a full

pension cannot receive a full salary from the state in a regular job. This man is trying to collect both and I look at that as nothing but greed. Granted, he may be doing a wonderful job for the department, but I feel there are other people that would be having that job if he wasn't there. Thank you very much.

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

Representative PAUL: Madam Speaker, Ladies and Gentlemen of the House. I just want to say today that I worked in my years in law enforcement and went I went to work in 1958, I had to work 26 years to get my 20 years because there was a problem and that required me to put in those extra six years. I also want to say that I have never met an individual in state government that is as conscientious and qualified as Mr. Scott. I think we should go ahead today and vote to defeat the Majority "Ought Not to Pass" Report. 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. 77 voted in favor of the same and 13 against, the Majority "**Ought Not to Pass**" Report was accepted in concurrence. Ordered sent forthwith.

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

REPORTS OF COMMITTEES

Divided Report

Majority Report of the Committee on **Inland Fisheries and Wildlife** reporting "**Ought Not to Pass**" on Bill "An Act to Amend Snowmobile Registration Fees and Promote Snowmobile Club Participation" (H.P. 1146) (L.D. 1611)

Signed:

Senators: KILKELLY of Lincoln
RUHLIN of Penobscot
HALL of Piscataquis

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" (H-494) on same Bill.

Signed:

Representatives: UNDERWOOD of Oxford
TRUE of Fryeburg
CROSS of Dover-Foxcroft

Was read.

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

Divided Report

Majority Report of the Committee on **State and Local Government** reporting "**Ought to Pass**" Pursuant to Joint Order (H.P. 993) on Resolve, for Laying of the County Taxes and Authorizing Expenditures of Androscoggin County for the Year 1997 (EMERGENCY) (H.P. 1330) (L.D. 1880)

Signed:

Senators: NUTTING of Androscoggin
GOLDTHWAIT of Hancock
LIBBY of York

Representatives: AHEARNE of Madawaska
BUMPS of China
FISK of Falmouth
GIERINGER of Portland
KASPRZAK of Newport
SANBORN of Alton

Minority Report of the same Committee reporting "**Ought Not to Pass**" Pursuant to Joint Order (H.P. 993) on same Resolve.

Signed:

Representative: GERRY of Auburn

Was read.

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

CONSENT CALENDAR

First Day

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

(H.P. 964) (L.D. 1327) Bill "An Act to Regulate Recreational Vehicle Franchises" Committee on **Business and Economic Development** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-503)

(H.P. 1181) (L.D. 1672) Bill "An Act to Establish the Licensing of Sexual Assault Nurse Examiners" Committee on **Business and Economic Development** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-505)

(H.P. 1234) (L.D. 1751) Bill "An Act to Amend the Licensure Act for Speech Pathologists and Audiologists" Committee on **Business and Economic Development** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-506)

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

There being no objection, the House Papers were passed to be engrossed as amended and sent up for concurrence.

BILLS IN THE SECOND READING

As Amended

Bill "An Act to Provide Legal Counsel for Legislative Committees" (H.P. 847) (L.D. 1152) (C. "A" H-488)

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

On motion of Representative BARTH of Bethel, was set aside.

On motion of Representative SAXL of Portland, tabled pending passage to be engrossed as amended by Committee Amendment "A" (H-488) and later today assigned.

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

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

REPORTS OF COMMITTEES

Divided Report

Majority Report of the Committee on **Judiciary** reporting "**Ought Not to Pass**" on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Affirm the Rights to Private Property (H.P. 352) (L.D. 475)

Signed:

Senators: LONGLEY of Waldo
LaFOUNTAIN of York

BENOIT of Franklin

Representatives: THOMPSON of Naples
WATSON of Farmingdale
ETNIER of Harpswell
JABAR of Waterville
MAILHOT of Lewiston
POWERS of Rockport
MADORE of Augusta
NASS of Acton

Minority Report of the same Committee reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-510) on same RESOLUTION.

Signed:

Representatives: PLOWMAN of Hampden
WATERHOUSE of Bridgton

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 Penobscot, Representative Perkins.

Representative PERKINS: Madam Speaker, Colleagues of the House. I submitted this bill for a constituent who was a legislator a couple terms ago. It simply states, modeled after Article 16, having to do with the right to bear arms. This one says that the people have the right to own property and that right shall never be questioned. It is almost verbatim to Article 16.

For a while, I thought this might not be needed because in Section 1 there is a reference to private property. It isn't spelled out as firmly as this. The more I got thinking about it, maybe we do need this because this talks about a right and the way property rights are going, the direction we are heading, I have an idea. It used to be a considered right and for last lot of years we have been hearing the term stewards of the land. I don't disagree with that. I don't disagree with the concept that we are stewards, but I don't want to lose sight of the fact that we have the right to own land. It goes from right to steward, perhaps, and what is next a license or a privilege? That is the way a lot of things go. They start out being rights and then they end up being a privilege. You can see that with fishing and all sorts of things.

For example, we don't have to have a license to fish in salt water. Apparently, it is a right to go down and catch some mackerel. There is some talk of licensing it. If you license it, it belongs to the state and it is a privilege for the people to do it. That doesn't really pertain here. It is the concept that I am trying to keep alive. That it is a right to own property. Thank you.

Representative PERKINS of Penobscot 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: 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. 210

YEA - Ahearne, Bagley, Baker CL, Baker JL, Berry RL, Bolduc, Bouffard, Brennan, Brooks, Bruno, Bull, Bunker, Chartrand, Chizmar, Clark, Colwell, Cowger, Davidson, Donnelly, Driscoll, Dutremble, Etnier, Fisher, Fisk, Frechette, Fuller, Gagnon, Green, Hatch, Jabar, Jones KW, Jones SL, Joyner, Kane, Kerr, Kneeland, Kontos, LaVerdiere, Lemaire, Lemke, Lemont, Lindahl, Lovett, Madore, Mailhot, McKee, Mitchell JE, Morgan, Murphy, Muse, Nass, O'Neal, O'Neil, Paul, Pendleton, Perry, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Savage, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Stanley, Stevens, Tessier, Thompson, Townsend, Tripp,

Vigue, Volenik, Watson, Wheeler GJ, Winn, Wright, Madam Speaker.

NAY - Barth, Belanger IG, Berry DP, Bigl, Bodwell, Bragdon, Buck, Bumps, Cameron, Campbell, Carleton, Chick, Cianchette, Clukey, Cross, Desmond, Dunlap, Foster, Gagne, Gerry, Gieringer, Goodwin, Gooley, Honey, Jones SA, Joy, Joyce, Kasprzak, Labrecque, Lane, Layton, MacDougall, Mack, Marvin, Mayo, McAlevey, McElroy, Meres, Nickerson, O'Brien, Peavey, Perkins, Pinkham RG, Pinkham WD, Snowe-Mello, Spear, Stedman, Taylor, Tobin, Treadwell, True, Vedral, Waterhouse, Wheeler EM, Winglass, Winsor.

ABSENT - Belanger DJ, Dexter, Farnsworth, Gamache, Ott, Pieh, Plowman, Skoglund, Tuttle, Underwood, Usher.

Yes, 84; No, 56; Absent, 11; Excused, 0.

84 having voted in the affirmative and 56 voted in the negative, with 11 being absent, the Majority "**Ought Not to Pass**" Report was accepted and sent up for concurrence.

Divided Report

Majority Report of the Committee on **Criminal Justice** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-511) on Bill "An Act Regarding Firearms Proficiency Testing for Private Investigators" (H.P. 867) (L.D. 1184)

Signed:

Senators: MURRAY of Penobscot
O'GARA of Cumberland
MITCHELL of Penobscot

Representatives: O'BRIEN of Augusta
PEAVEY of Woolwich
McALEVEY of Waterboro
POVICH of Ellsworth
JONES of Greenville
TOBIN of Dexter
BUNKER of Kossuth Township
FRECHETTE of Biddeford
WHEELER of Bridgewater

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

Signed:

Representative: MUSE of South Portland
Was read.

On motion of Representative POVICH of Ellsworth the Majority "**Ought to Pass**" as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (H-511) was read by the Clerk and adopted.

Under suspension of the rules the Bill was given its second reading without reference to the Committee on **Bills in the Second Reading**.

Under further suspension of the rules the Bill was passed to be engrossed as amended by Committee Amendment "A" (H-511) and sent up for concurrence.

Divided Report

Majority Report of the Committee on **Transportation** reporting "**Ought Not to Pass**" on Bill "An Act to Increase the Speed Limit and Amend the Penalty Point System" (H.P. 1091) (L.D. 1534)

Signed:

Senator: O'GARA of Cumberland
Representatives: WINGLASS of Auburn
FISHER of Brewer
CLUKEY of Houlton

CHARTRAND of Rockland
LINDAHL of Northport
DRISCOLL of Calais
BOUFFARD of Lewiston
SAVAGE of Union
WHEELER of Eliot

Minority Report of the same Committee reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-512) on same Bill.

Signed:

Representative: JOYCE of Biddeford
Was read.

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

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Joyce.

Representative JOY: Madam Speaker, Men and Women of the House. I have to admit, I agree with the majority of the committee that the original bill to increase the speed limit to 75 miles per hour and to amend the penalty point system was a bad idea. Instead of just doing nothing, I decided to bring out a Minority Report, which, very simply, all it does is it says wherever the speed limit is 65 miles per hour in the state, it just raises it to 70 miles per hour. It makes no changes in the point system. Therefore, I would ask you to vote against the Majority Report and I request a division.

Representative JOYCE of Biddeford requested a division on the motion to accept the Majority "**Ought Not to Pass**" Report.

Representative MACK of Standish 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.

Representative BOUFFARD of Lewiston moved that the Bill be tabled pending the motion of Representative DRISCOLL of Calais to accept the Majority "**Ought Not to Pass**" Report and later today assigned.

Representative JOYCE of Biddeford requested a division on the motion to table.

The Chair ordered a division on the motion to table.

A vote of the House was taken. 55 voted in favor of the same and 61 against, the motion to table did not prevail.

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. 211

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

NAY - Bagley, Barth, Cross, Foster, Gagne, Joyce, Labrecque, Layton, Mack, Nickerson, O'Neil, Snowe-Mello, Vedral, Winsor.

ABSENT - Belanger DJ, Dexter, Farnsworth, Gamache, Mayo, Ott, Pieh, Plowman, Skoglund, Tuttle, Underwood.

Yes, 126; No, 14; Absent, 11; Excused, 0.

126 having voted in the affirmative and 14 voted in the negative, with 11 being absent, the Majority "**Ought Not to Pass**" Report was accepted and sent up for concurrence.

Divided Report

Majority Report of the Committee on **State and Local Government** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-497) on Bill "An Act to Prohibit Towns from Cancelling Health Insurance Provided to Retired Employees" (H.P. 1140) (L.D. 1605)

Signed:

Senators: NUTTING of Androscoggin
LIBBY of York

Representatives: AHEARNE of Madawaska
FISK of Falmouth
BAGLEY of Machias
GERRY of Auburn
LEMKE of Westbrook
GIERINGER of Portland
SANBORN of Alton
DUTREMBLE of Biddeford

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

Signed:

Senator: GOLDTHWAIT of Hancock
Representatives: BUMPS of China
KASPRZAK of Newport

Was read.

On motion of Representative KONTOS of Windham, tabled pending acceptance of either report and later today assigned.

REPORTS OF COMMITTEES

Divided Report

Majority Report of the Committee on **Judiciary** reporting "**Ought Not to Pass**" on Bill "An Act to Restrict the Use of Social Security Numbers" (H.P. 911) (L.D. 1254)

Signed:

Senators: LONGLEY of Waldo
LaFOUNTAIN of York
BENOIT of Franklin

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

Minority Report of the same Committee reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-508) on same Bill.

Signed:

Representative: WATERHOUSE of Bridgton
Was read.

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

Divided Report

Majority Report of the Committee on **Labor** reporting "**Ought Not to Pass**" on Resolve, Directing the Department of Labor to Transfer Appropriate Functions and Positions to the Office that Houses the Fort Kent Employment Security Office (EMERGENCY) (H.P. 1300) (L.D. 1843)

Signed:

Senators: CATHCART of Penobscot
MILLS of Somerset
TREAT of Kennebec

Representatives: HATCH of Skowhegan
SAMSON of Jay
BOLDUC of Auburn
CLARK of Millinocket
RINES of Wiscasset
STANLEY of Medway
PENDLETON of Scarborough
TREADWELL of Carmel

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

Signed:

Representative: JOYCE of Biddeford
Was read.

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

On motion of Representative DONNELLY of Presque Isle, tabled pending the motion of Representative HATCH of Skowhegan to accept the Majority "**Ought Not to Pass**" Report and later today assigned.

Divided Report

Majority Report of the Committee on **Judiciary** reporting "**Ought Not to Pass**" on Bill "An Act to Require Compensation for Loss of Property Value Due to State or Local Regulation" (H.P. 914) (L.D. 1257)

Signed:

Senators: LONGLEY of Waldo
LaFOUNTAIN of York
BENOIT of Franklin

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

Minority Report of the same Committee reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-509) on same Bill.

Signed:

Representative: WATERHOUSE of Bridgton
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 Crystal, Representative Joy.

Representative JOY: Madam Speaker, Ladies and Gentlemen of the House. During this particular session of the Legislature, the individual property rights of people scattered all throughout the State of Maine have come under very serious attack. I can't recall in the short time that I have been here and in the time prior to that that I have followed the legislative process ever seeing so many bills that were attacking the rights of the individual and their rights to own property. They are guaranteed under the Constitution of the United States and the Constitution of the State of Maine. I put this bill in even though it had been the second or third time it had been put in the last three sessions, because in the last session of the Legislature, a proposal was put in and eventually out of it came a task force, which set up a mediation process. That task force consisted of 24 individuals, but that mediation process means that if you are a property owner and a bill is passed, it takes away your property rights in any way shape or form, you lose. As I gave in my testimony at the Civic Center when this bill was heard, the only people that ever win at mediation are those who have power or those who have wealth. Unfortunately, there are many people out there who own property who have neither. This is the reason that I put this bill in, if a law is passed that reduces the value of the property by 50 percent, then the individual should be paid under the 5th Amendment under the Constitution of the United States.

I think the most telling testimony that was given in support of my bill was given by a gentleman that is well known to most of the legislators, William Vale, who was on that task force that set up the mediation process. That was just less than two years ago. He came and testified in support of my bill. When I talked to him about it afterwards and thanked him for his support, he indicated that the commission or the task force that set up the mediation process did not go anywhere near far enough to protect the landowner. An amendment was put on this bill which exempts those areas that are covered by shoreline regulation and that seemed to be a point of contention for those who are in opposition to the bill.

Ladies and gentlemen, if we do away with individual property rights and allow laws to be passed, which run rough shod over those property rights, then we are going directly against the Constitution of the State of Maine and the Constitution of this country. I urge your support in defeating the "Ought Not to Pass" motion that has been made and accept the "Ought to Pass." Madam Speaker, when the vote is taken, I would ask for a roll call.

Representative JOY of Crystal 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 Naples, Representative Thompson.

Representative THOMPSON: Madam Speaker, Men and Women of the House. For those of you who were here in the 117th, you are very familiar that a task force was set up and reported back to the Legislature in December of 1995 in time for the second regular session of the 117th Legislature. They recommended, unanimously, that a mediation process be set up so that people who are grieved by a government action could go to mediation to try to have their dispute resolved. This recommendation was passed by this Legislature in the second session in 1996 and went into effect 90 days after adjournment, which was approximately September 1st of last year. It has not yet been in effect for nine months. The 12 members of the Judiciary Committee were of the opinion that we should give that process, which was set up, an opportunity to work. I understand Representative Joy's concerns about the attacks on property

rights, but there are constitutional protections now. There is the new process, which was set up in the last Legislature and if I remember correctly, the major attacks against property rights have been defeated by this Legislature. I would ask that you give that new process an opportunity to work and support the Majority "Ought Not to Pass" Report. 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. 212

YEA - Bagley, Baker CL, Baker JL, Berry RL, Bolduc, Bouffard, Brennan, Brooks, Bumps, Bunker, Chartrand, Chizmar, Clark, Colwell, Cowger, Davidson, Donnelly, Driscoll, Dunlap, Dutremble, Etnier, Fisher, Fisk, Frechette, Fuller, Gagne, Gagnon, Hatch, Jabar, Jones KW, Jones SL, Joyner, Kane, Kerr, Kontos, LaVerdiere, Lemaire, Lemke, Lindahl, Lovett, Madore, Mailhot, McKee, Mitchell JE, Morgan, Muse, Nass, O'Neil, Paul, Pendleton, Perkins, Perry, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Stanley, Stevens, Taylor, Tessier, Thompson, Townsend, Tripp, Usher, Vigue, Volenik, Watson, Wheeler GJ, Winn, Wright, Madam Speaker.

NAY - Ahearne, Barth, Belanger IG, Berry DP, Bigl, Bodwell, Bragdon, Bruno, Buck, Cameron, Campbell, Carleton, Chick, Cianchette, Clukey, Cross, Desmond, Foster, Gerry, Gieringer, Goodwin, Gooley, Honey, Jones SA, Joy, Joyce, Kasprzak, Kneeland, Labrecque, Lane, Layton, Lemont, MacDougall, Mack, Marvin, Mayo, McAlevey, McElroy, Meres, Murphy, Nickerson, O'Brien, O'Neal, Peavey, Pinkham RG, Pinkham WD, Savage, Snowe-Mello, Spear, Stedman, Tobin, Treadwell, True, Vedral, Waterhouse, Wheeler EM, Winglass, Winsor.

ABSENT - Belanger DJ, Bull, Dexter, Farnsworth, Gamache, Green, Ott, Pieh, Plowman, Tuttle, Underwood.

Yes, 82; No, 58; Absent, 11; Excused, 0.

82 having voted in the affirmative and 58 voted in the negative, with 11 being absent, the Majority "**Ought Not to Pass**" Report was accepted and sent up for concurrence.

Divided Report

Majority Report of the Committee on **Labor** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-502) on Bill "An Act to Preserve the Solvency of the Unemployment Compensation Fund" (H.P. 1236) (L.D. 1753) (Governor's Bill)

Signed:

Senators: CATHCART of Penobscot

TREAT of Kennebec

MILLS of Somerset

Representatives: HATCH of Skowhegan

SAMSON of Jay

BOLDUC of Auburn

CLARK of Millinocket

RINES of Wiscasset

STANLEY of Medway

PENDLETON of Scarborough

TREADWELL of Carmel

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

Signed:

Representative: JOYCE of Biddeford

Was read.

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

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Joyce.

Representative JOYCE: Madam Speaker, Men and Women of the House. In 1991 there was an advisory council that was in the Department of Labor who started studying the solvency of the unemployment fund. They came up with a short-term solution in 1993 to the 116th Legislature and that consisted of raising taxes and putting a surtax on the employers and decreasing benefits for employees. Their testimony from 1993 said that this is a short-term solution and they are going to continue to work on a long-term solution. In 1995, the same committee came back to the Labor Committee and asked us to reinstate the surtax retroactively and to decrease benefits for the employees. They admitted this was a short-term solution and they promised to continue working on a long-term solution.

A letter that was written by Representative Hatch and Representative Bagley of the Labor Committee strongly encouraged them to come back with long-term solutions rather than stop-gap measures. Last month, the council came back to the Labor Committee and asked for us to continue this surtax on employers and continue the reduction in benefits for the employee's unemployment checks. I voted against this because I firmly believe that this council will never come up with a long-term solution. They have been working on this for six years and they will not come up with a long-term solution unless this Legislature puts its foot down and stops accepting these stop-gap measures and forces them to come back with the long-term solution. Madam Speaker, I request a roll call.

Representative JOYCE of Biddeford requested a roll call on the motion to accept the Majority "**Ought to Pass**" as amended Report.

The SPEAKER: The Chair recognizes the Representative from Ellsworth, Representative Povich.

Representative POVICH: Madam Speaker, Men and Women of the House. Today we talk about and read about closing unemployment offices throughout the state, yet, we are looking at another surcharge. I wonder just what small businesses are getting for this surcharge? Please vote against the pending motion.

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 acceptance of the Majority "**Ought to Pass**" as amended Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 213

YEA - Ahearne, Bagley, Baker CL, Baker JL, Berry RL, Bigl, Bolduc, Bouffard, Brennan, Brooks, Bumps, Bunker, Chartrand, Chizmar, Clark, Colwell, Cowger, Davidson, Desmond, Donnelly, Driscoll, Dunlap, Dutremble, Etnier, Farnsworth, Fisher, Frechette, Fuller, Gagne, Gagnon, Goodwin, Gooley, Green, Hatch, Jabar, Kane, Kerr, Kneeland, Kontos, Lane, LaVerdiere, Lemaire, Lemke, Lemont, Lovett, Madore, Mailhot, Mayo, McKee, Meres, Mitchell JE, Morgan, Muse, O'Brien, O'Neal, O'Neil, Paul, Pendleton, Poulin, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Saxl JW, Saxl MV, Shannon, Shiah, Skoglund, Spear, Stanley, Stevens, Taylor, Tessier, Thompson, Townsend, Tripp, Usher, Vigue, Volenik, Watson, Wheeler GJ, Winn, Wright, Madam Speaker.

NAY - Barth, Belanger IG, Berry DP, Bodwell, Bragdon, Bruno, Buck, Cameron, Campbell, Carleton, Chick, Cianchette, Clukey, Cross, Fisk, Foster, Gerry, Gieringer, Honey, Jones SL, Jones SA, Joy, Joyce, Joyner, Kasprzak, Labrecque, Layton, Lindahl, MacDougall, Mack, Marvin, McAlevey, McElroy, Murphy, Nass, Nickerson, Peavey, Perkins, Perry, Pinkham RG, Pinkham WD, Povich, Savage, Sirois, Snowe-Mello, Stedman,

Tobin, Treadwell, True, Vedral, Waterhouse, Wheeler EM, Winglass, Winsor.

ABSENT - Belanger DJ, Bull, Dexter, Gamache, Jones KW, Ott, Pieh, Plowman, Tuttle, Underwood.

Yes, 87; No, 54; Absent, 10; Excused, 0.

87 having voted in the affirmative and 54 voted in the negative, with 10 being absent, the Majority "**Ought to Pass**" as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (H-502) was read by the Clerk and adopted.

Under suspension of the rules the Bill was given its second reading without reference to the Committee on **Bills in the Second Reading**.

Under further suspension of the rules the Bill was passed to be engrossed as amended by Committee Amendment "A" (H-502) and sent up for concurrence.

ENACTORS

Emergency Measure

Resolve, to Establish a Task Force to Determine the Tuition Rates of a Receiving School for a Student from Another School District (H.P. 632) (L.D. 857) (H. "A" H-448 to C. "A" H-305)

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. 101 voted in favor of the same and 28 against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

Emergency Measure

Resolve, to Establish the Commission to Study the Certificate of Need Laws (H.P. 734) (L.D. 998) (C. "A" H-414)

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. 101 voted in favor of the same and 23 against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

Emergency Measure

Resolve, to Extend the Protections against Spousal Impoverishment under the Medicaid Program (S.P. 336) (L.D. 1114) (C. "A" S-197)

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. 112 voted in favor of the same and 3 against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

Emergency Measure

Resolve, Directing the Department of Environmental Protection to Study and Make Recommendations on the Establishment of a Motor Vehicle Inspection and Maintenance Program to Meet the Requirements of the Federal Clean Air Act (H.P. 1174) (L.D. 1651) (C. "A" H-391)

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

Representative KONTOS of Windham requested a roll call on final passage.

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 Enactment. All those in favor will vote yes, those opposed will vote no.

On further motion of the same Representative, tabled pending final passage and later today assigned. (Roll Call Ordered)

Emergency Measure

Resolve, to Direct the Land and Water Resources Council to Develop a Report and Proposed Actions to Control Mercury Emissions and Discharges (S.P. 580) (L.D. 1745) (C. "A" S-204)

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. 102 voted in favor of the same and 34 against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

An Act to Clarify the Authority of County Commissioners to Close Roads for Winter in the Unorganized Territories (H.P. 14) (L.D. 39) (C. "A" H-417)

An Act Concerning Threatening the Use of Deadly Force Against a Law Enforcement Officer Engaged in Carrying out Public Duty (H.P. 79) (L.D. 104) (C. "A" H-407)

An Act to Address Issues Raised by the Select Committee to Study Rate Increases in Nursing Homes (H.P. 727) (L.D. 991) (C. "A" H-415)

An Act to Protect Loons (S.P. 333) (L.D. 1111) (C. "A" S-202)

An Act to Transfer the Responsibility for the Certification of Batterers' Intervention Programs to the Department of Corrections (H.P. 974) (L.D. 1354) (C. "A" H-406)

An Act to Reestablish the State Compensation Commission (H.P. 999) (L.D. 1391) (C. "A" H-309; H. "A" H-440)

An Act to Amend the Uniform Management of Institutional Funds Act (S.P. 446) (L.D. 1420)

An Act Requiring the Department of Education to Perform Annual Cost-benefit Analysis of Special Education Programs in the State (H.P. 1043) (L.D. 1460)

An Act to Prevent Unnecessary Search and Rescue Operations on Marine Waters (H.P. 1082) (L.D. 1519) (C. "A" H-413)

An Act to Eliminate Inconsistencies and Unnecessary Duplication Regarding the Training and Certification of Individuals Who Enforce Land Use Regulations (H.P. 1111) (L.D. 1554) (C. "A" H-418)

An Act Regarding Confidentiality of Information Concerning Residents of Certain Facilities (H.P. 1128) (L.D. 1584) (C. "A" H-412)

An Act to Amend the Laws Regarding Intervenor Status for Foster Parents in Certain Cases of the Department of Human Services (H.P. 1156) (L.D. 1620) (C. "A" H-411)

An Act to Provide Information to Consumers of Health Care (S.P. 529) (L.D. 1634) (C. "A" S-200)

An Act to Appropriate Funds for the Education Research Institute (H.P. 1298) (L.D. 1841)

Resolve, to Establish a Commission to Designate Outstanding Maine Citizens Whose Portraits Are to Be Displayed in the State House (H.P. 1145) (L.D. 1610) (H. "A" H-452 to C. "A" H-328)

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 Create an Historic Preservation Tax Credit (S.P. 126) (L.D. 405) (C. "A" S-139; H. "A" H-372)

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

On motion of Representative CAMERON of Rumford, was set aside.

On further motion of the same Representative, tabled pending passage to be enacted and specially assigned for Tuesday, May 20, 1997.

An Act to Protect the Rights of Children Who Have Been Victims of Sexual Abuse by a Juvenile (S.P. 234) (L.D. 803) (C. "A" S-207)

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

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

On motion of Representative POVICH of Ellsworth, the rules were suspended for the purpose of reconsideration.

On further motion of the same Representative, the House reconsidered its action whereby the Bill was passed to be engrossed.

On further motion of the same Representative, the rules were suspended for the purpose of further reconsideration.

On further motion of the same Representative, the House reconsidered its action whereby Committee Amendment "A" (S-207) was adopted.

The same Representative presented House Amendment "A" (H-537) to Committee Amendment "A" (S-207) which was read by the Clerk and adopted.

Committee Amendment "A" (S-207) as amended by House Amendment "A" (H-537) thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (S-207) as amended by House Amendment "A" (H-537) thereto in non-concurrence and sent up for concurrence.

An Act to Conform the Provisions of the Maine Business Corporation Act Regarding Derivative Proceedings to the Provisions of the Revised Model Business Corporation Act (S.P. 285) (L.D. 893) (C. "A" S-201)

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 later today assigned.

An Act to Clarify the Laws Relating to Backyard Burning (H.P. 703) (L.D. 967) (C. "A" H-392)

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 later today assigned.

An Act to Create a Permanent Funding Source for the Saco River Corridor Commission (H.P. 850) (L.D. 1155) (C. "A" H-396)

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 later today assigned.

An Act to Allow Partially Consumed Bottles of Wine to be Taken from Restaurants (H.P. 997) (L.D. 1389) (C. "A" H-308)

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

On motion of Representative CAMERON of Rumford, was set aside.

On further motion of the same Representative, tabled pending passage to be enacted and later today assigned.

An Act to Require the Release of the Results of an HIV Test to a Person Who Has Experienced a Bona Fide Occupational Exposure (H.P. 1000) (L.D. 1392) (C. "A" H-404)

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 later today assigned.

An Act Allowing Appellate Review by an Aggrieved Contemnor (H.P. 1058) (L.D. 1490)

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 later today assigned.

An Act to Enable Victims to Benefit from the Profits from Crimes (H.P. 1064) (L.D. 1502)

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 later today assigned.

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

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

HOUSE DIVIDED REPORT - Committee on **Agriculture, Conservation and Forestry** - (8) members "**Ought to Pass**" as amended by Committee Amendment "A" (H-395) - (5) members "**Ought Not to Pass**" on Bill "An Act to Permit Forest Fire Wardens and Forest Rangers to Carry Weapons" (H.P. 472) (L.D. 643) which was tabled by Representative GOOLEY of Farmington pending adoption of House Amendment "B" (H-489) to Committee Amendment "A" (H-395).

Subsequently, House Amendment "B" (H-489) to Committee Amendment "A" (H-395) was adopted.

Committee Amendment "A" (H-395) as amended by House Amendment "A" (H-489) thereto was adopted.

Under suspension of the rules the Bill was given its second reading without reference to the Committee on **Bills in the Second Reading**.

Representative GOOLEY of Farmington moved that the Bill and all accompanying papers be indefinitely postponed.

The SPEAKER: The Chair recognizes the Representative from Farmington, Representative Gooley.

Representative GOOLEY: Madam Speaker, Men and Women of the House. Forest rangers, there are only a few other states where forest rangers carry weapons. Forest rangers, for the most part, are not involved in life threatening circumstances or situations, for the most part. Carrying weapons involves the possibility of using deadly force. State troopers are in the business every day for activities which can be life threatening. Game wardens are in a business, which deals with persons carrying firearms. Forest rangers, for the most part, do not deal in life threatening situations. They act alone, nearly in remote areas, at radio contact. This is why I feel the way I do about this. Forest rangers receive the same training as wardens at the Criminal Justice Academy. However, wardens receive additional post-academy firearms training that rangers do not receive, including an in-service academy and annual refresher training. Only seven rangers have gone through the academy. If any of the other 85 ranger personnel have done so, then the DOC is not aware of it, that is Department of Conservation.

The forest ranger scope of work is not the same as wardens. Wardens have the authority to enforce virtually all laws whereas the rangers authority is limited to enforcement of forestry laws. Laws that rangers enforce are primarily misdemeanors and Class D crimes. The few felonies that rangers enforce, arson and timber theft, do not require closure at the scene of the crime. On the other hand, wardens enforce felony laws and many of those crimes, such as poaching, require closure at the scene. Rangers do not have lights on their vehicles to do vehicle stops. They are not stopping vehicles on public ways or nor are they active in stopping snowmobiles and ATVs. The DOC policy allowing forest rangers to carry weapons would not result in an immediate pay increase, however, as this was a key issue in a recent reclass discussion, such a policy would result in another petition for reclass to bring rangers up to par with wardens. That would be in the order of several thousand dollars for the change.

Also, there is an amendment here where there could be a cost of as much as \$200,000 to implement this LD. For those reasons, I am opposed to it. I wish everyone would vote for Indefinite Postponement of this bill and its accompanying papers. Thank you.

The SPEAKER: The Chair recognizes the Representative from Skowhegan, Representative Hatch.

Representative HATCH: Madam Speaker, Men and Women of the House. I would request that you would vote against the Indefinite Postponement of the bill and I will tell you why. Two years ago, before my committee, on a retirement issue the forest rangers were there one day and were sitting in the back of the room, all in their uniforms, or at least part of them were. Some of them were on duty and some of them were off. They had taken a few hours at the discretion of the department to be there on retirement issues. As we preceded with the hearings, I asked where are your guns? I was figuring they probably couldn't wear them in the State House. One of the rangers spoke up and said that we are not even allowed to carry them. I said, you are not allowed? We can't carry them on duty, neither on our person or on our vehicle. At that time, I decided that maybe we ought to look into the issue so I checked it out. To my knowledge, park rangers are afforded a weapon if they so desire. When I say

weapon, I don't say it in a derogatory term. These people are, indeed, involved in life threatening situations, at times. Yes, it is nice to be in a forest. I grew up in a forest. My dad taught me to hunt, fish when I was five. I didn't carry a loaded weapon, but he made me carry a gun nevertheless. I want you to know that it is not just the animals that you have to be wary of in the forest anymore. There are a lot of other things happening all around us.

When I found out that they also, if they came upon an incident that was going on, could not even respond. If something happens in the woods and they are close and they hear it over the radio, they have to flee the scene. I want you to know that they are out there with arsonists, people who set fires. Sometimes they get caught in the wrong place at the wrong time and luckily, to this point, I guess they have been able to extract themselves without any difficulty. Just a for instance, you have the state police out there in desperate need of some help. They are out there on the highway and a forest ranger passes by. The average person would probably pull over with gun or no gun to try to offer some aid. These people cannot. I just want you to know that I think this is terrible. The department itself has made a rule that they can't carry a gun, either on their person or in their vehicle. Believe me, they can have some life threatening situations. For instance, there is what they call tipping in the fall. People go out and get boughs off trees to make wreaths and so forth. They are supposed to do it under permit and with the okay of landowners, but sometimes they don't. This is during hunting season. They may be carrying guns and they may not. The forest rangers are out there. I want you to know that a lot of people cannot tell the difference between a forest ranger or a forest warden or anybody else that is out there in the woods. There will be somebody who will be put at risk.

At the hearing many of these people said, we carry a belt on us with all kinds of paraphernalia, including a pair of handcuffs. If somebody is doing something illegal, you tell me how much good those handcuffs are going to do if the other guy is armed. So anyway, I put in this bill. I want you to know that 60 of the 66 forest rangers signed this bill that they would like to carry guns. It is voluntary. They could do it, so if they wished it was under the officers of their department head to okay. They have to take training just like you and I do if we haven't carried a gun in the woods before. We would have to take a course. I would ask you, please, on behalf of those 60 out of 66 forest rangers who would like to carry a weapon, to vote against the Indefinite Postponement. When I looked at this and saw there were only 66 forest rangers out there, I thought they are much like the endangered species that we would much like to protect. If you would like to protect the forest rangers out in the woods, it is voluntary, they don't have to if they don't want to, it is just so that they can.

The amendment that is on this bill, at this time, would only make it possible for the department head to bring up a policy. To my knowledge, \$200,000, I don't know where that came from, because they would have to pay for their own weapons and their own training under my bill. I ask that you vote against this Indefinite Postponement. Thank you.

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

Representative CROSS: Madam Speaker, Ladies and Gentlemen of the House. I was a member of this particular committee and I listened to all kinds of testimony by the rangers themselves and the department. I was convinced before that they should be carrying guns. Again, we were informed that they would buy their own guns. They would pay for their own training and the whole nine yards. Since that time, supposedly, they already have the training. They just have to tune up, if you will,

the fine points of it. They don't carry guns. They have never had any problem so far, as a forest fire ranger, and they haven't needed a gun. There has been no incidents where anybody got injured. I have heard two sides of the coin, both addressing the same problem. One said they would buy the guns and another one says that the department would have to furnish them and the training. It is not the employees or rangers that want to do it that can't support themselves. I don't know who is lying to me. Someone is. So, because of that, even though possibly the rangers, at some point, might help law enforcement wardens, state police or police in individual towns in a problem area, I have changed my mind, changed my position and for this point because there is too many unanswered questions and I believe they need to be addressed. So, I would, again, ask you all to support the Indefinite Postponement of this bill and all papers.

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

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

The SPEAKER: The Representative may pose his question.

Representative STEDMAN: Madam Speaker, Men and Women of the House. To anyone who can answer, is the prohibition against the wardens using weapons, at this time, a rule or is it in law? If it is a rule, why couldn't this be accommodated by rule change instead of putting a law on the books?

The SPEAKER: The Representative from Hartland, Representative Stedman has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Kossuth Township, Representative Bunker.

Representative BUNKER: Madam Speaker, Men and Women of the House. The prohibition is in the department at this time. It is by rule in the department. If you would check the amendment to the bill, you will see that we are asking that they develop a policy and it would be a substantive rule change and it would come back to the Legislature for approval. This would not be the only vote today on how this would be implemented or how it will be funded or how it will be carried out. It will be a directive to the department to develop a policy and bring it back for approval.

Representative DUNLAP of Old Town 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 Wayne, Representative McKee.

Representative MCKEE: Madam Speaker, Men and Women of the House. I am a member of the committee and I ask you to join me in voting to Indefinitely Postpone LD 643. I have some serious concerns about this bill because it will change radically the Maine forest. This bill is a radical departure from current practice. A practice which has served us without a single fatal accident in over 100 years. It is a bill which the Department of Conservation opposes and one that will move that agency in a direction that is inconsistent with its mission and work. In the past five years, in particular, there have been tens of thousands of contacts with the public. In that time, only 18 reported situations, which the ranger felt to be dangerous. Of these 18 situations, the Department of Conservation reported that arming the ranger would not have been an appropriate solution. I would say to my good colleague, Representative Hatch, that in that particular tipping incident, there might have been a violent solution to that problem, if the ranger had been carrying a gun.

First, it should be noted that forest fire rangers have a much smaller law enforcement authority than game wardens under IF

& W or marine patrol wardens under the Department of Marine Resources. Ninety-five percent of what they do concerns forest fire protection and the enforcement of DEP and LURC laws. Most violations, as Representative Gooley said, are civil violations, as opposed to the work of marine patrol officers, whom they arrest for violations of any criminal law. Second, the public perception of the Maine forest ranger is one of the helpful Smoky the Bear friend you can trust. The man or woman who works hard to protect our vast forest resources. The outdoor code enforcement officer who roams the woods.

One of my good colleagues sent me a cartoon the other day and it was a cartoon of Smoky the Bear, the forest ranger carrying two six shooters with one pointed toward the oncoming person. It said, You better prevent forest fires. Of course, we all knew their jobs weren't easy and occasionally they would meet up with some folks that weren't too pleasant, but without guns they had to be trained extremely well in conflict resolution and personal protection. They had to use their brains, their intuition, their personal skills and their tactical defense skills. Third, this bill contains no fiscal note because the rangers are requesting to provide their own firearms and ammunition. No standard training. No uniform weapons. No regular maintenance checks. Having said all of this, I do feel that the provision for exception of current practice needs to be reviewed by the Department of Conservation. This bill is not the answer to the rangers concerns. The premise of this bill is that rangers will carry guns and a study will act on that premise. I urge you to consider this drastic and dramatic change to the Maine forest very carefully and join me in voting to Indefinitely Postpone LD 643.

The SPEAKER: The Chair recognizes the Representative from Waterville, Representative Gagnon.

Representative GAGNON: Madam Speaker, Men and Women of the House. When I first read about this bill, I guess I thought there was a different angle to the problem. I had a bad experience a couple years ago where a young bull moose was being chased on a road by one of those big four wheel drive trucks on our camp road. It went across a small trestle bridge, the ones with the slats, the moose fell through breaking three of its legs and the vehicle drove over the moose. This moose was in quite a bit of pain, obviously, and suffering. We were there when we had heard about it from the camp owners and a fire warden came by and we had assumed that he was carrying a weapon that could put this moose out of its misery. Of course he was not carrying a weapon so someone finally got a shot gun and had to take care of it. If I may pose a question to the committee?

The SPEAKER: The Representative may pose his question.

Representative GAGNON: Thank you. I was wondering what aspect of this issue, the fact that there are animals that are often hit by vehicles, break their legs or have some problem like this, I know the fire wardens are out there. They are in the woods. They are responsible people and I wonder how much of this came into debate during the committee discussions? Thank you.

The SPEAKER: The Representative from Waterville, Representative Gagnon has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Kossuth Township, Representative Bunker.

Representative BUNKER: Madam Speaker, Men and Women of the House. In response to that question, the 60 some odd rangers would like to be able to assist in that kind of situation, if necessary. Their current policy is that they are not to have any weapon on them, in their vehicle or anywhere within their contact. If somebody happened to throw him a gun and then called and gave them permission, then he could probably

take care of that situation, but he is not allowed to bring that weapon anywhere in the northern woods.

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

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

The SPEAKER: The Representative may pose his question.

Representative STEDMAN: Madam Speaker, Men and Women of the House. To anyone who can answer, if forest wardens are given the opportunity to carry weapons, does that change their status in anyway, as far as their retirement program is concerned?

The SPEAKER: The Representative from Hartland, Representative Stedman has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Kossuth Township, Representative Bunker.

Representative BUNKER: Madam Speaker, Men and Women of the House. No, it would not. They just got done going through a lengthy process called a reclassification and as many people realize that is a very in-depth piece by piece study and review and they just completed that review. That is done and will have no affect on the retirement. The retirement, in fact, had been changed in labor a couple of years ago to be identical to others that are in the law enforcement area.

Ladies and gentlemen of the House, thank you. I hear a lot of questions and I will probably speak longer today than I have in the past. I will please ask you to give me some indulgence here. This is a very important issue to me, as many of you know. The DOC, the Department of Conservation, has 60 some odd rangers that are currently working out there in the field in a law enforcement capacity. Their current policy classifies them as law enforcement personnel. It doesn't say it is conservation officers. It does specify they are law enforcement personnel. The list of duties that they do out there are fairly extensive. It requires them to be in remote areas and do enforcement actions alone. As many of you know, to be a law enforcement officer in Maine, it is a very dangerous job to be alone and to be doing enforcement actions if the state police, county or local police departments do not have the luxury of having two people in a vehicle when you do enforcement actions.

Their current firearms policy is basically zero tolerance. You can't have one. Prior to and I will get to a situation I was involved in 1989, but prior to my incident in 1989 with a forest ranger, the policy was they could carry their personal firearms. They could carry their shotgun during hunting season. They could have a weapon in the vehicle for some of the situations that Representative Gagnon mentioned earlier. Currently their current firearms policy is basically that they can use a firearm to protect themselves or a third party, but only if someone gives it to them and they happen to be in a dangerous situation at a time. In other words, if somebody is shooting at them, then somebody can throw them gun and they can defend themselves or a third party. That is the current policy as written.

We feel it is a very dangerous policy. I feel it is a dangerous policy and I think it is time to force it. From 1989, the situation that I was involved in, the upper management of the Department of Conservation in the forest ranger program, has repeatedly rebuked the departments personnel from asking for some kind of in depth review of this process and trying to get the policy defined and changed. The upper management has refused. As you heard a moment ago, 66 of the some odd rangers in this whole division statewide all signed a petition saying there was a problem out there.

Ladies and gentlemen, if somebody says there is a problem out there who better to tell you, this body, there is a problem than the person who has to do the enforcing? That is my issue here,

ladies and gentlemen. If anyone of you had to knock upon a door and have somebody shoot through the door at you, if any of you ever had to make a vehicle stop or do an enforcement action and have somebody pull a gun or threaten violence against you or threaten your life, you would definitely think differently about this. This is not a laughing matter about Smoky the Bear with two six shooters saying you had better not start fires. We are talking about the enforcement end of this department. There are members out here speaking that have very little enforcement power, an identical department. The Maine State Fire Marshall. What do they enforce? They enforce only Maine fire law, arsons. The same identical serious crime that the forest ranger has to enforce. The Maine fire marshal is a fully licensed trained individual to carry a firearm, trained at the academy just like the current forest rangers are being trained, just like a full-time law enforcement officer. They are allowed to carry. They have policy, the Department of Public Safety tells them that they can use a firearm in the performance of their duty when they are enforcing fire law. That it is. It is very, very clear policy.

During this whole policy it got to be quite lengthy and it is longer here on the floor than I wished, but please bear with me. There was an incident up there, as you notice on one of the flyers on your desk, in northern Washington County a couple of weeks ago and the ranger doesn't want to be involved in it because this is a big political hot potato in the department. Management doesn't want it. The people down there doing it and they see a need for it. They went through negotiations and some questions came up about negotiations. They are negotiations in this reclass, ladies and gentlemen, that the union and the people that needed this protection offered up all the concessions and dollars and cents to fully pay for all their training and all the firearms to be fully funded by the employee. They gave them up as concessions and the department refused. They just simply refused.

During this process, we have been out here for 10, 11 or 12 days waiting for this bill to be heard on the floor. During this process, suddenly, the department came forth with a proposed amendment. The amendment would be a resolve to establish an external review committee to study safety for forestry. It is the first time since 1989 that they are willing to do something. Now they want an external review. This document is six people all appointed by the Department of Conservation, one being a fire chief and others being members of the department that are on the commissioners side. There is only one individual on this committee, one forest ranger, who knows whether that lady is for or against. Only one person on this committee that turned around and would not be voting for the commissioner. That is quite a bit of movement since 1989 on developing a policy and trying to solve this problem.

I offered them up a compromise and I did an external review for safety, officer safety. I put a sheriff on it. I put a police chief on there. I put the colonel of the state police who was against it. I put many members on this committee that we balanced one side or the other. A forest ranger for it and a forest ranger against it. Let's deal with all of this in one shot. If you want to be serious about some kind of a committee, I will do it. They came back and said, no, we don't want to do it. I was not sided in their favor. If you go down through, forest rangers are supposed to, by our policy, this policy dictates policy. We tell them to go out there and enforce the law and enforce criminal actions, then the department tells them, don't do it. If you get into trouble while you are doing it, you are in trouble. That is basically the way it is. They are supposed to do snowmobile laws. They are supposed to do airmobile laws, all terrain vehicles. You ever tried to stop an all terrain vehicle without trying to chase it down the road in

your pickup, what do you do when you get them stopped? It is a very, very difficult situation. All of these actions are.

Arson, I asked a question during committee, how do you guys fight arson? We know in Washington County and it is probably close in some of your rural areas, we know who is setting the fires up and down the road. I said, how do you guys deal with that? I know how they do it in Washington County. They have a fire rangers vehicle on one end of the town and then they are in the northern end of town waiting for the guys to jump out and do it. I said, that is seems strange. What do you do when you jump out after you catch them? Tom Parent, head of the fire control said, "Our officers aren't supposed to be doing that." What do you mean they are not supposed to do it? I know they are doing it. He said, "No, they are not allowed to do that." I said, How do you catch them? No wonder we have arson fires and wildland fires everywhere. Every time they try to establish some kind of mechanism to fix it, the department, upper management, is pulling the rug out from under you.

I started asking some more questions after this change in policy came about and we could have a compromise. I learned, unofficially from the district rangers, who are the bosses of the forest rangers, that they are almost unanimous in support of a firearms bill for their officers, but they are not allowed to say anything. I asked two of them, what do you think on this? They said, "No comment." They are afraid to buck the department because if they buck the department, it will cause them problems. It is wrong. It is totally wrong. Law enforcement powers of a forest ranger and a state supervisor, they will have the same powers as a sheriff or a sheriff's deputy. Ladies and gentlemen, these forest rangers are attending the Maine Criminal Justice Academy. The current program is 320 hours. It is the same program that the game wardens go to. It is the same one that the marine patrol go to. It is the same on that you have to go to. It is not as extensive as the municipal and state police course, which goes into more motor vehicle laws, but is the same amount of minimum hours required to be a full-time law enforcement officer in this state. These guys walk like a duck. They talk like a duck. They look like a duck. They wear a belt like a duck. They drive a pickup like a game warden.

If you are out there growing dope in the north 40 and somebody pulls up in one of those pickups, do you think the guy is going to know the difference between that and a game warden? They don't ladies and gentlemen. Up in northern Washington County, as they started to speak last week or a week and a half ago, the officer went there to enforce a burning permit and he went into the trailer. The guy was drinking a little bit. He had the TV blaring. He went over to start writing him an enforcement action, a burning permit violation, a summons. The gentlemen got up and walked over to the TV and he thought he was going to turn the TV down and he grabbed a gun and turned around and said, if you have gun, you had better shoot me. The guy couldn't tell he didn't have a gun, ladies and gentlemen. He has a duty belt around his waist that looks just like the one I wore as a deputy, except it doesn't have a gun hung to the left hand side or the right hand side. These people look like law enforcement officers. They are law enforcement officers, by statute and they need your permission to force the department into developing a policy. That policy can be extensive or it can be very minimal. The department doesn't want to move and I am asking for your help to make the department move. You will notice that the amendment here says that they are substantive rule changes and they have to come back to the Legislature for approval. If it doesn't fly, we will have another bite at the apple and kill it.

To let you know why I feel this is important, ladies and gentlemen, in 1989 I was in a situation out on Route 9, as a

deputy sheriff, and I asked for the help of a forest ranger. There was a medical emergency. A gentleman called the hospital and said that he needed help. Send ambulances and the national guard or whatever. He was rambling on and very hard to understand. He gave a couple acronyms of where he lived. He didn't give his name. It was during the phone strike, but if that helps you any. We didn't have this 911 and caller ID then. I am out hunting around trying to find a person somewhere out in the middle of nowhere looking for help. I stopped a forest ranger, Bill Grieves, who is now a friend. I didn't know him then. He was at his office and went in and tried to ask him questions. He is trying to help me figure out where this gentlemen may live. We weren't sure. He says, "Let me go check on that. I know a guy that might be like that. Let me go check on it. He started to jump in his pickup to leave. The one that looks like a game warden truck. I said, Don't do that. Why don't you climb in with me? We drove down there and when we pulled in the driveway the person blew out his picture window and started firing at us. He emptied five rounds at us. They hit the cruiser once or twice.

The car stalled just like you see on TV. It was tuned up the day before. The car stalled right in the middle of this guys shooting range and I am trying to keep Ranger Grieves down underneath the shots fired. I am trying to get the car started and yell for help. As you can imagine, our whole life ran before us. In fact, a few of the troopers and the troopers from Lewiston were killed not too long before that. I will tell you honestly, ladies and gentlemen, the whole picture went through my mind in a split second. We backed up and held our own. We got behind an adjacent trailer. We had heavy traffic going on. I gave Ranger Grieves my shotgun and we were trying to hold our own in the middle of the woods here.

Ladies and gentlemen, do you know how far back up is? If this bill gets passed and we force them into developing a policy, back up could be as close as the next ranger and not 20 or 30 minutes, which it currently is. Rangers tend to be out in the rural area. We tried to hold our own, ladies and gentlemen, that individual that was shooting at us went out through his backyard and circled us and started shooting at us again. That forest ranger now has a bullet wedged in his hip and it is still there. I had taken six holes in my cruiser. I got a little bit of glass in the face and one bullet should have hit me right dead center in my chest, but it hit my side window and diverted into the door jam. The other bullet took the threads out of my coat. I got a little copper jacking, just enough for a souvenir in my arm. Nothing serious. I want you to know that Ranger Grieves, once we got him out there, down the road a little ways, had to sit down. He said, "Gee, there is something wrong." He started feeling around and he had lost his left testicle and he still has a bullet wedged in his hip.

Don't tell me it is not dangerous out there in the woods. Don't tell me that Ranger Grieves has a current policy to tell me that Deputy so and so, I can't help you. Go away. This man went to the academy. They go to the academy currently, ladies and gentlemen, they are proud to be called law enforcement officers. They are proud to attend the Maine Criminal Justice Academy and they are not very proud to know that when an officer needs help 10 miles away in the middle of the woods, that they have been told by their management that, no, you cannot respond go in the other direction. Please support this measure. I would like to see a policy developed to what extent is open, as well as anybody who reads the amendment can see that it will be very open until we come back next year and see where the policy goes. Thank you.

The SPEAKER: The Chair recognizes the Representative from Gray, Representative Foster.

Representative FOSTER: Madam Speaker, Ladies and Gentlemen of the House. Having been in a position, for some years, in employment in supervising these people, I realize that times have changed a little bit, but these people are not out in the field all the time. Most of them spend most of the winter training other fire departments how to prevent fire and how to suppress fire. Most of the time when they are in a situation where the good Representative from Kossuth Township just reiterated, it is at the request of somebody else. In some cases it is voluntary on their part. But, for the most part, the work that they do in the wintertime, for example, concerning the laws of forest practices and some of the laws regarding DEP, as well as the fire laws, most of the time in the woods is spent in the summertime, spring and fall. I would urge you to vote for the pending motion.

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

Representative CROSS: Madam Speaker, Ladies and Gentlemen of the House. I have heard the story that Representative Bunker told you a couple of times. He has a right to be concerned. I think we have the right, as a body, to know the other side of the story. What I am saying is that he asked a ranger for help. Again, the ranger doesn't have a gun. It was up to the ranger to go with him or not. That is not the point I want to make. The point I want to make is, a forest ranger, to the best of my knowledge, is there, not for police work, but forestry work, which is for who are dubbing up the environment, not cutting right and so on and so forth, not to be a police officer in the woods. That is what a game warden is. Again, I am not satisfied with all the answers that I have got. I think the department itself needs to answer the committee questions that they didn't answer that have come up from the debates. I am asking for the Indefinite Postponement of the bill and papers because I think we can do a better job next year. Thank you very much.

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

Representative MCKEE: Madam Speaker, Men and Women of the House. First of all, I would like to apologize through the chair to my colleagues for the comment about the cartoon. It did seem to represent to me, at the time, a vivid illustration of the point I was trying to make. I do apologize for that. This is a very serious bill. First of all, let me just answer some things that have been said. I do not think that we should use this bill as a way to add law enforcement officers in the State of Maine. If we need more law enforcement officers, let's deal with it there. Forest fire rangers are not, contrary to what has been said here, primarily law enforcement officers. Ninety-five percent of their work is fire protection. The rest is DEP violations, LURC violations, misdemeanor and an occasional arson or theft.

I also would like to comment on the 60 of the 66 people who signed that petition. I do have a letter from Scott Gates, who is the President of the Rangers in a reply to one of the rangers, at which he says in a paragraph, "This is a great show of solidarity. I especially appreciate those of you who do not particularly want to carry a firearm, but recognize those who do and choose to support them. That kind of togetherness is how we can succeed at any issue we feel strongly about. Thanks to all. If this bill does not pass, we still have succeeded in making management aware that there is a safety issue in the law enforcement aspect of our jobs." There is a safety issue. We should address it. We also have to realize that when salaries are decided that if a person is carrying a gun, there is an increase. If you look at marine patrol officers who make more because they carry a gun and that shows in the most recent decisions about those salaries. There is a salary difference there, as well.

The last thing I would like to just bring up was the statement that these forest rangers receive exactly the same training as wardens. However, wardens receive additional post-academy firearms training that rangers don't receive, including an in-service academy and an annual refresher training. Only seven rangers have gone through that academy. If any of the other 85 ranger personnel have done so, the department is not aware of it. Thank you.

The SPEAKER: The Chair recognizes the Representative from Farmington, Representative Gooley.

Representative GOOLEY: Madam Speaker, Men and Women of the House. I would just like to read a few words from the director of the Forest Fire Control Division of the Maine Forest Service to show the department position on this. This is directly from what he gave as testimony before our committee. "We believe that the bill extends privileges for carrying firearms for people who do not need to be armed. The Department of Conservation already has the authority to arm its law enforcement personnel should it be necessary to do so. Arming employees and appointed agents is unnecessary to carry out the agencies mission and that passage of the bill makes the state vulnerable to a tremendous amount of liability." Thank you.

The SPEAKER: The Chair recognizes the Representative from Kossuth Township, Representative Bunker.

Representative BUNKER: Madam Speaker, Men and Women of the House. Here we go. I am sorry that I am up again. The liability issue, we have asked that question in committee. That may be his written testimony, but the liability issue was answered. It is no different than any other department that is a law enforcement department. That is not placing us in any different standings than any other department. I really would like to address the training issue. The academy has just recently gone to a special five or seven week academy that is designed specifically for marine wardens, game wardens and forest rangers. Prior to that, there were other joint academies. The game warden had a different one. The marine patrol sometimes went to the basic police school that I attended and there was a hodge podge of different things. Prior to that, the Maine Forest Rangers attended an academy since 1987, I believe. It is a five week school and it was done, not the way it is being done now. They had to catch up with all of their numbers, all of their districts and their local rangers and put them through this program. For over two or three years, they were sending down blocks of 25 percent of their people and putting them through the academy in the wintertime, as you heard earlier. That is when they do a lot of their training. They attended, not necessarily the formal combined school that exists today, but all of their rangers have met all of the requirements other than the 17 hours of firearm training, which they are willing to do and do at their own cost. They have completed all of the requirements of the academy that any of the local officers in your town and the part-time officers in your town have to meet. They all have met that training in one form or another, but maybe not for the 320 hours, which is the current curriculum. Thank you.

The SPEAKER: The Chair recognizes the Representative from Jay, Representative Samson.

Representative SAMSON: Madam Speaker, Men and Women of the House. I rise in opposition to Indefinite Postponement. I am also a member of the Agriculture, Conservation and Forestry Committee. Forest fire wardens and rangers do enforce our laws. They are law enforcement officers. It has been stated before that their duties include arson investigation and theft. I look at this primarily as a safety issue. I think it is truly unfair to deprive these people of self-protection. Even though no one has been killed yet, that I know of, in the line of their duty. It may happen some day. Currently their only

defense is a can of mace and their wits and maybe if they are young enough, a good pair of legs. I don't think that is a very safe way of helping themselves.

As was stated before, 60 of the 66 people that are in these duties, want to carry a weapon. They are currently deprived from carrying a weapon. You and I go into the woods, we can carry a weapon if we want to. They can't. Frankly, the times are changing in this world and even the Bobbies in London carry weapons today. They don't just have a stick to defend themselves with.

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

Representative WHEELER: Madam Speaker, Men and Women of the House. I am not prepared to speak on this issue today, but I am compelled to because I am a law enforcement officer and when I was a law enforcement officer, I was given the tools to do my job. Being a forest ranger is no different than what I was doing as far as being a law enforcement officer. They have gone to the academy and they can leave the Maine Forest Ranger Service and join any local PD or Sheriff Department and go directly to work with the recommendation from the academy that they should go onto traffic training under the traffic laws.

I would think that management would be willing to sit down and draw up policies, especially when they have the majority of the forest rangers coming to them saying that we have a problem. Good managers will listen to the people out on the road or anytime management people would listen to the rank and file. If there is a problem there, they should have got down and talked to these people before it ever got to this point and time. That is why it is here today. They would not listen to what is going on out in the field. Not too long ago, in the Criminal Justice Committee, we increased the penalty for wildfire arsons or class C crimes, that is a felon. These people are enforcing that law. If you don't think that felons have firearms, then you are living in a fantasy world. These people are out there in dangerous places in the back woods where they could use a firearm. If a firearm protects one person, it is worth whatever money it costs. I ask you to defeat the pending motion. Thank you.

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

Representative VOLENIK: Madam Speaker, Men and Women of the House. I agree partly with both sides on this debate. I agree that forest wardens shouldn't be enforcing other laws. I agree that carrying guns may increase the possibility of confrontation. However, at the hearing, I asked one of the rangers whether 10 years ago if 60 out of those 66 rangers would have supported this bill. He said, no. Something has changed in the woods in the last 10 years. It is changing faster than we think. Maybe it is growing timber theft. Maybe it is the poor getting poorer. Maybe it is budget cuts and reduced police presence. Maybe it is because of talk radio. Maybe it is the property rights movement that has swept the west and is creeping now into Maine. More and more people are armed and some of those people may be on the verge of confrontation. Maybe arming rangers isn't necessary today, but it may be necessary tomorrow, next year or 10 years from now. We may not know just when until it is too late. Thank you.

The SPEAKER: The Chair recognizes the Representative from Livermore, Representative Berry.

Representative BERRY: Madam Speaker, Men and Women of the House. I will be brief. I work with a number of rangers on a fairly regular basis. I am the town warden for the Town of Livermore and the fire chief. I do get to deal with them and I do have a great deal of respect for them. I also have to investigate burning permit laws in the middle of the night. Quite often, I go

out there alone. I have the option of calling for help before I go. I am concerned by taking this step to arm our rangers. I think we do send a message. I think that now they have access to people's private property, they are a little different from a police force where we would expect to see warrants. They have access to enforce the forest practices act and other duties. I think it will place them in danger, in some cases, if they know they are packing a weapon. It will be more likely that something will happen. There are other state agencies that are also in dangerous positions on a regular basis, some of our child protective services, probation services, DEP and LURC. They are also in dangerous positions, not to mention the DOT with the guys working beside the road. I don't mean to make light of this, but I know this is very serious. I do respect the other side of this argument. I think it is important that the department sends the message and deal with this in another manner. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Wayne, Representative McKee. 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 MCKEE: Madam Speaker, Men and Women of the House. In a note from the Department of Conservation, I had asked the question, what would be the approximate money that you would need to implement this once this goes into effect and the Department of Conservation wrote back to me that it would be at least \$200,000 to train, arm and to properly maintain these weapons. Thank you.

The SPEAKER: The Chair recognizes the Representative from Kossuth Township, Representative Bunker. 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 BUNKER: Madam Speaker, Men and Women of the House. In reply to the last comment, Men and women of the House, it was very clear in the committee process that the union was well vested in trying to work this deal out among the administration. I dare say that that fiscal note, after they develop a policy and return it to our committee for review next year, would be able to develop some kind of a game plan where the fiscal impact is minimal. Thank you.

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. 214

YEA - Baker CL, Belanger IG, Berry DP, Berry RL, Bigl, Bouffard, Bragdon, Brennan, Bruno, Bumps, Cameron, Campbell, Cianchette, Clukey, Cross, Desmond, Donnelly, Etnier, Foster, Fuller, Gerry, Goodwin, Gooley, Honey, Jabar, Jones SA, Joy, Kasprzak, Kerr, Kneeland, Kontos, Labrecque, Lane, Lemont, Lindahl, MacDougall, Mailhot, Marvin, McElroy, McKee, Morgan, Murphy, Nass, Nickerson, Peavey, Pendleton, Savage, Sirois, Snowe-Mello, Spear, Stedman, Taylor, Tessier, Townsend, Treadwell, True, Vedral, Wheeler GJ, Winglass, Winsor.

NAY - Ahearn, Bagley, Barth, Bolduc, Brooks, Buck, Bunker, Carleton, Chick, Chizmar, Clark, Colwell, Cowger, Davidson, Driscoll, Dunlap, Dutremble, Farnsworth, Fisher, Fisk, Frechette, Gagne, Gagnon, Gieringer, Green, Hatch, Jones KW, Jones SL, Joyce, Joyner, Kane, LaVerdiere, Layton, Lemaire, Lemke, Lovett, Mack, Madore, Mayo, McAlevey, Meres, Mitchell JE, Muse, O'Brien, O'Neal, O'Neil, Paul, Perkins, Perry, Pinkham RG, Pinkham WD, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Saxl JW, Saxl MV, Shannon, Shiah, Skoglund, Stanley, Stevens, Thompson, Tobin, Tripp, Usher, Vigue, Volenik, Waterhouse, Watson, Wheeler EM, Winn, Wright.

Shannon, Shiah, Skoglund, Stanley, Stevens, Thompson, Tobin, Tripp, Usher, Vigue, Volenik, Waterhouse, Watson, Wheeler EM, Winn, Wright.

ABSENT - Baker JL, Belanger DJ, Bodwell, Bull, Chartrand, Dexter, Gamache, Ott, Pieh, Plowman, Tuttle, Underwood, Madam Speaker.

Yes, 60; No, 78; Absent, 13; Excused, 0.

60 having voted in the affirmative and 78 voted in the negative, with 13 being absent, the motion to indefinitely postpone the Bill and all accompanying papers did not prevail.

Subsequently, under further suspension of the rules the Bill was passed to be engrossed as amended by Committee Amendment "A" (H-395) as amended by House Amendment "A" (H-489) thereto and sent up for concurrence.

SENATE DIVIDED REPORT - Committee on **Labor** - (9) members "**Ought to Pass**" as amended by Committee Amendment "A" (S-235) - (2) members "**Ought Not to Pass**" on Bill "An Act to Expand the Family Medical Leave Laws" (S.P. 196) (L.D. 624) which was tabled by Representative HATCH of Skowhegan pending her motion to accept the Majority "**Ought to Pass**" as amended Report.

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

On motion of Representative JOYCE of Biddeford, the House reconsidered its action whereby the Majority "**Ought to Pass**" as amended Report was accepted.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Joyce.

Representative JOYCE: Madam Speaker, Men and Women of the House. Just a point about this bill. As the title says, it does expand the family medical leave laws. I believe this is unnecessary. Right now the federal government only applies these laws to employers that employ over 50 employees. Maine is already more stringent than that. That current law, we apply it to employers of 25 or more. This bill would actually reduce it from 25 down to 15. I think this is just too much. It is just too much of a burden on our employers. Currently, we have over 3,000 employers who have to comply with this law. By reducing it to 15 employees, we would be adding another 2,100 employers. As I said before, I think this is too much of a burden on our small employers. I request a roll call.

The same Representative requested a roll call on the motion to accept the Majority "**Ought to Pass**" as amended Report.

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 acceptance of the Majority "Ought to Pass" Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 215

YEA - Ahearn, Bagley, Baker CL, Berry RL, Bigl, Bolduc, Bouffard, Brennan, Brooks, Bruno, Cameron, Carleton, Chizmar, Clark, Colwell, Cowger, Davidson, Desmond, Donnelly, Driscoll, Dunlap, Dutremble, Etnier, Farnsworth, Fisher, Frechette, Fuller, Gagne, Gagnon, Gerry, Goodwin, Gooley, Green, Hatch, Jabar, Jones SL, Kane, Kontos, Labrecque, LaVerdiere, Lemaire, Lemke, Mayo, McKee, Meres, Mitchell JE, Morgan, Muse, O'Brien, O'Neal, O'Neil, Paul, Pendleton, Perkins, Perry, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Stanley, Stevens, Tessier, Thompson, Townsend, Tripp, Usher, Volenik, Watson, Wheeler GJ, Winn, Wright, Madam Speaker.

NAY - Barth, Belanger IG, Berry DP, Bragdon, Buck, Bumps, Campbell, Chick, Cianchette, Clukey, Cross, Fisk, Foster, Gieringer, Honey, Jones SA, Joy, Joyce, Joyner, Kasprzak, Kerr, Kneeland, Lane, Layton, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, Mailhot, Marvin, McAlevey, McElroy, Murphy, Nass, Nickerson, Peavey, Pinkham RG, Pinkham WD, Poulin, Savage, Snowe-Mello, Spear, Stedman, Taylor, Tobin, Treadwell, True, Vedral, Vigue, Waterhouse, Wheeler EM, Winglass, Winsor.

ABSENT - Baker JL, Belanger DJ, Bodwell, Bull, Bunker, Chartrand, Dexter, Gamache, Jones KW, Ott, Pieh, Plowman, Tuttle, Underwood.

Yes, 82; No, 55; Absent, 14; Excused, 0.

82 having voted in the affirmative and 55 voted in the negative, with 14 being absent, the Majority "**Ought to Pass**" as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (S-235) was read by the Clerk and adopted.

Under suspension of the rules the Bill was given its second reading without reference to the Committee on **Bills in the Second Reading**.

Under further suspension of the rules the Bill was passed to be engrossed as amended by Committee Amendment "A" (S-235) in concurrence.

SENATE DIVIDED REPORT - Committee on **Labor** - (9) members "**Ought to Pass**" as amended by Committee Amendment "A" (S-236) - (3) members "**Ought not to Pass**" on Bill "An Act to Strengthen the Sanctions for Failure to Respond to an Employee's Request for Reason for Termination of Employment" (S.P. 309) (L.D. 1018) which was tabled by Representative HATCH of Skowhegan pending her motion to accept the Majority "**Ought to Pass**" as amended Report.

The SPEAKER: The Chair recognizes the Representative from Scarborough, Representative Pendleton.

Representative PENDLETON: Madam Speaker, Men and Women of the House. As you people know, I spent a great number of years working with the unemployment division. This kind of directly speaks to the unemployment division in its actions. This allows for an employee to request his reason for termination from employment. This is something that is basically in the law right now. An individual has the right to request his reason for termination. However, Maine is a state where an employer can file for any reason at any time. Basically, this is a section of law that, and they add a penalty to it, to me, it is just something that is not needed and its something that, I think, in the end, probably clog up our court system with frivolous claims. At this point, I would recommend Indefinite Postponement of this bill and all accompanying papers. Thank you.

Representative PENDLETON of Scarborough moved that the Bill and all accompanying papers be indefinitely postponed.

The SPEAKER: The Chair recognizes the Representative from Skowhegan, Representative Hatch.

Representative HATCH: Madam Speaker, Men and Women of the House. This bill was before us two years ago. At that time, it was not passed, apparently, because we are back here. All this does is it gives an employee the chance to review his file and get written notice from his employer of his dismissal. Under current law, they are afforded this, but some employers do not respond. Therefore, it seems a very small percentage of those are employers who, for some reason or another, just don't feel that they need to respond to an employers request to look at their file. This bill was put in to, at least, put a penalty there so that they could have some legal recourse. Only if they prevailed

in the court setting would expenses be paid to their attorney. I would ask you to vote against the Indefinite Postponement. It is a good bill. It is worthy to go on the books. We hope that it is never used. It would be a good law to just sit there for 100 years. It is when sometimes employers just don't want to. They just don't want to give the reasons or let someone review their files. Thank you.

The SPEAKER: The Chair recognizes the Representative from Wells, Representative Carleton.

Representative CARLETON: I reviewed the existing law and the bill and the amendment this morning. The existing law calls for a forfeiture of between \$50 and \$500 if an employer does not respond in writing to a request for the reason for termination. The Representative from Scarborough is entirely correct that in this state, as in most states, employers can separate employees for whatever reason they please, with certain exceptions. In most cases, there may be a lot of reasons why a termination of employment occurs. This bill and the amendment changes the forfeiture of \$50 to \$500 to a \$50 per day forfeiture. It also provides that if an employee goes to court to get the reason for termination, that attorney's fees are paid. I think that this is a significant departure from the present law. I have not heard, myself, any problems with the existing law. I am not sure why the existing law is there because, in most cases, the separation of employer and employee is at will. I fully agree with the Representative from Scarborough that this bill is not needed. Secondly, the hammer for noncompliance is too high. Thirdly, we get into the potential issue of clogging up our courts with lawsuits, in which attorney's fees are paid to the prevailing party. I hope that you will vote to Indefinitely Postpone this bill.

The Chair ordered a division on the motion to indefinitely postpone the Bill and all accompanying papers.

Representative CLARK of Millinocket 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: 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. 216

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

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

ABSENT - Baker JL, Belanger DJ, Bodwell, Bull, Chartrand, Dexter, Gamache, Lemke, Ott, Pieh, Plowman, Tuttle, Underwood.

Yes, 67; No, 71; Absent, 13; Excused, 0.

67 having voted in the affirmative and 71 voted in the negative, with 13 being absent, the motion to indefinitely postpone the Bill and all accompanying papers did not prevail.

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

The Bill was read once. Committee Amendment "A" (S-236) was read by the Clerk and adopted.

Under suspension of the rules the Bill was given its second reading without reference to the Committee on **Bills in the Second Reading**.

Under further suspension of the rules the Bill was passed to be engrossed as amended by Committee Amendment "A" (S-236) in concurrence.

UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment Friday, May 16, 1997, have preference in the Orders of the Day and continue with such preference until disposed of as provided by House Rule 502.

SENATE REPORT - "Ought to Pass" - Committee on **State and Local Government** on Bill "An Act to Repeal the Requirement That Victualers Be Licensed by a Municipality" (S.P. 563) (L.D. 1720)

TABLED - May 16, 1997 (Till Later Today) by Representative AHEARNE of Madawaska.

PENDING - Acceptance of Committee Report.

Subsequently, the Committee Report was accepted and the Bill was read once.

Under suspension of the rules the Bill was given its second reading without reference to the Committee on **Bills in the Second Reading**.

Under further suspension of the rules the Bill was passed to be engrossed.

On motion of Representative DUNLAP of Old Town, the House reconsidered its action whereby the Bill was passed to be engrossed.

The same Representative requested a roll call on passage to be engrossed.

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 Engrossment. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 217

YEA - Ahearn, Bagley, Baker CL, Barth, Belanger IG, Berry DP, Berry RL, Bolduc, Bouffard, Bragdon, Brennan, Brooks, Bruno, Buck, Bumps, Bunker, Cameron, Campbell, Carleton, Chick, Chizmar, Cianchette, Clark, Clukey, Colwell, Cowger, Cross, Davidson, Desmond, Donnelly, Driscoll, Dutremble, Etnier, Fisk, Foster, Frechette, Fuller, Gagne, Gagnon, Gerry, Gieringer, Goodwin, Gooley, Green, Honey, Jabar, Jones KW, Jones SL, Jones SA, Joy, Joyce, Joyner, Kane, Kasprzak, Kneeland, Kontos, Lane, LaVerdiere, Layton, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, Mailhot, Marvin, Mayo, McAlevey, McElroy, McKee, Meres, Mitchell JE, Morgan, Murphy, Muse, Nass, Nickerson, O'Brien, O'Neil, O'Neil, Paul, Peavey, Perkins, Perry, Pinkham RG, Poulin, Povich, Powers, Quint, Richard, Rowe, Samson, Sanborn, Savage, Saxl JW, Saxl MV, Shiah, Sirois, Skoglund, Snowe-Mello, Stanley, Stedman, Taylor, Tessier, Thompson, Townsend, Treadwell, Tripp, True, Usher, Vedral, Vigue, Volenik,

Waterhouse, Watson, Wheeler EM, Wheeler GJ, Winglass, Winn, Winsor, Wright, Madam Speaker.

NAY - Bigl, Dunlap, Farnsworth, Fisher, Hatch, Kerr, Labrecque, Lemaire, Pendleton, Pinkham WD, Rines, Shannon, Spear, Stevens, Tobin.

ABSENT - Baker JL, Belanger DJ, Bodwell, Bull, Chartrand, Dexter, Gamache, Lemke, Ott, Pieh, Plowman, Tuttle, Underwood.

Yes, 123; No, 15; Absent, 13; Excused, 0.

123 having voted in the affirmative and 15 voted in the negative, with 13 being absent, the Bill was passed to be engrossed in concurrence.

SENATE REPORT - "Ought to Pass" as amended by Committee Amendment "A" (S-223) - Committee on **State and Local Government** on Bill "An Act to Clarify the Reimbursement of Legislators' Expenses" (S.P. 100) (L.D. 379)

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

PENDING - Acceptance of Committee Report.

Subsequently, the Committee Report was accepted.

The Bill was read once. Committee Amendment "A" (S-223) was read by the Clerk and adopted.

Under suspension of the rules the Bill was given its second reading without reference to the Committee on **Bills in the Second Reading**.

Under further suspension of the rules the Bill was passed to be engrossed as amended by Committee Amendment "A" (S-223) in concurrence.

HOUSE REPORT - "Ought to Pass" as amended by Committee Amendment "A" (H-484) - Committee on **Labor** on Bill "An Act to Require the Department of Labor to Ensure That Housing Provided as an Incident of Employment by Agricultural Employers Meets Minimum Standards of Habitability" (H.P. 446) (L.D. 596)

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

PENDING - Acceptance of Committee Report.

Representative JOY of Crystal requested a roll call on acceptance of the Committee 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 Lewiston, Representative Lemaire.

Representative LEMAIRE: Madam Speaker, Men and Women of the House. This bill was a unanimous "Ought to Pass" report out of labor. It was signed off by the Chief Executive's Office, the Agricultural Department, the Labor Department and the Department of Human Services. This is all this bill does. It requires the Bureau of Labor Standards of Maine's Department of Labor to conduct housing inspections at those work sites where agricultural laborers were employed when the following conditions are met. The employer provides housing to the agricultural laborer and their families. The employer has over five employees who are provided housing. That was an amendment that was put in from the Agricultural Department to prevent dairy farms who have people who were housed on their grounds. It only applies to those employees who are not already covered under the US Department of Labor Migrant and Seasonal Agricultural Workers Protection Act. The rules developed by the Bureau of Labor Standards must be

identical to those used by the US Department of Labor, which would be OSHA.

The bill no longer has 75 employees or 180 days in it. The other sections of the bill only deal with inspections, technical assistants from DHS, private right of action exemptions and it looks like there is a lot of changes taking place, but, frankly, there are two amendments on it. One from the Agricultural Department for dairy farms and the other from DHS that says, "If the code enforcement officer does not do its job, then the Department of Human Services, Health Engineering will intervene." All it does is protect the health and safety of those people who have housing that is ancillary to a business that is full-time year round is not protected by the Agricultural Migrant Act.

I want to state something. I have been to this particular factory. I was there at night in a trailer where there were two families, one infant, two toddlers and a school age child. I watched cockroaches marching across a counter. I was there another time at night and I was in a trailer where eight men lived. They had not been able to use their toilet for two weeks. It would not flush. This particular place has been sighted for raw sewage, problems with wiring, problems with rodents and I think it is time, because OSHA does not really, under law, and that is under contentment right now and probably won't be solved because they are going to settle it, that there has to be some oversight in these agricultural industries that full-time year round and are not covered by OSHA. Thank you Madam Speaker.

The SPEAKER: The Chair recognizes the Representative from Turner, Representative Nickerson.

Representative NICKERSON: Madam Speaker, Men and Women of the House. This is just another DeCoster bill. We have had plenty of those lately. This won't affect him at all because under the new OSHA agreement, OSHA is going to take over the inspection of the DeCoster housing out there. That might settle some of the problems. Thank you.

The SPEAKER: The Chair recognizes the Representative from Skowhegan, Representative Hatch.

Representative HATCH: Madam Speaker, Men and Women of the House. I know what you are thinking is, probably, and the good Representative from Turner just said so, that this is a DeCoster bill. Actually what this does it set in standards some of the things that need to be done. The various departments didn't always work as good as they should and that is why this situation went on for a long time. I am asking you for your support of the unanimous committee report on this particular issue. Like the good Representative from Lewiston said, everyone involved agreed that this had to be done. I would ask for your support. Thank you very much.

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

ROLL CALL NO. 218

YEA - Ahearn, Bagley, Baker CL, Belanger IG, Berry DP, Berry RL, Bigl, Bolduc, Bouffard, Bragdon, Brennan, Bruno, Bumps, Bunker, Cameron, Campbell, Carleton, Chick, Chizmar, Cianchette, Clark, Colwell, Cowger, Davidson, Desmond, Donnelly, Dunlap, Dutremble, Etnier, Farnsworth, Fisher, Fisk, Frechette, Fuller, Gagne, Gagnon, Gerry, Gieringer, Goodwin, Gooley, Green, Hatch, Honey, Jabar, Jones KW, Jones SL, Joy, Joyce, Joyner, Kane, Kasprzak, Kerr, Kneeland, Kontos, Lane, LaVerdiere, Lemaire, Lemont, Lovett, Madore, Mailhot, Marvin, Mayo, McAlevey, McKee, Meres, Mitchell JE, Morgan, Murphy, Muse, O'Brien, O'Neal, O'Neil, Paul, Peavey, Pendleton, Perkins, Perry, Pinkham RG, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Savage, Saxl JW, Saxl MV,

Shannon, Shiah, Sirois, Skoglund, Spear, Stanley, Stedman, Stevens, Tessier, Thompson, Tobin, Townsend, Tripp, Usher, Volenik, Waterhouse, Watson, Wheeler GJ, Winglass, Winn, Windsor, Wright, Madam Speaker.

NAY - Barth, Brooks, Buck, Clukey, Cross, Foster, Jones SA, Labrecque, Layton, Lindahl, MacDougall, Mack, McElroy, Nass, Nickerson, Pinkham WD, Snowe-Mello, Taylor, Treadwell, True, Vedral, Wheeler EM.

ABSENT - Baker JL, Belanger DJ, Bodwell, Bull, Chartrand, Dexter, Driscoll, Gamache, Lemke, Ott, Peh, Plowman, Tuttle, Underwood, Vigue.

Yes, 114; No, 22; Absent, 15; Excused, 0.

114 having voted in the affirmative and 22 voted in the negative, with 15 being absent, the Committee Report was accepted.

The Bill was read once. Committee Amendment "A" (H-484) was read by the Clerk and adopted.

Under suspension of the rules the Bill was given its second reading without reference to the Committee on **Bills in the Second Reading.**

Under further suspension of the rules the Bill was passed to be engrossed as amended by Committee Amendment "A" (H-484) and sent up for concurrence.

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

HOUSE DIVIDED REPORT - Committee on **State and Local Government** - (10) members "**Ought to Pass**" as amended by Committee Amendment "A" (H-497) - (3) members "**Ought Not to Pass**" on Bill "An Act to Prohibit Towns from Cancelling Health Insurance Provided to Retired Employees" (H.P. 1140) (L.D. 1605) which was tabled by Representative KONTOS of Windham pending acceptance of either report.

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

The SPEAKER: The Chair recognizes the Representative from China, Representative Bumps.

Representative BUMPS: Madam Speaker, Men and Women of the House. Very quickly, I would like to draw your attention to this bill pending before us and also draw your attention to the Minority Report. I am of the opinion that it would be quite appropriate for many municipalities to continue to allow former employees, retired employees, to remain on their group health insurance plan while those retired employees pay their own way. At issue here, though, is the current municipalities to do that without any state law. The municipality has that choice. My contention is that we ought not to impose this mandate on a town to continue to carry those retired employees on their group policy. If employees need to be covered or if the town feels that is appropriate, they have that ability. We should not mandate local communities to continue to carry these folks on their group policy. If you are working for a municipality where this isn't the case and where you wouldn't be covered after retirement, you have the ability to organize yourselves and to go to the municipality and present this as an issue. It is quite simply an issue of local control for me. I urge you to vote against the pending motion, which is to accept the Majority Report. When the vote is taken, Madam Speaker, I request a roll call.

Representative BUMPS of China requested a roll call on the motion to accept the Majority "**Ought to Pass**" as amended Report.

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 acceptance of the Majority "Ought to Pass" Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 219

YEA - Ahearne, Bagley, Baker CL, Belanger IG, Berry RL, Bigl, Bolduc, Bouffard, Brennan, Brooks, Bruno, Bunker, Cameron, Chick, Chizmar, Clark, Colwell, Cowger, Davidson, Desmond, Driscoll, Dunlap, Dutremble, Etnier, Farnsworth, Fisher, Frechette, Fuller, Gagne, Gagnon, Gerry, Green, Hatch, Jabar, Jones KW, Jones SL, Kane, Kerr, Kontos, LaVerdiere, Lemaire, Lemont, Mailhot, Mayo, McElroy, McKee, Meres, Mitchell JE, Morgan, Murphy, Muse, O'Neal, O'Neil, Paul, Perry, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Stanley, Stevens, Tessier, Thompson, Townsend, Tripp, Usher, Vigue, Volenik, Watson, Wheeler GJ, Winn, Wright, Madam Speaker.

NAY - Barth, Berry DP, Bragdon, Buck, Bumps, Campbell, Carleton, Cianchette, Clukey, Cross, Donnelly, Fisk, Foster, Goodwin, Gooley, Honey, Joy, Joyce, Joyner, Kasprzak, Kneeland, Labrecque, Lane, Layton, Lindahl, Lovett, MacDougall, Mack, Madore, Marvin, McAlevey, Nass, Nickerson, O'Brien, Peavey, Pendleton, Perkins, Pinkham RG, Pinkham WD, Savage, Snowe-Mello, Spear, Stedman, Taylor, Tobin, Treadwell, True, Vedral, Waterhouse, Wheeler EM, Winglass, Winsor.

ABSENT - Baker JL, Belanger DJ, Bodwell, Bull, Chartrand, Dexter, Gamache, Gieringer, Jones SA, Lemke, Ott, Pieh, Plowman, Tuttle, Underwood.

Yes, 84; No, 52; Absent, 15; Excused, 0.

84 having voted in the affirmative and 52 voted in the negative, with 15 being absent, the Majority "**Ought to Pass**" as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (H-497) was read by the Clerk and adopted.

Under suspension of the rules the Bill was given its second reading without reference to the Committee on **Bills in the Second Reading**.

Under further suspension of the rules the Bill was passed to be engrossed as amended by Committee Amendment "A" (H-497) and sent up for concurrence.

HOUSE DIVIDED REPORT - Committee on **State and Local Government** -(9) members "**Ought to Pass**" Pursuant to Joint Order (H.P. 993) - (1) member "**Ought Not to Pass**" Pursuant to Joint Order (H.P. 993) on Resolve, for Laying of the County Taxes and Authorizing Expenditures of Androscoggin County for the Year 1997 (EMERGENCY) (H.P. 1330) (L.D. 1880) which was tabled by Representative SAXL of Portland pending acceptance of either Report.

On motion of Representative AHEARNE of Madawaska the Majority "**Ought to Pass**" Report was accepted.

The Resolve was read once.

Under suspension of the rules the Resolve was given its second reading without reference to the Committee on **Bills in the Second Reading**.

Under further suspension of the rules the Resolve was passed to be engrossed and sent up for concurrence.

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

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

REPORTS OF COMMITTEES

Divided Report

Majority Report of the Committee on **State and Local Government** reporting "**Ought Not to Pass**" on Bill "An Act to Prohibit Dedimus Justices from Receiving Payment for Services other than Long-distance Travel Reimbursement" (H.P. 1023) (L.D. 1440)

Signed:

Senators: NUTTING of Androscoggin
GOLDTHWAIT of Hancock
LIBBY of York

Representatives: AHEARNE of Madawaska
BUMPS of China
FISK of Falmouth
BAGLEY of Machias
GIERINGER of Portland
KASPRZAK of Newport
SANBORN of Alton
DUTREMBLE of Biddeford

Minority Report of the same Committee reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-496) on same Bill.

Signed:

Representative: GERRY of Auburn

Was read.

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

Divided Report

Majority Report of the Committee on **Labor** reporting "**Ought Not to Pass**" on Bill "An Act to Provide for Binding Arbitration for County Employees with Respect to Monetary Issues" (H.P. 1031) (L.D. 1448)

Signed:

Senators: CATHCART of Penobscot
MILLS of Somerset
TREAT of Kennebec
Representatives: RINES of Wiscasset
STANLEY of Medway
JOY of Crystal
JOYCE of Biddeford
PENDLETON of Scarborough
TREADWELL of Carmel

Minority Report of the same Committee reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-500) on same Bill.

Signed:

Representatives: HATCH of Skowhegan
SAMSON of Jay
BOLDUC of Auburn
CLARK of Millinocket

Was read.

Representative HATCH of Skowhegan moved that the House accept the Minority "**Ought to Pass**" as amended Report.

The SPEAKER: The Chair recognizes the Representative from Crystal, Representative Joy.

Representative JOY: Madam Speaker, Ladies and Gentlemen of the House. This bill, if passed, represents a complete departure from the collective bargaining laws that have existed for public employees for a long, long time. one of the

things that happens any time that you put binding arbitration or money matters for towns, is you initiate a severe mandate on those communities or, in this case, on county employees. This is an example of a bill that sets a very dangerous precedent for all of our communities and all of our tax bases out there in all of these counties. I urge you to defeat the pending motion and accept the Majority "Ought Not to Pass" Report. Madam Speaker, when the vote is taken, I request the yeas and nays.

Representative JOY of Crystal requested a roll call on the motion to accept the Minority "**Ought to Pass**" as amended 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 South Portland, Representative Muse.

Representative MUSE: Madam Speaker, Men and Women of the House. I stand to disagree with the previous speaker that this bill sits at the heart of collective bargaining. Twenty years ago, I came before this body to gain collective bargaining rights for county employees. It was when I had first gone to work for the Sheriff's Department and at a newly formed association meeting and I mentioned the word union. Everyone moved away from me like I had a plague. At the time, I was 19 and didn't realize that we served according to the letter of the law at the pleasure of the sheriff. When a new sheriff came to work, everybody could get fired and he brings in cousin Billy Bob and anybody else that he or she felt like and you were out the door and there was no room to debate that.

We lobbied this body for collective bargaining rights along with binding arbitration and bus loads of us ended up coming up here and debates were moved to the Civic Center and we won the right to collective bargaining. Binding arbitration was cut out of that package. This bill, as amended, screams of fair play. This bill would require that, as amended, two groups of workers be treated fairly and with respect. I introduced this bill and it was covering many workers from teachers to trash collectors. I introduced the bill because I believe that every worker has an absolute right to be treated fairly in each and every aspect of their employment. The amended version of this bill has removed all but two groups of workers from the original bill. The two groups are fire fighters and law enforcement officers.

There are two very, very real and compelling reasons why this amendment should be passed. First, because neither one of these two groups can strike. They cannot, not that they would if they could. In 20 years, I have never heard that word uttered in any serious conversation. They are not allowed, by law, to strike. When there is a contract problem, they have no place to go and no way to resolve any issues relating to monetary items. People made comments and testified at the hearing that we should leave this matter to the county commissioners. We have seen time and time again, in the news, when fire fighters and police officers have gone years, literally years, without a contract. This is just wrong. The second reason, I believe, every time that each one of these workers responds to a call from you or one of your constituents, they are putting their lives on the line, quite literally. Whether it is a police officer responding to a domestic complaint late in the night or a fire fighter entering a burning building. Binding arbitration has been debated here for many years. I believe that by passing this version, limiting it to this small group of workers, we can once and for all determine whether binding arbitration does or does not work. I would strongly urge you to support the amendment. Thank you.

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

Representative TREADWELL: Madam Speaker, May I pose a question to the Chair?

The SPEAKER: The Representative may pose his question.

Representative TREADWELL: Thank you Madam Speaker. Does this bill constitute a mandate?

Representative TREADWELL of Carmel asked the Chair if this Bill constituted a mandate.

On motion of Representative SAXL of Portland, tabled pending a ruling of the Chair. (Roll Call Ordered)

Divided Report

Ten Members of the Committee on **State and Local Government** on Bill "An Act to Amend the Laws Relating to Notaries Public" (H.P. 1094) (L.D. 1537) report in Report "A" that the same "**Ought to Pass**" as amended by Committee Amendment "A" (H-498)

Signed:

Senators: NUTTING of Androscoggin

GOLDTHWAIT of Hancock

Representatives: AHEARNE of Madawaska

BUMPS of China

BAGLEY of Machias

SANBORN of Alton

GIERINGER of Portland

KASPRZAK of Newport

DUTREMBLE of Biddeford

FISK of Falmouth

One Member of the same Committee on same Bill reports in Report "B" that the same "**Ought Not to Pass**"

Signed:

Senator: LIBBY of York

One Member of the same Committee on same Bill reports in Report "C" that the same "**Ought to Pass**" as amended by Committee Amendment "B" (H-499)

Signed:

Representative: GERRY of Auburn

Was read.

On motion of Representative AHEARNE of Madawaska, Report "A" "**Ought to Pass**" as amended by Committee Amendment "A" (H-498) was accepted.

The Bill was read once. Committee Amendment "A" (H-498) was read by the Clerk and adopted.

Under suspension of the rules the Bill was given its second reading without reference to the Committee on **Bills in the Second Reading**.

Under further suspension of the rules the Bill was passed to be engrossed as amended by Committee Amendment "A" (H-498) and sent up for concurrence.

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

HOUSE DIVIDED REPORT - Committee on **Labor** - (9) members "**Ought Not to Pass**" - (4) members "**Ought to Pass**" as amended by Committee Amendment "A" (H-500) on Bill "An Act to Provide for Binding Arbitration for County Employees with Respect to Monetary Issues" (H.P. 1031) (L.D. 1448) which was tabled by Representative SAXL of Portland pending a ruling of the Chair. (Roll Call Ordered)

The SPEAKER: The question was, is this a mandate. The Chair would answer in the affirmative. It is a mandate. However, it does not require two-thirds vote because it also requires funding. The two-thirds vote is required when it is an unfunded mandate. I would refer you to the preamble and the fiscal note.

Subsequently, the Chair ruled that the Bill was a mandate.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Joyce.

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

The SPEAKER: The Representative may pose his question.

Representative JOYCE: Madam Speaker, Men and Women of the House. To a member of the Minority Report, could they tell us what the fiscal note is, not having the amendment in front of me?

The SPEAKER: The Representative from Biddeford, Representative Joyce has posed a question through the Chair to anyone who may care to respond.

The SPEAKER: The Chair recognizes the Representative from Crystal, Representative Joy.

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

The SPEAKER: The Representative may pose his question.

Representative JOY: Thank you Madam Speaker. Is my motion for a roll call still in order?

The SPEAKER: The Chair would answer in the affirmative.

The SPEAKER: A roll call has been ordered. The pending question before the House is acceptance of the Minority "Ought to Pass" as amended Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 220

YEA - Ahearn, Bagley, Baker CL, Berry RL, Bolduc, Brennan, Brooks, Bull, Bunker, Clark, Colwell, Cowger, Davidson, Desmond, Driscoll, Dunlap, Etnier, Farnsworth, Fisher, Fuller, Gagne, Gagnon, Goodwin, Green, Hatch, Jabar, Jones KW, Jones SL, Kane, Kontos, LaVerdiere, Lemaire, McKee, Mitchell JE, Morgan, Muse, O'Neal, O'Neil, Paul, Perry, Povich, Powers, Quint, Richard, Rowe, Samson, Sanborn, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Stevens, Tessier, Townsend, Tripp, Usher, Volenik, Watson, Winn, Wright.

NAY - Barth, Belanger IG, Berry DP, Bigl, Bouffard, Bragdon, Bruno, Buck, Bumps, Cameron, Campbell, Carleton, Chick, Chizmar, Cianchette, Clukey, Cross, Donnelly, Dutremble, Fisk, Foster, Frechette, Gerry, Gieringer, Gooley, Honey, Jones SA, Joy, Joyce, Joyner, Kasprzak, Kerr, Kneeland, Labrecque, Lane, Layton, Lemke, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, Mailhot, Marvin, Mayo, McAlevey, McElroy, Meres, Murphy, Nass, Nickerson, O'Brien, Peavey, Pendleton, Perkins, Pinkham RG, Pinkham WD, Poulin, Rines, Savage, Snowe-Mello, Spear, Stanley, Stedman, Taylor, Thompson, Tobin, Treadwell, True, Vedral, Vigue, Waterhouse, Wheeler EM, Wheeler GJ, Winglass, Winsor, Madam Speaker.

ABSENT - Baker JL, Belanger DJ, Bodwell, Chartrand, Dexter, Gamache, Ott, Pieh, Plowman, Tuttle, Underwood.

Yes, 62; No, 78; Absent, 11; Excused, 0.

62 having voted in the affirmative and 78 voted in the negative, with 11 being absent, the Minority "Ought to Pass" as amended Report was not accepted

Subsequently, the Majority "Ought Not to Pass" Report was accepted and sent up for concurrence.

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

Divided Report

Majority Report of the Committee on Labor reporting "Ought to Pass" as amended by Committee Amendment "A" (H-501) on Bill "An Act to Remove the Disqualification for Unemployment Insurance Benefits for Claimants Who Are Locked Out by an Employer" (H.P. 1222) (L.D. 1734)

Signed:

Senators: TREAT of Kennebec
CATHCART of Penobscot
MILLS of Somerset

Representatives: HATCH of Skowhegan
SAMSON of Jay
RINES of Wiscasset
BOLDUC of Auburn
STANLEY of Medway
CLARK of Millinocket

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

Signed:

Representatives: JOYCE of Biddeford
TREADWELL of Carmel
PENDLETON of Scarborough
JOY of Crystal

Was read.

Representative HATCH of Skowhegan moved that the House accept the Majority "Ought to Pass" as amended Report.

The SPEAKER: The Chair recognizes the Representative from Skowhegan, Representative Hatch.

Representative HATCH: Madam Speaker, Men and Women of the House. I rise today in support of the Majority "Ought to Pass" Report. This would allow employees who are locked by a company to draw unemployment. It happens very infrequently in this state, thank goodness. We wouldn't want that to happen to a lot of people when there is a labor dispute going on. These employers have paid this money into the unemployment account, sometimes over many, many years and due to a labor dispute of one sort or another, they can't come together. Instead of a strike, the company opts to lock these employees out, shut down the company or go outside for some labor. I am asking you to support this because I think any time they are put at odds like this, they ought to have some recourse. We don't want to put families out there with no income and leave it for the towns to try to provide for them or for them to have to draw AFDC and food stamps. That is all taxpayers money. These companies have employed these people and they have paid into the funds. We think this is a reasonable solution. I thank you for your support. Thank you.

The SPEAKER: The Chair recognizes the Representative from Scarborough, Representative Pendleton.

Representative PENDLETON: Madam Speaker, Ladies and Gentlemen of the House. Here again is another area where I have a small amount of expertise. The labor law around the country has been very specific in most cases. There are a number of states where unemployment benefits are paid to striking employees. However, there is a waiting period in almost all of those cases for a period of about 30 days. If the employees are out on a strike, either initiated by the employer or by the employee, during that 30 day period, there is a period of time where a strike situation for both the employees and the employer, in a sense, the employees are out on strike so that the manufacturing for the employer cannot continue. His sales will drop off and hopefully the economics of that will bring it around. On the other hand, the employer has an inventory off somewhere else, not on his premises, that he can continue to ship from, it is economic for him to sit and wait to see if they will fold for their position. That is why most of the unemployment law around the country does have a provision in it for a waiting period.

This particular bill does not have any kind of a provision of a waiting period. In another part of this bill, it tries to define lockouts. In 20 years working with the unemployment division, dealing with labor disputes in Maine and in other sections of the country, I have had a great deal of difficulty trying to find out what lockout meant in my own mind, because normally you have to

look at all the clauses of the employee's contract. I will give an example of that. In 1978, eight days after I was appointed Chair of the Unemployment Insurance Commission, Great Northern Paper Company shut down due to a labor dispute. That labor dispute, if you looked it from the stand point of the employers shutting the place down to gain a concession, then, yes, you possibly had a lockout. However, there was a union contract. That union contract said there were 13 unions in the bargaining unit. It also said that seven of those unions had to agree. When seven didn't agree to go back to work and sign a contract, a labor dispute existed. The language of their own contract wiped out lockout. That is what I am saying. There are so many different aspects that have to be looked at and there is no clear definition of what lockout is.

I want to point out the two things in this bill that I think are wrong. There is no waiting period and there is no clear definition of lockout. Thank you very much. I will be supporting the "Ought Not to Pass" portion of this bill.

The SPEAKER: The Chair recognizes the Representative from Skowhegan, Representative Hatch.

Representative HATCH: Madam Speaker, Men and Women of the House. Just to clarify the good Representative from Scarborough, the Committee Amendment (H-501), for purposes of their subsection, the word lockout means the withholding of employment by an employer from its employee for the purpose of resisting their demands or gaining a concession from them.

The SPEAKER: The Chair recognizes the Representative from Jay, Representative Samson.

Representative SAMSON: Madam Speaker, Men and Women of the House. I rise in support of LD 1734. It is very clear to me that a lockout means that the company is preventing the workers from coming to work. They are literally locking the doors and preventing the workers to go into their jobs. A strike is when the employee, himself or the union, decides that they are not going to go to work. Don't be mistaken by the two. I believe that anyone who is prevented from going to work after a weeks time should be collecting unemployment just like anyone else. Thank you.

The SPEAKER: The Chair recognizes the Representative from Crystal, Representative Joy.

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

The SPEAKER: The Representative may pose his question.

Representative JOY: Madam Speaker, Men and Women of the House. Could somebody tell me in the last 25 years how many situations there have been where companies have locked employees out?

The SPEAKER: The Representative from Crystal, Representative Joy has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Livermore, Representative Berry.

Representative BERRY: Madam Speaker, Men and Women of the House. In response to the good Representative, I will tell you of one company that has locked out their employees. They temporarily replaced them. That is International Paper Company. They did it in Mobile, Alabama in 1987. It was just a couple months before we began our strike in Jay, Maine. In the case of International Paper, you have a large employer with a large number of employees. When he locks out the employees in a town, say the Town of Jay, Maine, where do you expect these employees to find work? I was qualified for a number of jobs in the area. They are not going to hire me because I am going to go back to work as soon as the company decides to unlock the gate. These people are not able to work. They may be qualified, but they are not going to be hired. They are not

going to easily find jobs for 1,200 people. They still have their families to feed. Thank you Madam Speaker.

Representative JOY of Crystal requested a roll call on the motion to accept the Majority "Ought to Pass" as amended 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 Standish, Representative Mack.

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

The SPEAKER: The Representative may pose his question.

Representative MACK: Madam Speaker, Men and Women of the House. Is this pre-empted by the federal National Labor Relations Act?

The SPEAKER: The Representative from Standish, Representative Mack has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Jay, Representative Samson.

Representative SAMSON: Madam Speaker, Men and Women of the House. No.

The SPEAKER: The Chair recognizes the Representative from Medway, Representative Stanley.

Representative STANLEY: Madam Speaker, Men and Women of the House. I work for a company that has four different local bargaining units. I can see this as a tool to be used by a company that I work for that is not locally owned. It is an international company. I can see this being used as a means for them to lock us out because of one bargaining unit that doesn't want to bargain. I would recommend that you accept the "Ought Not to Pass" report.

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

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

The SPEAKER: The Representative may pose his question.

Representative WINSOR: Madam Speaker, Men and Women of the House. I am wondering if Representative Pendleton or any other member could explain to us exactly how the unemployment fund, how it accumulates money and where the unemployment benefit comes from? Thank you.

The SPEAKER: The Representative from Norway, Representative Winsor has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Skowhegan, Representative Hatch.

Representative HATCH: Madam Speaker, Men and Women of the House. In regards to this, the fiscal note is on (H-501) allowing employees who are locked out by an employer to collect unemployment compensation benefits will increase costs to the unemployment compensation trust fund. The increase in benefits paid from the fund will depend on the number of employees that were locked out, which cannot be estimated at this time. I guess the fiscal note at this time is zero. It may be something in the future, but they don't know.

The SPEAKER: The Chair recognizes the Representative from Scarborough, Representative Pendleton.

Representative PENDLETON: Madam Speaker, Ladies and Gentlemen of the House. The unemployment insurance is paid by every single employer based on the scale of so many dollars for, I think, the first \$7,200 in earnings. What has happened in this case is we have a situation here where you had a major employer go out on strike and you started paying them unemployment benefits that we have no condition within our law that says where this money would be coming from so, because it is not specified, then their unemployment benefits would be paid by the employer. Like Representative Berry said, he became

unemployed from International Paper Company and in this case, say they got locked out from International Paper Company and we start paying benefits. Immediately, that would be charged to that account for International Paper Company. In some cases, it would become a burden on the employer and time because of the amount of money contributed to their account would start to be drawn down and their experience rating would then go up. It is like an insurance account. If you have a very poor experience rating, you are going to pay a higher rate. In most cases, if a strike lasts any time at all and you had a large number of employees charged to your account, then the experience rating for this account would go up.

A few years ago we had Bath Iron Works go out on strike. As I remember, there were 2,800 employees. If we were paying them, it would only take a very few weeks and you would be draining the unemployment fund down because the maximum account, probably \$200 or more. Therefore, the dollars in the fund would be drawn down. If the fund level gets drawn down, every single employer in the state then has their rates increased because that puts the whole fund balance in a different ratio. This is one of the things you have to look at when you look at paying something like this. How much money is it going to cost and what are you going to do to the experience rating of your overall account for all employers for one employer and is this sending an economic signal for new employers to come into your state, if you have this type of thing on the books? Thank you very much.

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

Representative CAMERON: Madam Speaker, Ladies and Gentlemen of the House. This may come as no surprise to somebody, but I am really confused. We keep hearing about people talking about striking employees and who is going to pay for it. The bill talks about lockouts. I think Representative Hatch is right that the fiscal note is zero because, to the best of my knowledge, unless somebody can correct me, I don't ever recall, in my lifetime, any company in Maine having a lockout. We have had a lot of strikes, but that is a different issue. I don't know of any lockouts. That is why I am confused. We seem to be talking about two completely different groups of people here. There is a vast difference between a locked out employee and a striking employee. If this bill is intended to get at striking employees, there is something missing here, in my mind. I am really confused about what exactly we are talking about here. I did hear a definition of locked out employees and that is fine, but those are not striking employees. I need some help on what this bill is really about.

The SPEAKER: The Chair recognizes the Representative from Jay, Representative Samson.

Representative SAMSON: Madam Speaker, Men and Women of the House. Representative Cameron is exactly right. There is a vast difference between being on strike and being locked out. When you go on strike, the union, itself, calls for the strike and does not go to work on their own volition. When there is a lockout, the employer prevents you from going to work. This is what we are talking about. We are not talking about workers on strike. We are talking about workers that are prevented from coming to work by the employer. That is called a lockout. As I said before, anyone that is prevented from coming to work should be able to collect unemployment benefits a week after that. Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative VIGUE: Madam Speaker, Men and Women of the House. Why are we trying to pass legislation to prevent something that has never happened before in the State of Maine?

The SPEAKER: The Representative from Winslow, Representative Vigue has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Livermore, Representative Berry.

Representative BERRY: Madam Speaker, Men and Women of the House. In response to the good Representative's question, I believe the point I was trying to make earlier is that a lockout is just as likely to happen in Maine as it is anywhere else in the country. We have the same employers, in the case that I stated. They own factories throughout the country. I believe that they tried to delay the negotiations in our mill and one of the purposes of delaying that negotiation was so that they could influence through the lockout in Mobile, their negotiations and then they would have come to Jay, Maine and did the same thing. We had a mill experience negotiations here recently. The Chief Executive became involved. I believe our situation there could easily have gone that way, through a lockout. The point that I was trying to make earlier is that in a lockout the conditions are going to be the same. The jobs are not going to be there for those individuals to earn a living, to feed their families. Thank you.

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

Representative TREADWELL: Madam Speaker, Ladies and Gentlemen of the House. I would like to, if I can, try to simplify what I see as a major problem with this legislation. We have several large employers in the State of Maine who have several different unions in their employee force. If one of those unions should vote to strike the employer and he has no choice, but to shut down his operation because they have struck, all of those other unions, by the definition of this bill, would be locked out. The employer would have no choice in the matter except to close the doors because he has been struck by one of the unions in the plant. I think it has been eluded to, but I don't know if everybody really understood that that is what I see as the major problem with this bill.

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

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

The SPEAKER: The Representative may pose his question.

Representative BUCK: Madam Speaker, Men and Women of the House. Could someone answer for me, in seven words or less, how many lockouts have occurred in Maine?

The SPEAKER: The Representative from Yarmouth, Representative Buck has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Rumford, Representative Cameron.

Representative CAMERON: Madam Speaker, Men and Women of the House. To the best of my knowledge, the answer to that question is zero. In the instance that was just related, first of all, if there are multiple unions and one strikes, if the other contracts have not expired, those employees are still obligated to come to work. That doesn't mean they might not be laid off, but if they are laid off that is a different situation than being locked out. If they are laid off, they clearly qualify for unemployment under the present law. That still doesn't qualify as a lockout because one union goes on strike. If the contract is still in force, those folks are still employees and would continue to work. They can only be locked out if the contract is expired.

The SPEAKER: A roll call has been ordered. The pending question before the House is acceptance of the Majority "Ought

to Pass" as amended Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 221

YEA - Ahearn, Bagley, Baker CL, Berry RL, Bigl, Bolduc, Bouffard, Brennan, Brooks, Bull, Bunker, Cameron, Chick, Chizmar, Clark, Colwell, Cowger, Davidson, Desmond, Driscoll, Dunlap, Dutremble, Etnier, Farnsworth, Fisher, Frechette, Fuller, Gagne, Gagnon, Gerry, Goodwin, Green, Hatch, Jabar, Jones KW, Jones SL, Kane, Kerr, Kontos, LaVerdiere, Lemaire, Lemont, Mailhot, Mayo, McKee, Meres, Mitchell JE, Morgan, Muse, O'Neal, O'Neil, Paul, Perkins, Perry, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Stanley, Stevens, Tessier, Thompson, Townsend, Tripp, Usher, Vigue, Volenik, Watson, Wheeler GJ, Winn, Wright, Madam Speaker.

NAY - Barth, Belanger IG, Berry DP, Bragdon, Bruno, Buck, Bumps, Campbell, Carleton, Cianchette, Clukey, Cross, Donnelly, Fisk, Foster, Gieringer, Gooley, Honey, Jones SA, Joy, Joyce, Joyner, Kasprzak, Kneeland, Labrecque, Lane, Layton, Lovett, MacDougall, Mack, Madore, Marvin, McAlevey, McElroy, Murphy, Nass, Nickerson, O'Brien, Peavey, Pendleton, Pinkham RG, Pinkham WD, Savage, Snowe-Mello, Spear, Stedman, Taylor, Tobin, Treadwell, True, Vedral, Waterhouse, Wheeler EM, Winglass, Winsor.

ABSENT - Baker JL, Belanger DJ, Bodwell, Chartrand, Dexter, Gamache, Lemke, Lindahl, Ott, Pieh, Plowman, Tuttle, Underwood.

Yes, 83; No, 55; Absent, 13; Excused, 0.

83 having voted in the affirmative and 55 voted in the negative, with 13 being absent, the Majority "Ought to Pass" as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (H-501) was read by the Clerk and adopted.

Under suspension of the rules the Bill was given its second reading without reference to the Committee on **Bills in the Second Reading**.

Under further suspension of the rules the Bill was passed to be engrossed as amended by Committee Amendment "A" (H-501) and sent up for concurrence.

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

An Act to Require the Release of the Results of an HIV Test to a Person Who Has Experienced a Bona Fide Occupational Exposure (H.P. 1000) (L.D. 1392) (C. "A" H-404) which was tabled by Representative KONTOS of Windham pending passage to be enacted.

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

An Act to Allow Partially Consumed Bottles of Wine to be Taken from Restaurants (H.P. 997) (L.D. 1389) (C. "A" H-308) which was tabled by Representative CAMERON of Rumford pending passage to be enacted.

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

Representative CAMERON: Madam Speaker, Ladies and Gentlemen of the House. I know when this came up earlier, we talked about it a little, but I still have some concerns about it. I will just quickly tell you what they are. I don't want to be responsible for this running on a long time. This sounds very innocent, I think, to allow partially consumed bottles of wine to be taken home. You kind of picture a family out to dinner at a nice restaurant with a bottle of wine for dinner. There is a couple of

glasses left and they paid for it and why can't they take it home? My concern takes the shape of, how do we know that is the only bottle of wine? This might be the third or fourth bottle. We, in this state, have made a decision as a public policy in the past that a bartender can be held accountable if a person leaves that bar, that establishment, goes out and drives and gets in an accident and causes some bodily harm or some kind of injury to somebody. As a public policy, we have determined that that bartender can be held accountable. What this is saying to me is, we are now going to hold every waiter and waitress in Maine, that is old enough to serve a bottle of wine in a restaurant to that same accountability. I think it is not a small issue. Like I said, if it is one bottle of wine that a family has and they share it, it is not a big deal. If there are three or four people at the table and this is the fourth or fifth bottle of wine and we all know that happens, that is okay, they are adults and they can make choices and that is the society we live in. I just want to ask again if we are really prepared to say to all the waiters and waitresses in Maine that serve alcoholic beverages that you are now going to be held accountable, which ultimately that is what this will lead to. If you allow the adults in that family to leave that table with that open bottle of wine, I know we have heard it is going to be sealed, but go out to the car and maybe not be in a condition to drive.

While the pretext of this bill, again, sounds very simple, I bought a bottle of wine and I paid for it. It is very expensive, why shouldn't I be able to take it home? I understand the pretext. I am concerned about the potential and what it may lead to. We all know that driving under the influence is a problem in this state and across the country. I just don't think that we should be saying that it is okay to take that open bottle and take it out in the car and take it home. I am just concerned. If nobody else is concerned, that is okay, but I wanted to raise the issue and everybody can make their own decision. I appreciate you being willing to listen to my concerns. Thank you.

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

Representative SAXL: Madam Speaker, Men and Women of the House. I appreciate the great concern of the good Representative from Rumford, Representative Cameron. I, too, shared a lot of Representative Cameron's real simple concerns. Let me explain a little bit about this piece of legislation so that folks can be absolutely satisfied that it doesn't do a few of the things that the good Representative is concerned about. Number one, it doesn't create any new liability for a restaurant owner, bartender, waiter or a waitress. The current Maine law says that anybody who is visibly intoxicated can't be served any further alcohol. This does not alter that responsibility. It doesn't change that. That is the current law. Furthermore, this legislation doesn't encourage drinking and driving. When I first looked at this legislation, I called up the president of Mothers Against Drunk Driving in Maine and I said, if you don't like this bill, I don't like this bill. I think we should have zero tolerance in the State of Maine for drinking and driving. That is the way I live. I think we have developed some of the most rigorous drinking and driving laws in the country. It has saved countless lives. I think that is good thing. Mothers Against Drunk Driving said, well, we will not take a position in opposition to this legislation. We don't think anybody should drink at their dinner. We don't think people should have wine with their dinner when they are out, but that doesn't mean that this legislation will create any further or new danger.

It is also important to understand what is going to happen with this wine. This wine is going to be sealed. It is going to be bagged and it is part of the law that it must be kept in the furthest compartment away from the driver. If you have a trunk, it is in the trunk. If you don't have a trunk, it is in the far back.

Wherever it is, it is more accessible if somebody goes over to the 7-11 or the Christi's and says, I want a bottle of wine, beer or whatever, it certainly doesn't create any greater access than that. I think it really important to understand that this legislation was actually introduced in an effort to do two things. One, it is to work with small businesses and small restaurants, which are small businesses, as we all know and to help them with their bottom line. To help a waiter and waitress increase their tab on a particular dinner so that they get a higher percentage tip. To help a small business person sell a bottle of wine because there is an excellent mark up for them on that bottle of wine. In my district, in Portland, there are more restaurants, per capita, than anywhere in the country, except for San Francisco. It is a lot about small business in my community.

The other thing it is about is it is about responsible drinking. A lot of times now, people will order a bottle of wine with their dinner and they will feel compelled to try to finish it because they put a lot of money into this bottle of wine and they don't feel comfortable leaving it on the table. Maybe this legislation should say, it is perfectly fine not to finish the bottle of wine. Your investment won't go to waste. You will take it home and you keep it just like as if you were to stop on the way home and buy a six pack of beer. It is the same thing in this case. If this legislation created a new liability or it created a danger for drinking and driving, I would never have anything to do with this, because I am against both of those things. I think this legislation is a simple way to decrease drinking and driving and to encourage the growth and support small businesses in my community and I think throughout the State of Maine.

Let me let you understand that this is not a unique law. For all my friends who live in that Berwick area, this is the law in the State of New Hampshire and it is the law in quite a few other states throughout the country. It has worked well in those states and there was nobody who presented opposition to this bill when it came before the committee and I hope that you will support it tonight.

The SPEAKER: The Chair recognizes the Representative from Old Town, Representative Dunlap.

Representative DUNLAP: Madam Speaker, Men and Women of the House. As a bartender I guess I feel sort of compelled to answer some of the concerns as put forth from the good Representative from Rumford. In addition to what was just said by the Representative from Portland, bartenders, waitresses and waiters are already very accountable for the beverages they serve for their customers in terms of their consumption. They have to be able to control that. I think this particular bill goes a long way to addressing that. If I am going to spend \$100 on a bottle of wine and I can continue to do that now that we saved the meal allowance, I think I would much rather, if I was a conscience driver, have a glass of wine and be able to take the rest of it home, then feel compelled to finish it in the restaurant and thereby create a risk on the roads. In that sense, this bill, I would hope, would answer that concern of the good Representative from Rumford. That is all I have to say on that. I just wanted to clarify that one point. Thank you.

Representative STEDMAN of Hartland requested a roll call on passage to be enacted.

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 Enactment. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 222

YEA - Bagley, Baker CL, Barth, Berry DP, Berry RL, Bigl, Bolduc, Bouffard, Bragdon, Brennan, Bruno, Buck, Bull, Bunker, Carleton, Chizmar, Cianchette, Cowger, Cross, Davidson,

Desmond, Donnelly, Driscoll, Dunlap, Etnier, Farnsworth, Fisher, Foster, Frechette, Fuller, Gagnon, Goodwin, Gooley, Green, Hatch, Honey, Jabar, Jones KW, Joyce, Joyner, Kane, Kerr, Kontos, Labrecque, LaVerdiere, Lemaire, Lemke, Lemont, Lindahl, MacDougall, Mack, Madore, Mailhot, Marvin, Mayo, Mitchell JE, Muse, O'Brien, O'Neal, O'Neil, Paul, Peavey, Pendleton, Perkins, Perry, Pinkham RG, Pinkham WD, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Saxl JW, Saxl MV, Shannon, Shiah, Skoglund, Snowe-Mello, Spear, Stanley, Stevens, Taylor, Tessier, Thompson, Townsend, Tripp, True, Usher, Vigue, Volenik, Waterhouse, Watson, Wheeler GJ, Winglass, Winn, Winsor, Wright, Madam Speaker.

NAY - Ahearne, Belanger IG, Bumps, Cameron, Campbell, Chick, Clark, Clukey, Gagne, Gerry, Gieringer, Jones SL, Jones SA, Joy, Kneeland, Lane, Layton, Lovett, McAlevey, McElroy, McKee, Meres, Morgan, Murphy, Nass, Nickerson, Savage, Sirois, Stedman, Tobin, Treadwell, Vedral, Wheeler EM.

ABSENT - Baker JL, Belanger DJ, Bodwell, Brooks, Chartrand, Colwell, Dexter, Dutremble, Fisk, Gamache, Kasprzak, Ott, Pieh, Plowman, Poulin, Tuttle, Underwood.

Yes, 101; No, 33; Absent, 17; Excused, 0.

101 having voted in the affirmative and 33 voted in the negative, with 17 being absent, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Resolve, Directing the Department of Environmental Protection to Study and Make Recommendations on the Establishment of a Motor Vehicle Inspection and Maintenance Program to Meet the Requirements of the Federal Clean Air Act (EMERGENCY) (H.P. 1174) (L.D. 1651) (C. "A" H-391) which was tabled by Representative KONTOS of Windham pending final passage. (Roll Call Ordered)

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

Representative ROWE: Madam Speaker, Men and Women of the House. This is LD 1651. It is a Resolve, Directing the Department of Environmental Protection to Study and Make Recommendations on the Establishment of a Motor Vehicle Inspection and Maintenance Program to Meet the Requirements of the Federal Clean Air Act. I would like to tell you a little bit about what this is and what it is not. It is not a mandate to put a program in place. It is a Resolve to direct the department to come back to the Legislature with some proposals for us to consider next session. It directs the Commissioner of the Department of Environmental Protection to study options for complying with the requirements of the Federal Clean Air Act relating to motor vehicle inspection and maintenance program in the State of Maine. It requires that the report be submitted back to the Legislature by January 5, 1998 and that it include at least two proposals for motor vehicle inspection and maintenance programs. Finally, it authorizes the Legislature, next year, actually the committee on Natural Resources, to report out a bill and the Legislature to consider a bill related to vehicle inspection and maintenance. I wanted to give a little background on this because I know many people get nervous when you hear about this and you think about this and you think about the CarTest program.

I would like to take you back. Most of you know the Clean Air Act Amendments of 1990 required all areas in the Ozone Transport Region, when we hear the term Ozone Transport Region, I believe that is 13 states from Maine to Virginia, to develop an enhanced motor vehicle inspection program for all major metropolitan statistical areas with a population of greater than 100,000. There were three of these in Maine, but the Portland metropolitan statistical area was the only one that was

subject to this requirement. That metropolitan statistical area encompasses 17 different municipalities in Cumberland County and four municipalities in York County. It is just not the City of Portland.

In response to the opposition that Maine people had about CarTest program, our Chief Executive urged the Federal Environmental Protection Agency to consider Maine's unique geographic position in the Ozone Transport Region, in that it is more of a receiver than it is a transporter of ozone and to provide the state with more flexibility in the control of air pollutants. The EPA obliged by promulgating a new rule that allows certain states with attainment marginal or moderate areas that have urbanized areas with less than 200,000 population to develop vehicle testing programs that meet and an even lower standard, so long as other emission reducing strategies were employed to make up the difference. This provision must be in place and implemented no later than January 1, 1999. As I said, as a minimum, it must include all of Cumberland County.

If the state fails to adopt this requirement and put an inspection maintenance program in place by January 1, 1999, then the EPA is required to apply sanctions, including the imposition of a prohibition on certain federal highway projects and the reduction of project funding on others. Maine currently receives more than \$91 million a year on federal highway funds and these sanctions would apply to the entire state. The EPA could also apply more costly emissions, offset requirements on new or modified sources for which air licenses are required. It is not that this is a good thing to do, it is that right now it is a thing we have to do. Again, what this bill does is it directs the DEP to come back the Legislature next session and present us with alternatives for us to consider to be in compliance. Now the DEP has been working on this and they set up a stakeholder group, but I know there have been legislators involved, the business community and other state departments, in trying to come up with some alternatives. They are still working on those. They are not ready. They will be ready in January.

I wanted to give you an idea of what we are talking about. We are not talking about a CarTest program. We are talking about a much smaller version of automobile inspection and maintenance. We are talking about a test that would be done at the same time as your annual safety inspection. All the models I have looked at, include that. We are talking about a visual inspection, probably of your catalytic converter, maybe a gas cap pressure test. For new vehicles, a test of the onboard diagnostics. This is something that would be affordable. If you do read the bill, you will see that in the bill we have asked the department to come back to include some recommendations for addressing the needs of low-income vehicle owners for whom the inspection fee and the repair costs could pose an unreasonable economic burden. We have asked them to look at other things. I would ask for your support tonight. We need it, if we don't have the support here, there is going to be a problem. The reason this is an emergency, quite candidly, is because we need the time for the department to go ahead and start moving quickly so they can get the information ready for us when we come back in January. We will be considering this in January or February in the next session.

This is a unanimous committee report from the Committee on Natural Resources. It was 13 to 0. I would appreciate your support. Thank you.

The SPEAKER: The Chair recognizes the Representative from Crystal, Representative Joy.

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

The SPEAKER: The Representative may pose his question.

Representative JOY: Madam Speaker, Men and Women of the House. What assurances do we have that the plan, when we come back, is only going to be for York County?

The SPEAKER: The Representative from Crystal, Representative Joy has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Portland, Representative Rowe.

Representative ROWE: Madam Speaker, Men and Women of the House. In response to the question, if you read the bill, there has to be two options presented back. One of these would include asking the department to look at a program broader than just Cumberland and part of York County, maybe statewide. One of the problems here, in other states they have run into this, if you have this consistent with your safety inspections and an automobile owner would go outside the area. Say I lived in Portland and I went to Sagadahoc County to get my vehicle inspected and then came home, would I be in compliance? There are some issues like that. It is tough just to draw the boundary. Right now they are going to look at the greater Portland metropolitan statistical area and at least one of the proposals will address a broader area. Thank you.

The SPEAKER: The Chair recognizes the Representative from Livermore, Representative Berry.

Representative BERRY: Madam Speaker, Men and Women of the House. As the good Representative from Portland stated, there were legislators involved in a group with the DEP over the fall months, I believe it was. Everyone involved in that group was very interested in finding other ways to deal with this issue that would be more palatable to the citizens of this state. The Representative from Portland stated most of the ways. I think if we don't enact this, I think we will be giving up some of our options to do a main solution to what we see as partially our problem, but also many of us feel that some of our pollution problems are brought in from areas. Regardless, we will still have a responsibility to deal with this. I believe enacting this gives us a voice in our solution. Thank you.

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

Representative ROWE: Madam Speaker, Men and Women of the House. One more point, I just want to follow up on what Representative Berry said. If we do not implement a state program, the EPA will do it for us. Chances are it could be more costly and more expansive. The idea would be that we do something for Maine. That is a very real issue. If we do nothing, it will be done for us. Thank you.

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

Representative LEMKE: Madam Speaker, Men and Women of the House. I am a little concerned. This sounds to me like partially consumed CarTest.

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

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 was necessary.

ROLL CALL NO. 223

YEA - Ahearn, Bagley, Baker CL, Berry RL, Bolduc, Bouffard, Brennan, Brooks, Bull, Bumps, Bunker, Chizmar, Cianchette, Clark, Cowger, Cross, Davidson, Desmond, Driscoll, Dunlap, Etnier, Farnsworth, Fisher, Fisk, Foster, Frechette, Fuller, Gagne, Gagnon, Gieringer, Gooley, Green, Hatch, Jabar, Jones KW, Jones SL, Kane, Kneeland, LaVerdiere, Lemaire, Lemont, Mailhot, Mayo, McElroy, McKee, Meres, Mitchell JE, Morgan, Muse, Nickerson, O'Brien, O'Neal, O'Neil, Paul, Perkins,

Perry, Povich, Powers, Quint, Richard, Rines, Samson, Sanborn, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Stanley, Stevens, Taylor, Tessier, Thompson, Townsend, Tripp, Usher, Vigue, Volenik, Watson, Wheeler GJ, Winn, Wright, Madam Speaker.

NAY - Barth, Belanger IG, Berry DP, Bigl, Bodwell, Bragdon, Bruno, Buck, Cameron, Campbell, Carleton, Chick, Clukey, Donnelly, Gerry, Goodwin, Honey, Jones SA, Joy, Joyce, Joyner, Kerr, Kontos, Labrecque, Lane, Layton, Lemke, Lindahl, Lovett, MacDougall, Mack, Madore, Marvin, McAlevey, Murphy, Nass, Ott, Peavey, Pendleton, Pinkham RG, Pinkham WD, Rowe, Savage, Snowe-Mello, Spear, Stedman, Tobin, Treadwell, True, Vedral, Waterhouse, Wheeler EM, Winglass, Winsor.

ABSENT - Baker JL, Belanger DJ, Chartrand, Colwell, Dexter, Dutremble, Gamache, Kasprzak, Pieh, Plowman, Poulin, Tuttle, Underwood.

Yes, 84; No, 54; Absent, 13; Excused, 0.

84 voted in favor of the same and 54 against with 13 being absent, the Bill failed of final passage and was sent up for concurrence.

Bill "An Act to Provide Legal Counsel for Legislative Committees" (H.P. 847) (L.D. 1152) (C. "A" H-488) which was tabled by Representative SAXL of Portland pending passage to be engrossed as amended by Committee Amendment "A" (H-488).

Subsequently, the Bill was passed to be engrossed as amended by Committee Amendment "A" (H-488) and sent up for concurrence.

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

REPORTS OF COMMITTEES

Divided Report

Majority Report of the Committee on **Taxation** reporting "**Ought Not to Pass**" on Bill "An Act to Promote Wildlife Rehabilitation Centers" (H.P. 551) (L.D. 742)

Signed:

Senators: RUHLIN of Penobscot
DAGGETT of Kennebec
MILLS of Somerset

Representatives: TRIPP of Topsham
ROWE of Portland
MORGAN of South Portland
SPEAR of Nobleboro
TUTTLE of Sanford
BUCK of Yarmouth

Minority Report of the same Committee reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-535) on same Bill.

Signed:

Representatives: GREEN of Monmouth
LEMONT of Kittery
CIANCHETTE of South Portland
GAGNON of Waterville

Was read.

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

The SPEAKER: The Chair recognizes the Representative from York, Representative Ott.

Representative OTT: Madam Speaker, Men and Women of the House. This bill reflects one of the several statutory organizations and activities that we have in our Title 36 that

exempts those organizations from paying a sales tax. The reason for that exemption for some 77 activities and organizations is to enable certain nonprofit charitable organizations to do the good work that they do for the people of this state. This bill, admittedly, would add another organization to that list of some 77 that are now in statute, making it number 78. I would suggest to you that it really isn't an additional function. We already have a statutory provision that exempts nonprofit animal shelters from paying any sales tax on those items that they use in the functions of their organization. From a historical perspective, I would tell you that this organization that had brought this issue to my attention, the Wildlife Center of Cape Neddick, which is an organization organized several years ago in the Town of York to help what was then a situation where there was no one to care for any of the wildlife and birdlife that was injured, maimed or killed in the southern part of Maine, really, because it is the only active ongoing wildlife center south of Augusta.

When they attempted to seek from the Bureau of Taxation an exemption status, they were rejected because they didn't take care of any domestic animals. They were advised by the bureau that yes, you can have this exemption if you shelter domestic animals, like cats and dogs. Because you are dealing with wildlife, birds and animals of the wild, we can't provide an exemption for you because you don't fit in that pigeon hole that allows us to provide that exemption. To me, it doesn't reflect an additional activity or organization, but merely is a technical correction of what I think was the true intent of these organizations that were exempt under this taxation statute.

At the public hearing, there was no one that spoke against the proposal. There was information, I believe, that was provided to the committee that indicated that some seven police departments in the southern part of York rely on this rehabilitation center to provide services for those animals that are killed or maimed or sick. The organization also provides educational direction to a number of schools, organizations, such as the Rotary or Lions Club that are interested in protecting and rehabilitating some of our wildlife birds and animals. That was an another attempt by this wildlife center to qualify for an educational institution, which was another one of the 77 exempt organizations, but again, the Bureau of Taxation said that because you are not involved in that one specific exception for educational purposes that allows an organization to be exempt because they give lectures and provide information to young people on drug abuse and also inter-personal relationships, they couldn't qualify. I would suggest to you that providing information on injured wildlife and birds and how to respect the animals that are so important to our environment, that this function would also qualify as a truly nonprofit educational activity.

Someone had asked me what the fiscal note is. I cannot tell you at this time, but I would be glad to get that information. I would suggest to you that the proposal that is now before you asks only that they be exempt from the sales of animal food and other supplies necessary for the care and rehabilitation of wild animals and wild birds. I would ask that you defeat the pending motion so that we can go on to pass the Minority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Kittery, Representative Lemont.

Representative LEMONT: Madam Speaker, Ladies and Gentlemen of the House. Representative Ott has done an excellent job explaining to you what this legislation would do. I would just like to add that he is exactly right. We currently have 77 sales tax exemptions. This would add a 78th one, but of all we have, this one has more merit than most of them we have on

the books. The fiscal note is a very small amount of money. It is less than \$2,000 per biennium to correct this injustice and help this very, very worthy organization. Thank you.

The SPEAKER: The Chair recognizes the Representative from Monmouth, Representative Green.

Representative GREEN: Madam Speaker, Ladies and Gentlemen of the House. In fact, the fiscal note is \$1,800 in the first year of the biennium and \$3,000 in the second year. Of course, that is an estimation. For this modest, extremely modest amount of money, we are doing something that Maine is known for, taking care of wildlife. There are many, many exemptions on the books. We looked at many of them. We were unfortunately unable to come up with, in the Taxation Committee, some definitive decisions. As a result of that, why should this program suffer because we could not make a decision? These people were doing something, again, that is vital to our state. Of all people, they certainly do deserve, for the modest amount of \$4,000 for a biennium, they certainly deserve our support.

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

Representative TREADWELL: Madam Speaker, Ladies and Gentlemen of the House. I find it very interesting to stand here and hear the compassionate plea for animals. A couple days ago we took a vote on a bill for dyslexic children. That bill has gone down in defeat, I understand. It appears to me that we have more compassion for our animals than we do our children with disabilities. I would urge you to defeat this legislation.

Representative LEMONT of Kittery 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 York, Representative Ott.

Representative OTT: Madam Speaker, Men and Women of the House. Unless my recollection fails me, I believe this chamber passed legislation two days ago that provided help for the children that was said we defeated. It was not this chamber that caused it to die. I would also like to suggest that perhaps we are expanding the groups of organization that are being exempt and that might be a part of a larger policy that the Taxation Committee or this Legislature should consider. We shouldn't be adding piece meal to the exemptions, but I would like you to think about the fact that, yes, it would be adding an organization to those 77, but unless we are prepared to take an overall view of the entire policy of this state with respect to tax-exempt organizations, then I would submit to you that this activity for the wildlife rehabilitation center certainly falls within the intention of the existing law. Thank you.

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

Representative VOLENIK: Madam Speaker, Men and Women of the House. We have too many sales tax exemptions now. If we eliminated all of them, we could reduce our sales tax rate to between 2 and 3 cents. Every little exemption, no matter how noble that we add to that list moves us ever further from that goal. Thank you.

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

ROLL CALL NO. 224

YEA - Bagley, Baker CL, Belanger IG, Bouffard, Bragdon, Brennan, Brooks, Bunker, Cowger, Driscoll, Dunlap, Etnier, Farnsworth, Fuller, Gagne, Hatch, Honey, Jabar, Jones KW, Jones SL, Joyce, Lane, LaVerdiere, Layton, Lemaire, Lindahl, Mailhot, McKee, Morgan, Muse, Paul, Pendleton, Povich,

Powers, Richard, Rines, Rowe, Samson, Sanborn, Saxl JW, Saxl MV, Shiah, Skoglund, Spear, Stanley, Thompson, Tobin, Townsend, Treadwell, Tripp, Vedral, Volenik, Waterhouse, Madam Speaker.

NAY - Ahearne, Barth, Berry DP, Berry RL, Bigl, Bodwell, Bolduc, Bruno, Buck, Bull, Bumps, Cameron, Campbell, Carleton, Chick, Chizmar, Cianchette, Clark, Clukey, Cross, Davidson, Desmond, Donnelly, Fisher, Fisk, Foster, Frechette, Gagnon, Gerry, Gieringer, Goodwin, Gooley, Green, Jones SA, Joy, Joyner, Kane, Kerr, Kneeland, Kontos, Labrecque, Lemke, Lemont, Lovett, MacDougall, Mack, Madore, Marvin, Mayo, McAlevey, Meres, Mitchell JE, Murphy, Nass, Nickerson, O'Brien, O'Neal, O'Neil, Ott, Peavey, Perkins, Perry, Pinkham RG, Pinkham WD, Quint, Savage, Shannon, Sirois, Snowe-Mello, Stedman, Stevens, Taylor, True, Usher, Vigue, Watson, Wheeler EM, Wheeler GJ, Winglass, Winsor, Wright.

ABSENT - Baker JL, Belanger DJ, Chartrand, Colwell, Dexter, Dutremble, Gamache, Kasprzak, McElroy, Peh, Plowman, Poulin, Tessier, Tuttle, Underwood, Winn.

Yes, 54; No, 81; Absent, 16; Excused, 0.

54 having voted in the affirmative and 81 voted in the negative, with 16 being absent, the Majority "Ought Not to Pass" Report was not accepted.

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

The Bill was read once. Committee Amendment "A" (H-535) was read by the Clerk and adopted.

Under suspension of the rules the Bill was given its second reading without reference to the Committee on **Bills in the Second Reading**.

Under further suspension of the rules the Bill was passed to be engrossed as amended by Committee Amendment "A" (H-535) and sent up for concurrence.

Divided Report

Majority Report of the Committee on **Taxation** reporting "Ought Not to Pass" on Bill "An Act to Ensure That Only Taxes That Are Paid and Not Otherwise Reimbursed Are Eligible for Reimbursement under the State's Business Property Tax Reimbursement Program" (H.P. 589) (L.D. 780)

Signed:

Senators: RUHLIN of Penobscot

DAGGETT of Kennebec

Representatives: TRIPP of Topsham

GAGNON of Waterville

MORGAN of South Portland

SPEAR of Nobleboro

LEMONT of Kittery

CIANCHETTE of South Portland

TUTTLE of Sanford

BUCK of Yarmouth

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-534) on same Bill.

Signed:

Senator: MILLS of Somerset

Representatives: GREEN of Monmouth

ROWE of Portland

Was read.

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

Divided Report

Majority Report of the Committee on **Education and Cultural Affairs** reporting "**Ought Not to Pass**" on Bill "An Act to Require That School Administrative Units Provide Additional Appropriate Personnel When Transporting Students with Special Needs" (H.P. 636) (L.D. 861)

Signed:

Senators: PENDLETON of Cumberland
CATHCART of Penobscot
SMALL of Sagadahoc

Representatives: RICHARD of Madison
BRENNAN of Portland
SKOGLUND of St. George
WATSON of Farmingdale
BAKER of Bangor
BARTH of Bethel
McELROY of Unity
STEDMAN of Hartland
BELANGER of Caribou

Minority Report of the same Committee reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-526) on same Bill.

Signed:

Representative: DESMOND of Mapleton

Was read.

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

UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment Friday, May 16, 1997, have preference in the Orders of the Day and continue with such preference until disposed of as provided by House Rule 502.

SENATE DIVIDED REPORT - Report "A" (10) "**Ought to Pass**" as amended by Committee Amendment "A" (S-221) - Report "B" (1) "**Ought Not to Pass**" - Report "C" (1) "**Ought to Pass**" - Report "D" (1) "**Ought to Pass**" as amended by Committee Amendment "B" (S-222) - Committee on **State and Local Government** on Bill "An Act to Ensure Ethical Conduct in the Office of Treasurer of State" (S.P. 225) (L.D. 794)

- In Senate, Report "A" "**Ought to Pass**" as amended read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-221)

TABLED - May 16, 1997 (Till Later Today) by Representative DONNELLY of Presque Isle.

PENDING - Motion of same Representative to reconsider whereby the Bill and all accompanying papers were Indefinitely Postponed.

The SPEAKER: The Chair recognizes the Representative from Madawaska, Representative Ahearne.

Representative AHEARNE: Madam Speaker, Ladies and Gentlemen of the House. This is a Majority "Ought to Pass" Report. In my opinion, this is not a partisan issue. Currently, we are not and I try to say that this bill is not a result of the current State Treasurer, past, present or future State Treasurers. In fact, as I said last week, in a letter we received from the current State Treasurer, which was distributed to the members of the State and Local Government Committee, which in part reads, "I enclose Connecticut Public Act 95188," which was sent to me by Connecticut's State Treasurer, Christopher Burnham. "I hope it will help you in your deliberation. I believe such a law would add integrity to the Office of the State Treasurer of Maine and I would

welcome it." That state law that was sent to us by the State Treasurer of the State of Connecticut is no more stronger or weaker than the current law that we have in the amendment before this body onto LD 794. It is reasonable. I think it is a good bipartisan attempt to ensure current and future treasurers that nothing will be wrong. I believe this is no attempt, in my opinion, by no means are we trying to question the integrity of the current State Treasurers or any of the State Treasurers that will come down the road. I ask you to reject the Indefinite Postponement. Thank you.

The SPEAKER: The Chair recognizes the Representative from Presque Isle, Representative Donnelly.

Representative DONNELLY: Madam Speaker, Men and Women of the House. In this legislative session we will be looking at other pieces of legislation that are not currently before us that will scrutinize how all of us do business. As a matter of fact, every member in each party and each chamber has taken the position that we won't raise funds during session because it sends the wrong message to the people of the state. It sends the wrong message that perhaps Maine people can be influenced by dollars. I will say right here on this floor, right now, that I do not believe that anybody here has been bought and paid for, nor was I fearful that they were going to be by fundraising. We are in a job of perception. We are in a job where the people's confidence in the job we do for them is paramount. It is incredibly important for them to feel confident that we are acting in their best interest. This bill is in that line of thought. It is not accusatory in tone as the good chair of the State and Local Government Committee talked about. All it does is it sets an ethical standard for the state that they won't raise money or solicit money while acting in their capacity as State Treasurer.

Our current State Treasurer endorsed the proposal as the chairman of the committee just said. It seems like a rational and reasonable request. One which the State Treasurer was willing to do and one which the last State Treasurer did on his own, because of the public scrutiny and the public confidence that we need to have in these positions. I would ask you to join with the chairman of the committee, Representative Ahearne of Madawaska, in opposing the Indefinite Postponement of this bill and move forward to set an ethical standard for some of the offices that we elect in this body. It wasn't too long ago that I was standing up here saying that we should popularly elect a couple of these positions and the argument that came back frequently was that if we popularly elect these positions, they will have to go out and raise money and their ethics will be questioned. It was a point that scored close to home with a lot of people in the chamber. Why should we not set the same standards for one that we elect ourselves? I hope you will join the chairman of the committee in voting against the Indefinite Postponement of the bill and move on to accept the Majority Report. Thank you.

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

Representative SAXL: Madam Speaker, Men and Women of the House. We defeated this bill once and I hope you will join in defeating this bill again. It seems to me that if there were some problem in the Treasurer's Office, corruption, wrong doing or if this office had been misused as it had in other states then there would be a reason to do it. In Maine we are very fortunate. We deal with very ethical people and certainly the current treasurer is nothing but that. I hope you will join with me in voting on this measure to Indefinitely Postpone.

The Chair ordered a division on the motion to indefinitely postpone the Bill and all accompanying papers.

The SPEAKER: The Chair recognizes the Representative from Presque Isle, Representative Donnelly.

Representative DONNELLY: Madam Speaker, Men and Women of the House. The good representative has a good point. We haven't had the scandals like Louisiana and many other states. I know many of us read the NCSL magazines and the CSG magazines and a lot of the other magazines we get where we see other states have scandal-ridden treasurers. Treasurers are getting kick backs for selling bonds to particular bond houses. I think we have been fortunate not to have that problem. This is a measure that does not, as I said earlier, accuse someone of doing something wrong, but sets a standard from here on and into the future to help avoid scandalous reports. It is not one that attacks the State Treasurer. As the good chairman of the committee mentioned earlier, again, the State Treasurer endorsed the proposal and wholeheartedly embraced it. Not every reform has to come on the heels of a scandal. Once in a while it is a good idea to set a standard that we see fit for ourselves and that is good for the people of the State of Maine, without them being outraged, upset and losing faith in their government. I think this is a simple proposal to do just that. Thank you.

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

Representative SAXL: Madam Speaker, Men and Women of the House. My good friend, the Representative from Presque Isle, Representative Donnelly, uses a word that I think is very important to enter into this debate. Standard, it sets a standard. The legislation that you have before you today does not set a standard. It sets a law for one particular instance, for one particular office. Before this body, later on this year, there is a Committee Report, purposely a Committee Report so it is not a Democratic bill or a Republican bill, but a Committee Report from the Committee on Legal and Veterans Affairs, which addresses, as the good Representative from Presque Isle said earlier today, fundraising during the Legislative Session. It doesn't say that one person can't raise money or that leadership can't raise money or that anybody else can't. It says the Legislature as a whole cannot raise money during the Legislative Session. It sets a standard, a real standard for all legislators.

The legislation that you have before us today, applies to one constitutional officer. It doesn't apply to the Secretary of State. It doesn't apply to the State Auditor. It doesn't apply to all constitutional officers. It doesn't apply that same standard for the members of this body. It doesn't say that the people in the Legal and Veterans Affairs Committee, who have oversight over tobacco, shouldn't receive funds from tobacco companies. It doesn't say that members of the Natural Resources Committee shouldn't accept funds from sand and gravel people. It doesn't say that members of other committees shouldn't receive funds from people who appear before them. If we are to set a standard here tonight, the standard should be equally applicable to all constitutional officers and to all members of this body.

In the State of Maine we are very lucky to have a squeaky clean Legislature. We have differences of opinions from time to time, but it is not as a result of who gives us our campaign contributions and yet, I stand before you today as a strong supporter of campaign finance reform and a supporter of the Maine Clean Elections Act and a supporter of the legislation that is going to come before this body later this year, which sets a standard for which we are all responsible. I urge you to support the pending motion, defeat this legislation and if you want to take money out of politics that would set a standard and do it for all constitutional officers and for the members of this body as well. Thank you.

The SPEAKER: The Chair recognizes the Representative from Madawaska, Representative Ahearne.

Representative AHEARNE: Madam Speaker, Ladies and Gentlemen of the House. The reason why we took only the State Treasurer is because we looked at the other constitutional officers and we would probably still be in committee trying to figure out how we could actually apply such a standard to these other constitutional officers. The reason, to be more simplistic, the bill at hand was easy enough to deal with, as it was. I believe there is a Committee Amendment, if we were allowed to talk about it, that is not pending before us, but certainly that addresses the whole concern. Basically that is why we only have this dealing with the Treasurer of the State of Maine.

The SPEAKER: The Chair recognizes the Representative from Farmingdale, Representative Watson.

Representative WATSON: Madam Speaker, Men and Women of the House. I want to respond to some of the comments that were made previously by Representative Donnelly, my colleague. In regards to the reason why this piece of legislation is before us. He alluded to the fact that we, in the State of Maine, are very fortunate compared to some other states that we do not have corruption in our Treasurer's Office or any of the other constitutional offices, that we as a body elect. When I was going campaigning the last two election cycles, door to door, I had many constituents that asked me why we had so many bills before us in our Legislature. I just sat here tonight and realized that in the two committees that I serve on, I had over 300 bills that came before us. I have to admit to you, ladies and gentlemen of the House, that some of them were unnecessary because there was not a problem in the first place. On behalf of some constituents who thought there was a problem, we needed to spend time and energy looking at that.

I would argue tonight that this bill that is brought before us is looking at a problem that does not exist. If we were like a state like Louisiana, then perhaps there would be some justification in us looking very closely at the office, which this bill addresses. In fact, we have no problem with our Office of the Treasury. I stand tonight to ask my colleagues, here in the House, to please support me in voting to Indefinitely Postpone this bill and all of its papers because as my good constituents say to me time and time again, if it ain't broke, don't bother to fix it. Thank you.

The SPEAKER: The Chair recognizes the Representative from Presque Isle, Representative Donnelly.

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

The SPEAKER: The Representative may pose his question.

Representative DONNELLY: Madam Speaker, Men and Women of the House. As I read the bill, it says, "The Treasurer of State may not solicit campaign contributions from any person or accept gifts from any person or organization with whom the Treasurer of State conducts business as part of the duties of the office." The question is, what is an acceptable request for campaign contributions when you are performing the job of State Treasurer?

The SPEAKER: The Representative from Presque Isle, Representative Donnelly has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Portland, Representative Townsend.

Representative TOWNSEND: Madam Speaker, Men and Women of the House. I would argue that it is no more appropriate for legislators who vote on issues, for instance, to the tobacco industry to accept contributions from that industry. Furthermore, I would like to point out to you today that we received today the revenue reports and the good news is that the income from investments in the State of Maine are up in March by 509 percent. That is over a half a million dollars overprojected. I think somebody is doing a pretty good job. This, in spite of the fact, that there is a very real problem in the

office. That is that they are working on inadequate furniture with inadequate equipment. They are propping their keyboards up on radiators than on their desks. I don't think that this bill is a solution to the very real problems that face this state. Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative DAVIDSON: Madam Speaker, Men and Women of the House. This is not a rhetorical question. From my dealings with people that I know on Wall Street and many of the investment banks and most of the lending houses, I would say that 100 percent, if not 95 percent, ban these contributions from individuals in their firms altogether making this kind of a nonissue. I would certainly be the first person in the world to vote for this bill if you look at the other types of legislation that I have put in over the years. Thank you Madam Speaker.

The SPEAKER: The Representative from Brunswick, Representative Davidson has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Presque Isle, Representative Donnelly.

Representative DONNELLY: Madam Speaker, Men and Women of the House. I am happy to try to answer the rhetorical question. There are seven or eight states in which the State Treasurer within the last four years, from major bond houses, had been receiving funds and under close scrutiny were unethical versions of receiving those funds. In doing so, it showed that maybe the policy in the corporations of those bond houses are written, but that does not prevent unethical behavior from employees.

Representative WATSON of Farmingdale 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: 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. 225

YEA - Bagley, Baker CL, Berry RL, Bolduc, Bouffard, Brennan, Brooks, Bull, Bunker, Chizmar, Clark, Colwell, Cowger, Davidson, Desmond, Driscoll, Dunlap, Etnier, Farnsworth, Fisher, Fréchette, Fuller, Gagne, Gagnon, Goodwin, Green, Hatch, Jabar, Jones KW, Jones SL, Kane, Kerr, Kontos, LaVerdiere, Lemaire, Mailhot, McKee, Mitchell JE, Morgan, Muse, O'Neal, O'Neil, Paul, Perry, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Stanley, Stevens, Tessier, Thompson, Townsend, Tripp, Volenik, Watson, Wheeler GJ, Wright, Madam Speaker.

NAY - Ahearne, Barth, Belanger IG, Berry DP, Bigl, Bodwell, Bragdon, Bruno, Buck, Bumps, Cameron, Campbell, Carleton, Chick, Cianchette, Clukey, Cross, Donnelly, Fisk, Foster, Gerry, Gieringer, Gooley, Honey, Jones SA, Joy, Joyce, Joyner, 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, Savage, Snowe-Mello, Spear, Stedman, Taylor, Tobin, Treadwell, Usher, Vedral, Vigue, Waterhouse, Wheeler EM, Winglass, Winsor.

ABSENT - Baker JL, Belanger DJ, Chartrand, Dexter, Dutremble, Gamache, Kasprzak, Pieh, Plowman, Poulin, True, Tuttle, Underwood, Winn.

Yes, 69; No, 68; Absent, 14; Excused, 0.

69 having voted in the affirmative and 68 voted in the negative, with 14 being absent, the Bill and all accompanying papers were indefinitely postponed in non-concurrence and sent up for concurrence.

SENATE DIVIDED REPORT - Majority (11) "**Ought to Pass**" as amended by Committee Amendment "A" (S-210) - Minority (2) "**Ought to Pass**" as amended by Committee Amendment "B" (S-211) - Committee on **Legal and Veterans Affairs** on Bill "An Act to Improve the State's Democracy by Increasing Access to the Ballot and Other Election Processes" (S.P. 428) (L.D. 1376)

- In Senate, Majority "**Ought to Pass**" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-210)

TABLED - May 16, 1997 (Till Later Today) by Representative KONTOS of Windham.

PENDING - Motion of Representative TUTTLE of Sanford to accept the Majority "**Ought to Pass**" as amended by Committee Amendment "A" (S-210) Report.

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

The Bill was read once. Committee Amendment "A" (S-210) was read by the Clerk and adopted. The Bill was assigned for second reading Tuesday, May 20, 1997.

On motion of Representative MACK of Standish, the House reconsidered its action whereby Bill "An Act to Decrease Infectious Disease Transmission" (H.P. 287) (L.D. 351) (C. "A" H-468) was passed to be engrossed.

On further motion of the same Representative, the House reconsidered its action whereby Committee Amendment "A" (H-468) was adopted.

The same Representative presented House Amendment "A" (H-528) to Committee Amendment "A" (H-468) which was read by the Clerk.

The same Representative requested a roll call on the motion to adopted House Amendment "A" (H-528) to Committee Amendment "A" (H-468).

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 Standish, Representative Mack.

Representative MACK: Madam Speaker, Right Honorable Men and Women of the House. After all the parliamentary procedure is done, this is the needle exchange to reduce the transmission of AIDS. One of the underlying presumptions to put in the needle exchange program to reduce the transmission of AIDS is that it is too hard for the drug abusers to get clean needles and it costs too much for them to get clean needles. My amendment would exempt hypodermic needles from the sales tax. The basic law of economics is that if you tax something you discourage it and less of it happens. If we want to encourage the use of clean needles, we should cut the tax on it. This is the free market approach to helping to provide clean needles. The bill would still have the needle exchange program and everything else in there. Especially in Maine's rural areas, the people will not have access to the needle exchange program. In these rural areas, to help them have access to clean needles, we should lower the cost of clean needles to them and eliminate the sales tax on the needles. If we end up saving even one life by the additional savings on needles and those few marginal people who might not buy needles, being able to buy clean needles on

their own, especially in the rural areas, I think this is worth it. I urge adoption of House Amendment "A."

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

Representative THOMPSON: Madam Speaker, Men and Women of the House. I would ask your continued support for this LD. This is nothing more than an attempt to put a fiscal note on the bill and lay it on the table with the hopes of killing it later. Let's get real. Killing the sales tax on this item has nothing to do with the bill. I would ask your support in defeating this amendment and I move Indefinite Postponement of this amendment.

Representative THOMPSON of Naples moved that House Amendment "A" (H-528) to Committee Amendment "A" (H-468) be indefinitely postponed.

Representative MACK of Standish requested a roll call on the motion to indefinitely postpone House Amendment "A" (H-528) to Committee Amendment "A" (H-468).

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 Standish, Representative Mack.

Representative MACK: Madam Speaker, Right Honorable Men and Women of the House. My motives are not to kill the bill with a fiscal note. My motives are sincere in believing in a free market approach to help drug addicts to get clean needles. It is true that I did not support the bill as it stood this morning. I don't believe in the big government approach and the needle exchange program, but we are spending money on that in the hopes to get drug addicts more clean needles to reduce AIDS and other infectious diseases. I am upset that my motives have been impugned. I think for the small fiscal note that is on this bill, if we save one life, it would be worth it. I think this is another approach that should be looked into. If we really want to reduce the amount of diseases that are transmitted through dirty needles, this is just another approach that we can use to get to those ends. Thank you.

The SPEAKER: The Chair recognizes the Representative from Raymond, Representative Bruno.

Representative BRUNO: Madam Speaker, Men and Women of the House. I just found out I am a tax scofflaw, when I never charged taxes on syringes. As far as I know, most of the other pharmacists in practice today don't charge taxes on them. Boy, we could raise \$12,000 for the State of Maine in a hurry if you go fine all the pharmacists out there. I am sorry. I will let all the other pharmacists know that we should be charging taxes, but I do ask that you move for the Indefinite Postponement on this.

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "A" (H-528) to Committee Amendment "A" (H-468). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 226

YEA - Bagley, Baker CL, Belanger IG, Berry DP, Berry RL, Bigl, Bodwell, Bolduc, Bouffard, Bragdon, Brennan, Brooks, Bruno, Bull, Bumps, Bunker, Cameron, Campbell, Carleton, Chick, Chizmar, Cianchette, Clark, Clukey, Colwell, Cowger, Cross, Davidson, Donnelly, Driscoll, Dunlap, Etnier, Farnsworth, Fisher, Fisk, Frechette, Fuller, Gagne, Gagnon, Gieringer, Goodwin, Gooley, Green, Hatch, Honey, Jabar, Jones KW, Jones SL, Joyner, Kane, Kerr, Kontos, LaVerdiere, Lemaire, Lemke, Lemont, Lindahl, Lovett, Madore, Mailhot, Marvin, Mayo, McAlevey, McElroy, McKee, Meres, Mitchell JE, Morgan, Murphy, Muse, Nass, O'Brien, O'Neal, O'Neil, Ott, Paul, Peavey, Pendleton, Perkins, Perry, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Savage, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Spear, Stanley, Stevens,

Taylor, Tessier, Thompson, Tobin, Townsend, Tripp, True, Usher, Vedral, Vigue, Volenik, Watson, Wheeler EM, Wheeler GJ, Winglass, Winn, Wright, Madam Speaker.

NAY - Ahearn, Barth, Buck, Desmond, Foster, Gerry, Jones SA, Joy, Kneeland, Labrecque, Lane, Layton, MacDougall, Mack, Nickerson, Pinkham RG, Pinkham WD, Snowe-Mello, Stedman, Treadwell, Waterhouse, Winsor.

ABSENT - Baker JL, Belanger DJ, Chartrand, Dexter, Dutremble, Gamache, Joyce, Kasprzak, Pieh, Plowman, Poulin, Tuttle, Underwood.

Yes, 116; No, 22; Absent, 13; Excused, 0.

116 having voted in the affirmative and 22 voted in the negative, with 13 being absent, House Amendment "A" (H-528) to Committee Amendment "A" (H-468) was indefinitely postponed.

Subsequently, Committee Amendment "A" (H-468) was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-468) and sent up for concurrence.

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

REPORTS OF COMMITTEES

Divided Report

Majority Report of the Committee on **Utilities and Energy** reporting "**Ought Not to Pass**" on Bill "An Act to Clarify Sanitary District and Sewer District Authority to Adopt Impact Fees" (H.P. 576) (L.D. 767)

Signed:

Senators: CAREY of Kennebec

CLEVELAND of Androscoggin

HARRIMAN of Cumberland

Representatives: JONES of Bar Harbor

KONTOS of Windham

USHER of Westbrook

O'NEAL of Limestone

COLWELL of Gardiner

LaVERDIERE of Wilton

BERRY of Belmont

JOY of Crystal

TAYLOR of Cumberland

Minority Report of the same Committee reporting "**Ought to Pass**" as amended by Committee Amendment "B" (H-548) on same Bill.

Signed:

Representative: VEDRAL of Buxton

Was read.

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

Divided Report

Majority Report of the Committee on **Labor** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-551) on Bill "An Act to Amend the Prevailing Wage Laws" (H.P. 1037) (L.D. 1454)

Signed:

Senators: CATHCART of Penobscot

MILLS of Somerset

TREAT of Kennebec

Representatives: HATCH of Skowhegan

SAMSON of Jay

BOLDUC of Auburn

CLARK of Millinocket
RINES of Wiscasset
STANLEY of Medway

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

Signed:
Representatives: JOY of Crystal
JOYCE of Biddeford
PENDLETON of Scarborough
TREADWELL of Carmel

Was read.

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

On motion of Representative SAXL of Portland, tabled pending the motion of Representative HATCH of Skowhegan to accept the Majority "**Ought to Pass**" as amended Report and specially assigned for Tuesday, May 20, 1997.

Divided Report

Majority Report of the Committee on **Labor** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-550) on Bill "An Act to Allow Agricultural Workers to Bargain Collectively" (H.P. 1177) (L.D. 1654)

Signed:
Senators: CATHCART of Penobscot
TREAT of Kennebec
Representatives: HATCH of Skowhegan
SAMSON of Jay
BOLDUC of Auburn
CLARK of Millinocket
RINES of Wiscasset
STANLEY of Medway

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

Signed:
Senator: MILLS of Somerset
Representatives: JOY of Crystal
JOYCE of Biddeford
PENDLETON of Scarborough
TREADWELL of Carmel

Was read.

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

On further motion of the same Representative, tabled pending her motion to accept the Majority "**Ought to Pass**" as amended Report and specially assigned for Tuesday, May 20, 1997.

Divided Report

Majority Report of the Committee on **Taxation** reporting "**Ought Not to Pass**" on Bill "An Act Concerning Fuel Taxes for Carriers Operating School Buses under Contract" (H.P. 1249) (L.D. 1768)

Signed:
Senators: RUHLIN of Penobscot
DAGGETT of Kennebec
MILLS of Somerset
Representatives: ROWE of Portland
SPEAR of Nobleboro
BUCK of Yarmouth
TUTTLE of Sanford
MORGAN of South Portland
TRIPP of Topsham

Minority Report of the same Committee reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-533) on same Bill.

Signed:
Representatives: GREEN of Monmouth
GAGNON of Waterville
LEMONT of Kittery
CIANCHETTE of South Portland

Was read.

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

The SPEAKER: The Chair recognizes the Representative from Kittery, Representative Lemont.

Representative LEMONT: Madam Speaker, Men and Women of the House. I would like to rise today to sponsor this bill and to share with you just a little bit about what it attempts to do. What it attempts to do is clean up some language in our tax code. Currently, private carriers in transportation of school and school related activities must pay a State of Maine Fuel Tax. I might add that the federal government, you do not. They are exempt. I find it ironic that your towns and your municipalities are exempt from paying this fuel tax. If these private carriers don't fall under underneath this umbrella, they don't get this benefit. All of your buses that are owned privately by the municipalities do get this break.

Let me give you one example. There is one municipality in the State of Maine that switched carriers during the course of the year and the new carrier was told that they could use the fuel tank for the municipal town to fuel their trucks up. This carrier asked the question, will I be protected under this? If I am audited by the State of Maine, would the town defend me in court? They never heard another word from the town again. If they are caught doing this, they are audited without defense. I might add that there are six or seven towns in the State of Maine that are not currently under compliance and this could create a real serious problem. This is thousands of dollars worth of savings to many communities. This money would be passed right along. It is 20 cents per gallon that is passed right on to the different municipalities. Lewiston, for example, this would be a \$35,000 savings. I hope you will support me in voting against the motion. This is a direct shift to the property taxes and I philosophically have a real problem. This is nothing more than a tax on education. When the vote is taken, Madam Speaker, I request the yeas and nays.

Representative LEMONT of Kittery 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: 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. 227

YEA - Ahearn, Baker CL, Belanger IG, Berry RL, Bolduc, Brennan, Brooks, Clark, Colwell, Cowger, Desmond, Donnelly, Driscoll, Dunlap, Etnier, Farnsworth, Fisher, Frechette, Fuller, Gagne, Goodwin, Honey, Jabar, Jones SL, Kane, Kontos, Lemaire, Lindahl, McKee, Mitchell JE, Morgan, Muse, O'Neil, Paul, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Savage, Saxl JW, Saxl MV, Shannon, Shiah, Spear, Stanley, Stevens, Tessier, Thompson, Townsend, Tripp, Usher, Vedral, Volenik, Winn, Wright, Madam Speaker.

NAY - Bagley, Barth, Berry DP, Bigl, Bodwell, Bouffard, Bragdon, Bruno, Buck, Bull, Bumps, Bunker, Cameron, Campbell, Carleton, Chick, Chizmar, Cianchette, Clukey, Cross, Davidson, Fisk, Foster, Gagnon, Gerry, Gieringer, Gooley,

LEGISLATIVE RECORD- HOUSE, May 19, 1997

Green, Hatch, Jones SA, Joy, Joyce, Joyner, Kerr, Kneeland, Labrecque, Lane, LaVerdiere, Layton, Lemke, Lemont, Lovett, MacDougall, Mack, Madore, Mailhot, Marvin, Mayo, McAlevey, McElroy, Meres, Murphy, Nass, Nickerson, O'Brien, O'Neal, Ott, Peavey, Pendleton, Perkins, Perry, Pinkham RG, Pinkham WD, Sanborn, Sirois, Skoglund, Snowe-Mello, Stedman, Taylor, Tobin, Treadwell, True, Vigue, Waterhouse, Watson, Wheeler EM, Wheeler GJ, Winglass, Winsor.

ABSENT - Baker JL, Belanger DJ, Chartrand, Dexter, Dutremble, Gamache, Jones KW, Kasprzak, Pieh, Plowman, Poulin, Tuttle, Underwood.

Yes, 59; No, 79; Absent, 13; Excused, 0.

59 having voted in the affirmative and 79 voted in the negative, with 13 being absent, the Majority "**Ought Not to Pass**" Report was not accepted.

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

The Bill was read once. Committee Amendment "A" (H-533) was read by the Clerk and adopted.

Under suspension of the rules the Bill was given its second reading without reference to the Committee on **Bills in the Second Reading**.

Under further suspension of the rules the Bill was passed to be engrossed as amended by Committee Amendment "A" (H-533) and sent up for concurrence.

On motion of Representative BULL of Freeport, the House adjourned at 8:52 p.m., until 9:00 a.m., Tuesday, May 20, 1997.