

# 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  
30th Legislative Day  
Tuesday, May 20, 1997

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

Prayer by Rabbi Raymond Krinsky, Beth Israel Congregation, Waterville.

Pledge of Allegiance.

National Anthem by Pineland Suzuki Violin School, Manchester.

The Journal of yesterday was read and approved.

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**SENATE PAPERS**

The following Communication: (H.C. 273)

**THE SENATE OF MAINE**

**3 State House Station**

**Augusta, Maine 04333**

May 19, 1997

The Honorable Joseph W. Mayo

Clerk of the House

State House Station 2

Augusta, Maine 04333

Dear Clerk Mayo:

Please be advised that the Senate today Insisted to its previous action whereby it Accepted the Minority Ought Not to Pass Report from the Committee on Taxation on Bill "An Act to Grant Tax-exempt Status to the Scottish Rite Masonic Children's Learning Centers, Inc." (H.P. 158) (L.D. 200).

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

Was read and ordered placed on file.

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The following Joint Order: (S.P. 660)

**ORDERED**, the House concurring, that the Joint Standing Committee on Natural Resources report out legislation regarding postponement of the effective date of certain environmental laws to the Senate.

Came from the Senate, read and passed.

Was read and passed in concurrence.

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**Ought to Pass as Amended**

Report of the Committee on **Criminal Justice** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-249) on Bill "An Act to Amend Certain Provisions Dealing with the Subjects of Juvenile Petition, Adjudication and Disposition" (S.P. 175) (L.D. 504)

Came from the Senate, with the report read and accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (S-249) and Senate Amendment "A" (S-265).

Report was read and accepted. The Bill read once. Committee Amendment "A" (S-249) was read by the Clerk and adopted. Senate Amendment "A" (S-265) 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-249) and Senate Amendment "A" (S-265) in concurrence.

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**Divided Report**

Majority Report of the Committee on **Criminal Justice** reporting "**Ought Not to Pass**" on Bill "An Act to Prohibit the Selling of Children" (S.P. 148) (L.D. 427)

Signed:

Senators: MURRAY of Penobscot

O'GARA of Cumberland

MITCHELL of Penobscot

Representatives: MUSE of South Portland

O'BRIEN of Augusta

PEAVEY of Woolwich

POVICH of Ellsworth

JONES of Greenville

TOBIN of Dexter

FRECHETTE of Biddeford

BUNKER of Kossuth Township

WHEELER of Bridgewater

Minority Report of the same Committee reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-250) on same Bill.

Signed:

Representative: McALEVEY of Waterboro

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

Was read.

Representative SAXL of Portland moved that the Bill be tabled pending acceptance of either report and later today assigned.

The same Representative withdrew his motion to table.

On further motion of the same Representative, the Majority "**Ought Not to Pass**" Report was accepted in concurrence.

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**Non-Concurrent Matter**

Bill "An Act Regarding Errors and Inconsistencies in the Maine Employment Security Law" (H.P. 1209) (L.D. 1709) which was passed to be engrossed as amended by Committee Amendment "A" (H-482) in the House on May 16, 1997.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-482) and Senate Amendment "A" (S-254) in non-concurrence.

The House voted to Recede and Concur.

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**Non-Concurrent Matter**

Bill "An Act to Allow Field Testing of Unregistered Snowmobiles Repaired by Licensed Snowmobile Repair Shops" (H.P. 57) (L.D. 82) which was passed to be engrossed as amended by Committee Amendment "A" (H-99) in the House on May 15, 1997.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-99) and Senate Amendment "A" (S-255) in non-concurrence.

The House voted to Recede and Concur.

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**PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE**

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

**Health and Human Services**

Resolve, Regarding Legislative Review of Portions of Chapter II, Section 67: Nursing Facilities Services, Maine Medical Assistance Manual, a Major Substantive Rule of the Department of Human Services, Bureau of Medical Services (EMERGENCY) (H.P. 1331) (L.D. 1881) (Submitted by the Department of Human Services pursuant to the Maine Revised Statutes, Title 5, section 8072.)

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

**ORDERS**

On motion of Representative RICHARD of Madison, the following Joint Order: (H.P. 1332)

**ORDERED**, the Senate concurring, that the Joint Standing Committee on Education report out legislation on components of the school funding formula to the House.

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

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

**SPECIAL SENTIMENT CALENDAR**

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

In Memory of:

Malcolm J. Fortier, who had a long and colorful history in Waterville politics beginning as councilman and later becoming a Waterville mayor before serving as a state legislator for 3 terms. He was also an active member of Sacred Heart Parish, the Waterville Elk's Club and Rotary Club where he was honored as a Paul Harris Fellow. He was married for 59 years to the former Yvette M. Bolduc with whom he had 7 children. Malcolm will be sadly missed by all those whose lives he touched; (HLS 404) by Representative JABAR of Waterville. (Cosponsors: Representative GAGNON of Waterville, Senator CAREY of Kennebec, Representative TESSIER of Fairfield)

On objection of Representative JABAR of Waterville, was removed from the Special Sentiment Calendar.

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

Representative JABAR: Madam Speaker, Men and Women of the House. I would like to take a few minutes of your time to honor a former Waterville legislator, who recently died at the age of 82. Malcolm Fortier came from humble beginnings. His father worked in the woolen mills in Waterville, and he became a very active member in local politics. Besides being a member of the State Legislature in the 102nd, 103rd and 104th Legislature, he was Mayor of Waterville. Prior to that, at the age of 25, he was elected as a councilman, later an alderman, served on the planning board, the board of assessment review, Kennebec Water District and the Pine Grove Cemetery Board of Trustees. He was an active member of his parish, where he was in the choir and also a communicant. He was also a member of a barbershop quartet, which was known in the area as the Fortissimos. As indicated earlier, he was an active member in the Elks and in the Rotary. It is amazing how, in spite all these activities, he had a very happy marriage of 59 years with his wife, Yvette. He had seven children. He also had 20 grandchildren and four great grandchildren.

Looking up some of the research, I came up with a couple of quotes from his commencement when he was Mayor. On January 4, 1966, it seemed to be still relevant today in some of the issues we are dealing with today. This was 31 years ago. I would just like to read to you two quotes. "The air we breath and the water we use is too precious to continue to pollute. Our land is too valuable to allow its indiscriminate use." Later on, talking about children and education, he said, "Good education means not only fine buildings, but salaries that will attract and hold dedicated teachers. For ultimately, the city's future will depend upon how well or ill prepared our children are who follow us." I thank you for allowing me to present this testimonial on behalf of Malcolm. He was a dedicated public servant, a loving husband, father and grandfather and a real gentleman. We will all miss him. I knew him well. He was my legislator. He was my Mayor and he was my father-in-law. Thank you.

Was read and adopted and sent up for concurrence.

Recognizing:

Richard Kneeland and his family, of Fort Fairfield, for being named the 1997 Farm Family of the Year by the Fort Fairfield Chamber of Commerce. The Kneeland Family is a generational farm family with good promise that the farming tradition will continue. They have been actively involved in the community and the farming industry. We extend our congratulations and best wishes to them; (HLS 516) by Representative DONNELLY of Presque Isle. (Cosponsors: Senator KIEFFER of Aroostook, Representative WHEELER of Bridgewater)

On objection of Representative DONNELLY of Presque Isle, was removed from the Special Sentiment Calendar.

The SPEAKER: The Chair recognizes the Representative from Presque Isle, Representative Donnelly.

Representative DONNELLY: Madam Speaker, Men and Women of the House. As the director of the Fort Fairfield Chamber of Commerce and chair of the Aroostook County Delegation, I take great pride in having our fellow colleagues join me in congratulating the Kneeland family, of Easton, in receiving this great honor of being the Farm Family of the Year in the 50th year of the Potato Blossom Festival. I would like you all to join me in congratulating Dick Kneeland.

Was read and passed and sent up for concurrence.

In Memory of:

Jacquelyn Rennie Wagner, of Orono and Sorrento, a mother, grandmother, French teacher and community and state activist for housing. Mrs. Wagner, affectionately known as Jacquie, was instrumental in building assisted elderly housing in Penobscot, Hancock and Washington counties, a community and day care center at Talmar Wood in Orono and a group home in Bangor. In addition to her 25 years of leadership of the nonprofit Housing Foundation of Orono, she volunteered for other civic causes, and for the American Cancer Society, the Orono Health Center and Rescue Squad, the Skinner Settlement historic village in Corinth, international student and teacher exchange programs and various church and peace activities. Her cheerful striving benefited many and lifted the spirits of others. She is fondly remembered and greatly missed in her communities and by her husband, children, grandchildren and extended family in Germany and Croatia; (HLS 534) by Speaker MITCHELL of Vassalboro. (Cosponsors: Senator CATHCART of Penobscot, Representative STEVENS of Orono)

On objection of Representative MITCHELL of Vassalboro, was removed from the Special Sentiment Calendar.

Was read and adopted and sent up for concurrence.

**REPORTS OF COMMITTEES**

**Divided Report**

Majority Report of the Committee on **Criminal Justice** reporting "**Ought Not to Pass**" on Bill "An Act Requiring State Reimbursement for Certain Services Provided by Counties" (H.P. 534) (L.D. 725)

Signed:

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

Representatives: MUSE of South Portland  
O'BRIEN of Augusta  
PEAVEY of Woolwich  
McALEVEY of Waterboro  
POVICH of Ellsworth  
JONES of Greenville  
TOBIN of Dexter  
FRECHETTE of Biddeford  
WHEELER of Bridgewater

Minority Report of the same Committee reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-556) on same Bill.

Signed:

Representative: BUNKER of Kossuth Township

Was read.

On motion of Representative POVICH of Ellsworth 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 Allow Towns within a Community School District to Vote on a School Budget by Referendum" (H.P. 709) (L.D. 973)

Signed:

Senators: PENDLETON of Cumberland  
CATHCART of Penobscot  
SMALL of Sagadahoc

Representatives: RICHARD of Madison  
BRENNAN of Portland  
DESMOND of Mapleton  
WATSON of Farmingdale  
BAKER of Bangor  
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-557) on same Bill.

Signed:

Representatives: SKOGLUND of St. George  
BARTH of Bethel

Was read.

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

The SPEAKER: The Chair recognizes the Representative from Cherryfield, Representative Layton.

Representative LAYTON: Madam Speaker, Ladies and Gentlemen of the House. Some time ago, towns in my district who are members of a CSD came to me and they asked me, if SADs can vote on their budget by referendum, then why can't we? I went to the statutes only to find that the statutes are silent

regarding the voting procedures on referendum for CSDs. I was asked to put in this legislation by the towns in my district because they felt there was an injustice. Some might say that the CSDs, like in my district, are the only ones that are opposed to current law. This is not true. For instance, in CSD 10, which is made up of towns from Readfield, Manchester, Mount Vernon and Wayne. In 1995, they petitioned their school board to go to referendum on their budget. The school board rejected their petition primarily because of the silence in the statutes. During the deliberations, during the work sessions, the only people to really speak against this were superintendents, principals and a school board member. This is understandable because I believe they feel threatened by any change in the procedure. Ladies and gentlemen, this is nothing more than a request to bring equity in our school districts.

If an SAD can currently use the referendum process for budget voting, then why can't the CSDs? You will hear arguments today for the Majority Report that in composition and manner, in which the CSDs are constructed, prevents any consideration for passage of this bill. It will say that the makeup is complex and to implement anything of this magnitude would be very troublesome. You will also hear that passage of this bill would require a mandate. It is an interesting process on how this mandate works. What I was told by the Attorney General's Office is that if they put the referendum out to see if they wanted to vote to referendum on the school budget and all the municipalities voted to go this process, there would be no mandate, but should one town vote not to enter into this arrangement and that town was pulled in by the majority vote of the other towns, then the mandate would be applicable. I don't think, given the knowledge of my CSD, looking at what happened in CSD 10, I don't look at this as a problem and I don't think that a mandate would ever present itself.

It is simply a matter of fairness. I believe the voters in the CSD should have, at the very least an opportunity to decide for themselves which way they want to go for budget voting process. I urge you to defeat the pending motion and support the "Ought to Pass" motion. Thank you.

The SPEAKER: The Chair recognizes the Representative from Madison, Representative Richard.

Representative RICHARD: Madam Speaker, Men and Women of the House. I have to agree with one thing that the previous speaker said. The makeup of a CSD is complex. I don't know if you want me to go into all of this complexity, at this point, but I think I have to explain a little bit so that you will understand why the majority of the committee voted "Ought Not to Pass." An SAD, a school administrative district, is treated as one entity. All of the towns join together and their budget is classified as one budget. CSDs, and there are 13 of them in the state, are made up of towns that choose to go in two different ways. Sometimes the CSD is K-12, sometimes it is 7-12, sometimes it is 9-12 and sometimes it is K-8. A CSD maintains its autonomy, usually what they do is they join together to form a secondary school and they maintain their autonomy in their individual towns for the elementary schools. They have one superintendent. They pool their resources for the portion that is a CSD and they have individual resources for the individual towns. You are looking confused and I understand it because it is very, very complex. Let me give you an example. You may have six towns and some of these CSDs have six towns. They join together for their high school. Let's call that a 7-12 high school. The six towns pool their money together for the high school. They have one budget for the high school, but each of the six towns has a separate budget for its elementary school. They have a separate board of directors for each of their elementary schools. Members of those board of directors are

joined together and some members are chosen as the directors of the portion that is a CSD. Usually the elementary schools are in a union so that they have one superintendent that covers the union and the CSD. Now you can understand the complexity of it and if you were to have a referendum vote, how difficult it would be. The referendum vote per this particular bill would come about as a result of a petition and you would have to have 10 percent of the people who voted in the last gubernatorial election who would agree to a referendum vote. If you had one community that was much larger than the others, that one community could get the 10 percent vote and the others would have to vote according to referendum, even if they did not want to.

We just looked at all of this and felt as the bill was presented to us, it was much too complex an issue for us to agree that we could sanction. You did hear very well explained how it could become a mandate. Therefore, we recommend that you vote with the Majority "Ought Not to Pass."

The SPEAKER: The Chair recognizes the Representative from Cherryfield, Representative Layton.

Representative LAYTON: Madam Speaker, Men and Women of the House. I don't want to belabor this issue, but we deal with many, many bills down here that are complex. Complexity should never pre-empt the desire of the people to vote by referendum. Just because it is complex or the issue is complex, we should not, I believe, waive their rights with a flick of a pen because either we don't understand it or we think it is too difficult to do. The 10 percent issue, if the people want it, they should have the opportunity, just to have the opportunity, does not mean that the referendum process will be given. It depends on the voters. Let the voters decide. It is something that they should do. It is local and they should be doing it. I urge you to vote "Ought to Pass." Thank you.

The SPEAKER: The Chair recognizes the Representative from Bethel, Representative Barth.

Representative BARTH: Madam Speaker, Ladies and Gentlemen of the House. A CSD is, in a sense, exactly the same as a SAD in terms of that part of the budget, whether it is for a 7-12, 9-12 or a 10-12, whatever the CSD is. It is done in the same way as an SAD. I see this as a matter of fairness. The real reason that people are against referendum voting is that they feel that people going in the voting booth are going to hide behind the curtain and vote down the budget. The excuse that people should come to the district meeting, learn about the budget and ask questions so that they will be fully informed, past history of SADs, for example, has been that the school has kept pretty much to itself, developed its own budget with little or no input from the public and the public has been lax in not attempting to find out what is going on in our schools and why the schools are asking for the amount of monies that they are asking in their budget. It is a real problem of communication. I maintain that you can communicate and that is what needs to be done and educate either way you choose, whether you choose to through a district wide budget meeting and vote on the budget there or you go to referendum, that education can take place. I would just give you one example, SAD 44, of which I represent three of the five towns in that SAD, twice in a 10 year period, at a district wide meeting, voted to cut the budget. One time \$400,000 and the second time \$300,000. Since they have gone to referendum voting, the budget has passed. Why? Because the school has recognized and the people have recognized that they have to learn about why they are being asked to support the school for the monies that the budget calls for. I urge that you vote down the Majority "Ought Not to Pass" Report so that we can go ahead and accept the Minority Report and so that we can make it fair for all of our schools. Thank you.

The SPEAKER: The Chair recognizes the Representative from Caribou, Representative Belanger.

Representative BELANGER: Madam Speaker, Men and Women of the House. A CSD is not like an SAD, not even for budgets. That is why I am on the Majority "Ought Not to Pass" Report. An SAD has one governing body that determines the school budget. A CSD may have a multiple arrangement. I think the good chair of the committee from Madison has explained that. It is not workable. You could have a situation where one community could dictate a referendum in other communities that do not wish to have one and thus it becomes a mandate. It is a very complex issue. It is not like an SAD, which is governed by one board that draws up one budget, in fact, there are multiple arrangements where communities are in a CSD, a union and other people in that same CSD may be in a single municipality form of government. I urge your support on the "Ought Not to Pass."

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

A vote of the House was taken. 68 voted in favor of the same and 30 against, the Majority "Ought Not to Pass" Report was accepted and sent up for concurrence.

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#### Divided Report

Majority Report of the Committee on **Education and Cultural Affairs** reporting "**Ought Not to Pass**" on Bill "An Act to Allow an Appeal Concerning the Date to Determine Age for Kindergarten" (H.P. 1007) (L.D. 1399)

Signed:

Senators: PENDLETON of Cumberland  
SMALL of Sagadahoc

Representatives: RICHARD of Madison  
BRENNAN of Portland  
DESMOND of Mapleton  
SKOGLUND of St. George  
McELROY of Unity  
STEDMAN of Harland  
BELANGER of Caribou

Minority Report of the same Committee reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-562) on same Bill.

Signed:

Senator: CATHCART of Penobscot  
Representatives: WATSON of Farmingdale  
BAKER of Bangor  
BARTH of Bethel

Was read.

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

The SPEAKER: The Chair recognizes the Representative from Madison, Representative Richard.

Representative RICHARD: Madam Speaker, Men and Women of the House. Just to explain briefly, this particular bill is one that we see quite often. It is to move the age of kindergarten to November 15, rather than October 15. In other words, if a person were a very bright little child and had its birthday between October 15 and November 15, they would be eligible after screening to enter kindergarten. Those of us who voted on the "Ought Not to Pass" felt that you can put that date anywhere you want to, but there is always going to be somebody who falls through the cracks, who has a birthday the next day or the next week. The other item is that, as we considered this, it could mean a large number of entering students in some of the larger municipalities. It could mean even another kindergarten class

and that got us into that age old discussion of finances. Basically, we are saying that no matter where you put that date, somebody, once upon a time, showed October 15. You moved it to October 30, November 15, December 15 or wherever, but somebody is going to fall through the crack wherever you put it.

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

Representative POWERS: Madam Speaker, Men and Women of the House. I would like to explain this a little further, as Representative Richard already said, this is this sessions attempt at investigating our entrance age for kindergarten. Let me just explain for a minute, my most immediate former life, prior to being a legislator, was a pre-school and kindergarten teacher for 15 years. This is a particular area of interest that I have. When I investigated state statute, I found that, as Representative Richard has said, that this question comes forward regularly. Since 1943, there hasn't been a change in the law. However, what we are knowing now and I think you will see other legislation coming before you and I know you have been reading about this within the last month in terms of the national effort to recognize the value of early childhood education and development.

Children learn, as we adults learn, in different ways and at different rates. We need to begin accommodating those different rates. If we are going to recognize that some children need to have input early, we need to say that they could be bright or they could be delayed. It doesn't much matter, but we need to be ready for them. Some day, I am certain then, that this particular piece of legislation won't be necessary because I do see, down the line, that there will be public pre-school or pre-k programs. In the meantime, I think we need to acknowledge these individual differences and try to create some kind of consistency with the law as it stands. What is interesting to me, is that I found that in 1993, the Legislature allowed and passed a law which allows a child to go to first grade if five years old by October 15. However, a child who is four years old may not go to kindergarten. This, to me, is a devastating inconsistency. We have said that a child who is five can go to first grade, but what is that child supposed to be doing in waiting to go to first grade, if ready at age five. That means the child is ready. Why not kindergarten?

However, I realize it was so radical an idea for me to push the date to four by October 15, I decided to apply a window of appeal. Let's see if we can inch it open a crack. In maneuvering this bill and working it with the committee, we gave it one month. If a child, presently the cut off age is, one must be five by October 15th to go to kindergarten. This bill says that if the child is five by November 15th, the parents or guardians of that child may appeal to the school administrative district to have that child considered under whatever the particular screening mechanism is that that school uses for the kindergarten program. If the child is deemed not ready, unlike all children who are five by October 15th, that child may not be accepted at the decision of the regular screening mechanism. There is not an appeal for that. It is not this, that and the other thing by the family. The decision of the screening mechanism will prevail. We are looking at one month of the possible next year's class. This is why you are seeing this fiscal note. In large school districts there could be several children whose families appealed for this.

However, when the department was asked how many calls they get every year to ask if there is possibly an opportunity for a child who turns five after October 15 to go to kindergarten, there answer was, they may get four to six calls a year. This is not a high demand situation at the moment. I do say that it is acknowledging what we are noticing in our young children these days and what brain research is demonstrating. It is that there

are individual differences and we need to acknowledge and give space for those individual differences. One last piece and that is that there is also research that demonstrates that children who are ready and held back will have as much problems as children who are not ready and go too soon. They become bored. They lose their enthusiasm and especially if they are girls, they drop out. There they sit holding a space. That kind of energy and excitement for learning slows down. It is a loss in that respect. In the long run, we have lost some very motivated learners. My request is that you seriously consider what you may know about child development or what you may be learning about it these days. Pass the Minority Report, "Ought to Pass."

The SPEAKER: The Chair recognizes the Representative from Bremen, Representative Pieh.

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

The SPEAKER: The Representative may pose her question.

Representative PIEH: Madam Speaker, Men and Women of the House. My question is to anyone who can answer. It is about the fiscal note. When I read the amendment, I certainly liked the idea of children going to school when they can. It said a fiscal note could not be determined and that this would be a mandate. Before I can support it, I need to know that we can afford it.

The SPEAKER: The Representative from Bremen, Representative Pieh has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Madison, Representative Richard.

Representative RICHARD: Madam Speaker, Men and Women of the House. We do not know the answer to that. It could be sizable.

The SPEAKER: The Chair recognizes the Representative from Unity, Representative McElroy.

Representative MCELROY: Madam Speaker, Ladies and Gentlemen of the House. I can understand what Representative Richard is saying. It is impossible to determine what the fiscal note is going to be until you get to the point where you have to make that decision. You won't know until the number of children have been determined and are going to attend a school at the beginning date of the school year. I would suggest that it would not only involve a teacher, but it would also involve housing, transportation and it would also involve all of the support facilities that would go along with the K level program, which otherwise, substantially more than they would be for a regular program. It is very difficult to project that. In a school unit that would have a new kindergarten of 120 students and you move the date a month, you have a potential of possibly picking up 20 more and that could add a good size kindergarten to many towns. It could be expensive.

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

Representative POWERS: Madam Speaker, Men and Women of the House. With all due respect for Representative McElroy and his years of experience in education, I need to remind you that this fiscal note is going to be at one time or another, these children will go to school, it is a question of when. If it is an entire new class, that means they won't be showing up the next year. Again, I need to reiterate that the requests have not been coming pouring in, as if we are going to have whole new classes appearing just next year or whenever this is initiated. Nonetheless, whenever these children do come, they won't be coming later. They are public school students. They have their due.

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

Representative BRENNAN: Madam Speaker, Men and Women of the House. I commend Representative Powers for bringing this issue forward, but this issue boils down to three issues. One, there is no compelling evidence to the committee that moving the date to November 15th was better than the current date that we have of October 15th. Secondly, and we talked about the fiscal note, there was evidence that came forward that this could produce some real financial hardships or financial costs to units across the state, because, at this point, we would be unable to determine how many students, may, in fact, qualify if this exception were allowed.

Secondly and most importantly for me, there was not widespread support for this particular issue or for this particular bill. It seemed as if there were a couple of isolated instances in different parts of the state where this might apply. I don't think it is particularly beneficial, at this point, to change the policy that we have had given the fact that it seems to be based on isolated incidents. Thank you.

The SPEAKER: The Chair recognizes the Representative from Bethel, Representative Barth.

Representative BARTH: Madam Speaker, Ladies and Gentlemen of the House. As you heard read, I am on the Minority Report. I guess I should explain it. I don't agree with the Minority Report, either. This is all one sided, this issue. If your child is a certain age by a certain date, then you can allow your child to attend school, whether that child is ready or not. It is up to the parents. The school has no say. The school has to accept that child. I would rather see it that all kindergarten children or children wanting to go to kindergarten, would be tested by each school to see if they are ready, mature enough, social skills are enough and dress themselves and those who are ready go, regardless of their age. What eventually we are going to have is a system that when the child is ready, he or she, will go to school.

Witness the 12 year olds who graduate from college. If you have a child like that, I don't want to stand in their way of holding them back, but if you have a child who is not even toilet trained and the parents are looking just for baby-sitting services, I am not for that either. Thank you.

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

Representative WATSON: Madam Speaker, Men and Women of the House. I would like to respond to a comment made by my committee colleague, Representative Brennan, that he felt that these are incidences of children who are, perhaps, gifted at a very young age that would like an educational opportunity for the cut off age. I would tend to disagree. I think that there are more kids out there that are probably ready to enter kindergarten than we suspect there are. I know in my own school district, talking with one of my principals, he said that at least twice during the school year he gets requests for a waiver. I think that there are more children than Representative Brennan suspects.

I just want to address an issue of economics and equity, when we are talking about children that maybe are more advanced at an early age than others. About 10 years ago, the Legislature tried to provide a mandate for gifted education. Unfortunately, that mandate was never fully funded or enforced. Many districts completely cut their programs when given waivers by the Department of Education for fiscal reasons. Thus, the schools were forced into a situation that wasn't as equitable as before. This legislation brought forward by Representative Powers would allow an appeal concerning the date to determine the age for kindergarten, which would allow districts that don't have gifted programs to provide at least one appropriate auction for gifted young students using the resources already in place.

I urge my colleagues to please support the defeat of the "Ought Not to Pass" motion.

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

Representative GOOLEY: Madam Speaker, Men and Women of the House. I did not expect to get up on this particular issue, but I think I have an interesting case history. I have two children. My son was born October 12th and our daughter was born October 30th. Our son, he got into school at an early age. He was one of the youngest. Our daughter, because she was born October 30th, she didn't qualify. She waited until a year later. It was an interesting situation. We would have liked to see our daughter get in at an earlier age, but she couldn't. The way this is set up, it would allow that to happen. Both of our children did go on to do well. Our son is a nurse and our daughter is a graphic designer. They both have done well, but I think that there is some merit to this amendment. That is the way I am going to be voting. I thought that is an interesting case history and I thought you might like to hear it. Thank you.

The SPEAKER: The Chair recognizes the Representative from Madison, Representative Richard.

Representative RICHARD: Madam Speaker, Men and Women of the House. I agree with everything that the previous speaker has said. However, if his children had been born on November 12th and November 30th, it would be the same problem. You can move the date, but you are still going to have people who are going to be involved in the same way. Thank you.

The SPEAKER: The Chair recognizes the Representative from Caribou, Representative Caribou.

Representative BELANGER: Madam Speaker, Men and Women of the House. Many of the points brought forth by the Representative from Rockport are right on target. I agree with her in many respects, except for one important one. I don't think we are going to solve the problem by moving the date 30 days. What we really need is a pre-school program statewide. That would solve the problem. This bill will not do anything other than move the date 30 days and give people an opportunity to appeal. Then you will have the people whose children are born in December before you next year. Please support the "Ought Not to Pass."

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

Representative O'BRIEN: Madam Speaker, Ladies and Gentlemen of the House. I just, in the last few weeks, had my youngest child screened for kindergarten next year. He is five and I am trying to figure out a way to keep him out of school until he is 10, because he is my youngest and I am feeling very old. I do support this bill. I think that, no, we aren't going to solve the problem and a pre-school sounds like a rather intriguing idea. I think it is not going to solve the problem, but it is going to get a piece of it. There are many, many children that may be ready to go that that additional month will get them into school. There are many children throughout the state that are spending their days in situations that would be much, much better for them at a school. Thank you.

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

Representative LEMAIRE: Madam Speaker, Men and Women of the House. I was on an early enter age commission a few years back. We eventually changed the name of the commission to early childhood because we couldn't come to any kind of conclusion as to the pro and cons of having them come in earlier or later. As a kindergarten teacher, I can assure you that it makes no difference. Children can come in and they are almost six and they are not ready. Children could come in at five



or less and they are ready. Frankly, I don't think this is necessary. It is fine just the way it is. Thank you Madam Speaker.

The SPEAKER: The Chair recognizes the Representative from Rockland, Representative Powers. 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 POWERS: Madam Speaker, Men and Women of the House. I appreciate your support for the bill, Representative O'Brien, I just want to remind you that the individual differences of children have been acknowledged in that you can't keep him out until he is 10, but we do allow families to make the decision not to send the children to school until age 7. We are just stuck on getting them started earlier. I wish I had an answer for Representative Belanger, but we are just trying to crack the window open on this one. Thank you.

Representative DONNELLY of Presque Isle 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 Unity, Representative McElroy.

Representative MCELROY: Madam Speaker, Ladies and Gentlemen of the House. I have attempted to keep my seat and I really don't have a great need to bore you with other material, however, this is a very difficult issue. I have had to face this issue from both a personal perspective and a professional perspective. There is nothing that is any unkind, I guess, then sitting with a set of parents and telling them that the decision had been made that their child really should not attend school because that child is not ready. I had to do this with one of my own children. My wife agreed, so there wasn't any big problem there. We also, at a later date, had made the decision that our male child, who had gone through the kindergarten and first grade, should not have started school when he started school because he was five years old on August 15.

The problem with the issue that we have is that many parents have a tendency to misjudge how capable and ready their child is to go to school. Representative Richard has outlined this, as have many other speakers, the major problems that we have with his issue. I agree with the good Representative Powers, especially regarding the pre-school issue. I do not think that moving this date ahead 30 days is going to solve the problem. The problem needs to be looked at at open entry of some kind or some type of evaluating techniques developed so that all children are allowed to enter with the same type of evaluation taking place. Now every school unit does some sort of screening to allow its child into school, especially from the learning disability angle. There is no set absolute screening on this issue. We need standard screening. Personally, I don't believe in early entry. Personally, I think children are better off if they enter later. They are better ready for those things, which are to come down the road. Now is not the time, in my mind, to make this change. The change, if not a significant one to be made, to be looked at as I mentioned earlier. I would ask you to please support the "Ought Not to Pass."

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. 228**

YEA - Ahearne, Bagley, Baker JL, Belanger DJ, Belanger IG, Berry DP, Berry RL, Bigl, Bodwell, Bolduc, Bouffard, Bragdon, Brennan, Bruno, Buck, Bull, Bumps, Bunker, Cameron, Carleton,

Chick, Chizmar, Cianchette, Clark, Clukey, Cross, Davidson, Desmond, Donnelly, Driscoll, Dunlap, Dutremble, Etnier, Fisher, Fisk, Foster, Frechette, Gieringer, Hatch, Honey, Jones KW, Jones SL, Jones SA, Joy, Joyce, Joyner, Kane, Kasprzak, Kerr, Kneeland, Kontos, Labrecque, Lane, LaVerdiere, Layton, Lemaire, Lemont, Lindahl, Lovett, MacDougall, Madore, Mailhot, Marvin, Mayo, McAleve, McElroy, Morgan, Murphy, Muse, Nass, Nickerson, O'Neal, Ott, Paul, Peavey, Pendleton, Perkins, Perry, Pieh, Pinkham RG, Pinkham WD, Plowman, Poulin, Povich, Richard, Rines, Rowe, Samson, Sanborn, Savage, Saxl JW, Saxl MV, Shannon, Sirois, Skoglund, Snowe-Mello, Spear, Stanley, Stedman, Taylor, Tessier, Tobin, Townsend, Treadwell, Tripp, True, Tuttle, Usher, Vedral, Vigue, Volenik, Wheeler EM, Wheeler GJ, Winglass, Wright, Madam Speaker.

NAY - Baker CL, Barth, Colwell, Cowger, Fuller, Gagne, Gerry, Goodwin, Gooley, Green, Jabar, Mack, McKee, Meres, Mitchell JE, O'Brien, O'Neil, Powers, Quint, Thompson, Waterhouse, Watson, Winn, Winsor.

ABSENT - Brooks, Campbell, Chartrand, Dexter, Farnsworth, Gagnon, Gamache, Lemke, Lemke, Shiah, Stevens, Underwood.

Yes, 116; No, 24; Absent, 11; Excused, 0.

116 having voted in the affirmative and 24 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 **Education and Cultural Affairs** reporting "**Ought Not to Pass**" on Bill "An Act to More Equitably Distribute General Purpose Aid to Schools Based on Property Values" (H.P. 1042) (L.D. 1459)

Signed:

Senators: PENDLETON of Cumberland  
SMALL of Sagadahoc

Representatives: RICHARD of Madison  
BRENNAN of Portland  
DESMOND of Mapleton  
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-560) on same Bill.

Signed:

Senator: CATHCART of Penobscot

Was read.

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

**Divided Report**

Majority Report of the Committee on **Education and Cultural Affairs** reporting "**Ought Not to Pass**" on Bill "An Act Concerning the Calculation of the State's Share of School Funding" (H.P. 1180) (L.D. 1671)

Signed:

Senators: PENDLETON of Cumberland  
CATHCART of Penobscot  
SMALL of Sagadahoc

Representatives: RICHARD of Madison  
BRENNAN of Portland

DESMOND of Mapleton  
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-558) on same Bill.

Signed:  
Representative: SKOGLUND of St. George  
Was read.

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

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**Divided Report**

Majority Report of the Committee on **Education and Cultural Affairs** reporting "**Ought Not to Pass**" on Resolve, to Promote School Choice by Establishing a Voucher Program (H.P. 1189) (L.D. 1688)

Signed:  
Senators: PENDLETON of Cumberland  
CATHCART of Penobscot  
SMALL of Sagadahoc

Representatives: RICHARD of Madison  
BRENNAN of Portland  
DESMOND of Mapleton  
SKOGLUND of St. George  
WATSON of Farmingdale  
BAKER of Bangor  
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-559) on same Resolve.

Signed:  
Representative: BARTH of Bethel  
Was read.

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

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**Divided Report**

Majority Report of the Committee on **Education and Cultural Affairs** reporting "**Ought Not to Pass**" on Bill "An Act to Provide Early Childhood Education Opportunities" (H.P. 1195) (L.D. 1695)

Signed:  
Senators: PENDLETON of Cumberland  
SMALL of Sagadahoc

Representatives: RICHARD of Madison  
BRENNAN of Portland  
DESMOND of Mapleton  
SKOGLUND of St. George  
WATSON of Farmingdale  
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-561) on same Bill.

Signed:  
Senator: CATHCART of Penobscot  
Representative: BAKER of Bangor  
Was read.

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

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**CONSENT CALENDAR**

**First Day**

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

(S.P. 634) (L.D. 1851) Bill "An Act to Amend the Laws Regarding Proposed Unaccepted Streets" Committee on **State and Local Government** reporting "**Ought to Pass**"

(S.P. 354) (L.D. 1173) Bill "An Act to Preserve Public Access to Governmental Information through Libraries Regardless of Format or Medium" (EMERGENCY) Committee on **State and Local Government** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-253)

(S.P. 469) (L.D. 1471) Resolve, Regarding Legislative Review of Chapter 502: Direct Watersheds of Waterbodies Most at Risk from New Development, and Sensitive or Threatened Regions or Watersheds, a Major Substantive Rule of the Department of Environmental Protection, Bureau of Land and Water Quality (EMERGENCY) Committee on **Natural Resources** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-248)

(S.P. 524) (L.D. 1629) Bill "An Act to Include Throwing Stars in the Dangerous Weapons Laws" Committee on **Criminal Justice** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-251)

(S.P. 602) (L.D. 1780) Bill "An Act to Amend the Finance Authority of Maine Act and the Adaptive Equipment Loan Program" Committee on **Business and Economic Development** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-247)

(S.P. 616) (L.D. 1815) Bill "An Act to Enhance the State's Work Force Development System" Committee on **Labor** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-246)

(H.P. 49) (L.D. 74) Bill "An Act to Increase the Period of Probation for Sex Offenders" Committee on **Criminal Justice** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-517)

(H.P. 229) (L.D. 293) Bill "An Act to Create a Repeat Offender Provision Addressing Crimes of Violence against Persons" Committee on **Criminal Justice** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-554)

(H.P. 244) (L.D. 308) Bill "An Act to Continue the Vendor's Tax for One Year by Delaying the Repeal Date" Committee on **Taxation** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-520)

(H.P. 268) (L.D. 332) Resolve, to Implement the Recommendations of the Commission to Study Poverty Among Working Parents with Regard to Unemployment Compensation Committee on **Labor** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-549)

(H.P. 443) (L.D. 593) Bill "An Act to Strengthen the Laws Concerning Resisting Arrest" Committee on **Criminal Justice** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-553)

(H.P. 455) (L.D. 618) Bill "An Act to Make Allocations from the Transportation Safety Fund for the Fiscal Years Ending June 30, 1998 and June 30, 1999" (EMERGENCY) (Governor's Bill)

Committee on **Transportation** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-515)

(H.P. 623) (L.D. 848) Bill "An Act to Return a Portion of Fines Resulting from Violations of Motor Vehicle Laws to Law Enforcement Agencies" Committee on **Transportation** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-516)

(H.P. 646) (L.D. 899) Bill "An Act Regarding Terminal Rental Adjustment Clauses Vehicle Leasing" Committee on **Judiciary** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-530)

(H.P. 648) (L.D. 901) Bill "An Act to Allow Persons 15 Years of Age or Older to Work at Games of Skill" Committee on **Labor** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-518)

(H.P. 671) (L.D. 923) Bill "An Act to Amend the Tax against Certain Casual Sales" Committee on **Taxation** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-547)

(H.P. 842) (L.D. 1147) Bill "An Act to Ensure Consistency Between State and Federal Special Education Requirements" Committee on **Education and Cultural Affairs** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-543)

(H.P. 926) (L.D. 1269) Bill "An Act to Implement the Recommendations of the Task Force on Tribal-State Relations" Committee on **Judiciary** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-531)

(H.P. 1017) (L.D. 1409) Bill "An Act to Require Mandatory Testing of Persons Who Assault Police Officers" Committee on **Judiciary** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-532)

(7-20) (H.P. 1030) (L.D. 1447) Resolve, to Establish a Committee to Review the Asbestos Hazard Emergency Response Act Committee on **Education and Cultural Affairs** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-544)

(H.P. 1035) (L.D. 1452) Bill "An Act to Place a Moratorium on Construction and Development in Southern Maine and to Provide for Equal Economic Opportunity for All Regions of the State" (EMERGENCY) Committee on **Business and Economic Development** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-504)

(H.P. 1036) (L.D. 1453) Bill "An Act to Provide Subrogation Equity" Committee on **Banking and Insurance** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-524)

(H.P. 1050) (L.D. 1467) Bill "An Act to Amend the Law to Be Consistent with the Organizational Structure of the Department of Corrections and for Other Purposes" Committee on **Criminal Justice** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-513)

(H.P. 1099) (L.D. 1542) Bill "An Act to Eliminate the Use of Time-out Boxes" Committee on **Education and Cultural Affairs** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-541)

(H.P. 1105) (L.D. 1548) Bill "An Act to Outlaw the Sale of Code Grabbers in the State" Committee on **Criminal Justice** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-552)

(H.P. 1123) (L.D. 1579) Bill "An Act to Ensure Stable Funding of Pollution Abatement Programs Administered by the Department of Environmental Protection" Committee on **Natural Resources** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-545)

(H.P. 1215) (L.D. 1715) Bill "An Act to Conform the State Revolving Loan Fund for Drinking Water with the 1996 Amendments to the Federal Safe Drinking Water Act" (EMERGENCY) Committee on **Health and Human Services** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-522)

(H.P. 1223) (L.D. 1735) Bill "An Act to Promote Higher Education" (EMERGENCY) Committee on **Education and Cultural Affairs** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-542)

(H.P. 1262) (L.D. 1789) Bill "An Act Regarding Illegal Transportation of Drugs by a Minor" Committee on **Criminal Justice** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-514)

(H.P. 1264) (L.D. 1791) Bill "An Act to Bring the State into Conformity with the Firearms Provisions of the Violence against Women Provisions of the Federal Violent Crime Control Act" Committee on **Judiciary** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-529)

(H.P. 1270) (L.D. 1796) Bill "An Act to Provide Licensing for Micropigmentation Practitioners" Committee on **Business and Economic Development** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-507)

(H.P. 1287) (L.D. 1832) Resolve, to Establish the Task Force to Study Strategies to Support Parents as Children's First Teachers Committee on **Education and Cultural Affairs** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-540)

(H.P. 1302) (L.D. 1845) Bill "An Act to Amend the Laws Regarding Legal Notices" Committee on **State and Local Government** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-519)

(H.P. 1319) (L.D. 1869) Bill "An Act to Create a Universal Bank Charter" (Governor's Bill) Committee on **Banking and Insurance** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-523)

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

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

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

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**BILLS IN THE SECOND READING  
As Amended**

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) (C. "A" S-210)

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

On motion of Representative SAXL of Portland, was set aside.

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

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**ENACTORS  
Bond Issue**

An Act to Authorize a General Fund Bond Issue in the Amount of \$13,000,000 to Construct Water Pollution Control Facilities, to Close and Clean Up Municipal Solid Waste Landfills, to Clean Up Tire Stockpiles, to Mitigate Storm Water Pollution through a Comprehensive Watershed Protection Program and to Make Drinking Water Improvements (S.P. 88) (L.D. 268) (C. "A" S-213)

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

Representative KONTOS of Windham 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.

In accordance with the provisions of Section 14 of Article IX of the Constitution, a two-thirds vote of the House is necessary.

**ROLL CALL NO. 229**

YEA - Ahearne, Bagley, Baker JL, Belanger DJ, Berry RL, Bigl, Bodwell, Bolduc, Bragdon, Bruno, Bull, Bumps, Bunker, Cameron, Carleton, Chick, Chizmar, Cianchette, Clark, Clukey, Colwell, Cowger, Cross, Davidson, Desmond, Donnelly, Driscoll, Dunlap, Dutremble, Etnier, Fisher, Fisk, Frechette, Fuller, Gagne, Gieringer, Gooley, Green, Hatch, Honey, Jabar, Jones KW, Jones SL, Jones SA, Joyner, Kane, Kerr, Kneeland, Kontos, Labrecque, LaVerdiere, Lemont, Lindahl, Lovett, Madore, Mayo, McAlevey, McKee, Meres, Mitchell JE, Morgan, Murphy, Muse, O'Brien, O'Neal, O'Neil, Ott, Paul, Pendleton, Perkins, Perry, Pieh, Pinkham RG, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Savage, Saxl JW, Saxl MV, Sirois, Spear, Stanley, Stedman, Stevens, Taylor, Thompson, Townsend, Tripp, True, Tuttle, Usher, Vigue, Volenik, Waterhouse, Watson, Wheeler EM, Wheeler GJ, Winglass, Winsor, Wright, Madam Speaker.

NAY - Berry DP, Buck, Foster, Gerry, Goodwin, Joy, Joyce, Kasprzak, Lane, Layton, MacDougall, Mack, Marvin, Nass, Nickerson, Peavey, Pinkham WD, Plowman, Snowe-Mello, Tobin, Treadwell, Vedral, Winn.

ABSENT - Baker CL, Barth, Belanger IG, Bouffard, Brennan, Brooks, Campbell, Chartrand, Dexter, Farnsworth, Gagnon, Gamache, Lemaire, Lemke, Mailhot, McElroy, Shannon, Shiah, Skoglund, Tessier, Underwood.

Yes, 107; No, 23; Absent, 21; Excused, 0.

107 having voted in the affirmative and 23 voted in the negative, with 21 being absent, and accordingly the Bond Issue was passed to be enacted, signed by the Speaker and sent to the Senate.

An Act to Allow Certain County and Municipal Officials to Serve on the Maine Land Use Regulation Commission and the Board of Environmental Protection (H.P. 9) (L.D. 6) (C. "A" H-293; H. "A" H-435)

An Act Regarding Balances Remaining in General Purpose Aid for Local Schools (H.P. 73) (L.D. 98) (C. "A" H-424)

An Act to Allow a Greater Share of the Transfer Tax to Remain in the Counties Where it is Collected (S.P. 91) (L.D. 271) (C. "A" S-126; H. "B" H-374)

An Act to Modify the Prequalification Laws to Allow the Disqualification of Contractors for a Time Not to Exceed One Year (H.P. 285) (L.D. 349) (C. "A" H-343)

An Act to Provide That the Operator of a Motor Vehicle Is Not Responsible for Securing in a Seat Belt a Passenger 18 Years of Age or Older (H.P. 303) (L.D. 367) (C. "A" H-334; S. "C" S-218)

An Act to Amend the Watercraft Registration Laws (H.P. 564) (L.D. 755) (C. "A" H-438)

An Act to Define the Projects That Public Works Departments May Undertake Without Procuring the Services of a Registered Professional Engineer (S.P. 244) (L.D. 813) (C. "A" S-214)

An Act to Establish the Rider Safety Act (H.P. 713) (L.D. 977) (H. "A" H-454)

An Act Directing the Department of Human Services to Submit an Annual Report on Children in Foster Care and on Adoption of Children in the Care and Custody of the Department (H.P. 738) (L.D. 1002) (H. "A" H-408 to C. "A" H-303)

An Act to Reduce the Presumptive Amount for Trafficking in Marijuana from 2 Pounds to One Pound (H.P. 749) (L.D. 1026) (C. "A" H-422)

An Act to Amend the Continuing Care Retirement Community Laws (H.P. 827) (L.D. 1132) (C. "A" H-426)

An Act to Amend Coded Licenses (H.P. 865) (L.D. 1182) (C. "A" H-262)

An Act Concerning Public Notice of Lottery Odds (H.P. 918) (L.D. 1261) (C. "A" H-427)

An Act to Amend the Child and Family Services and Child Protection Act (H.P. 1182) (L.D. 1673) (C. "A" H-430)

An Act to Clarify Issuance of the Writ of Possession (S.P. 557) (L.D. 1683) (C. "A" S-212)

An Act to Include Flunitrazepam in the List of Schedule W Drugs (S.P. 603) (L.D. 1800) (C. "A" S-217)

Resolve, to Establish a Task Force to Review the Applied Technology Centers and Applied Technology Regions (H.P. 771) (L.D. 1048) (S. "A" S-226 to C. "A" H-320)

Resolve, to Name the New Topsham-Brunswick Bridge across the Androscoggin (H.P. 838) (L.D. 1143) (C. "A" H-423)

Resolve, to Improve the Delivery and Financing of Long-term Care (S.P. 382) (L.D. 1241) (C. "A" S-208)

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 List Specific Threatened and Endangered Species (H.P. 598) (L.D. 789) (C. "A" H-367)

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

On motion of Representative JOY of Crystal, was set aside.

The same Representative 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. 230**

YEA - Baker JL, Berry RL, Bigl, Bodwell, Bolduc, Bouffard, Brooks, Bruno, Bull, Bumps, Cameron, Chick, Chizmar, Colwell, Cowger, Davidson, Donnelly, Dunlap, Dutremble, Etnier, Fisher, Fisk, Frechette, Fuller, Gagne, Gagnon, Gieringer, Green, Hatch, Jabar, Jones KW, Kane, Kerr, Kontos, Labrecque, LaVerdiere, Lemaire, Lemont, Lovett, MacDougall, Madore, Mailhot, Marvin, McKee, Meres, Mitchell JE, Morgan, Murphy, O'Brien, O'Neil, Ott, Paul, Peavey, Perkins, Perry, Pieh, Plowman, Poulin, Povich, Powers, Quint, Rines, Rowe, Samson, Savage, Saxl JW, Saxl MV, Shannon, Sirois, Snowe-Mello, Stevens, Taylor, Tessier, Thompson, Townsend, Tripp, Vigue, Volenik, Wright, Madam Speaker.

NAY - Ahearne, Bagley, Belanger DJ, Berry DP, Bragdon, Buck, Bunker, Carleton, Clark, Clukey, Cross, Driscoll, Foster, Gerry, Goodwin, Gooley, Honey, Jones SL, Jones SA, Joy,

Joyce, Joyner, Kasprzak, Kneeland, Lane, Layton, Lindahl, Mack, Mayo, McAlevey, Nass, Nickerson, O'Neal, Pendleton, Pinkham RG, Pinkham WD, Sanborn, Spear, Stanley, Tobin, Treadwell, True, Tuttle, Vedral, Waterhouse, Wheeler EM, Wheeler GJ, Winglass, Winn, Winsor.

ABSENT - Baker CL, Barth, Belanger IG, Brennan, Campbell, Chartrand, Cianchette, Desmond, Dexter, Farnsworth, Gamache, Lemke, McElroy, Muse, Richard, Shiah, Skoglund, Stedman, Underwood, Usher, Watson.

Yes, 80; No, 50; Absent, 21; Excused, 0.

80 having voted in the affirmative and 50 voted in the negative, with 21 being absent, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

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Resolve, Compensating Robert O'Malley for Claims against the State (H.P. 201) (L.D. 254) (C. "A" H-337)

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

On motion of Representative MURPHY of Kennebunk, was set aside.

The SPEAKER: The Chair recognizes the Representative from Kennebunk, Representative Murphy.

Representative MURPHY: Madam Speaker, Men and Women of the House. My only concern with this Resolve is that the award is too small for what that family has been through. There were some questions asked the other day on this floor that weren't answered. As one member, I am requesting of the Attorney General a written communication covering two areas. One, what specific disciplinary steps have been taken for action against the staff members involved in this injustice. Two, what steps has he taken to make sure that no other Maine citizen will suffer what the O'Malleys have been through. Thank you.

The Chair ordered a division on final passage.

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

Representative TOWNSEND: Madam Speaker, Men and Women of the House. This bill received a substantial vote when last we addressed it. I would appreciate your continued support. Thank you.

The SPEAKER: A division has been ordered. The pending question before the House is Final Passage. All those in favor will vote yes, those opposed will vote no.

A vote of the House was taken. 115 voted in favor of the same and 4 against, the Bill was finally passed, signed by the Speaker and sent to the Senate.

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Resolve, Authorizing the Maine Technical College to Achieve Cost Savings through the Lease-purchase of Facilities (H.P. 444) (L.D. 594) (C. "A" H-228; S. "B" S-174)

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

On motion of Representative O'BRIEN of Augusta, was set aside.

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

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

Representative O'BRIEN: Madam Speaker, Ladies and Gentlemen of the House. Just to refresh your memory, this bill is authorizing the Maine Technical College System to purchase a building here in Augusta that they currently lease. I certainly am a fan of the Technical College System. Yesterday we attended a press conference, which announced that the quality centers of the technical system are assisting in providing over 100 jobs to

the Augusta community. I welcome that and I am very, very appreciative of that. However, I must ask that we Indefinitely Postpone this bill. I am, obviously, a Representative from Augusta and being so, I have concerns about the spread of state property, which takes property off our tax rolls. However, that is not the reason that I stand before you today.

Since we last had this debate, there has been other information that has come forward. During the previous debate, there was a lot of concern about, do we want the Technical College System to be in the landlord business? I would say that no, we do not. There were several issue that were raised in the supposed \$50,000 cost savings to the state that this sale would provide, there were several items that were left out. One, the cost of commercial management. Something else has come up that is very, very important. A recent sale, a comparable sale of a building next door to this building, a very comparable sale, same condition and same style was sold for \$41.25. The proposed sale of the property that we are talking about now is under contract for \$79.50. We are proposing to purchase this property for \$79.50 a square foot. The building next to it just sold for \$41.25 a square foot. I ask you, is this a good business decision? Do we want to be in this business? I would say no and I would ask you to support me in Indefinitely Postponing this. Thank you.

The SPEAKER: The Chair recognizes the Representative from Old Orchard Beach, Representative Kerr.

Representative KERR: Madam Speaker, Men and Women of the House. This bill, LD 594, had plenty of debate. It was voted to pass. Just to refresh your memory about this particular piece of legislation, I don't want anybody to be misled that the Technical College is going to go out and purchase this piece of property. What this does it authorizes the Maine Technical College System to lease purchase its current office space, which they can also purchase for \$1.2 million. The replacement cost of this structure is \$3.5 million. Again, we have asked state agencies to come back and find ways to create savings. If, in fact, the Technical College System chooses to purchase this piece of property, there are benefits to that purchase rather than the leasing. The lease over the next nine years will create a savings of about \$450,000 to the Technical College System. That, to me, is a plus. It provides potential space for bringing other entities to the Technical College System from where they are renting space to bring them in-house. This facility provides an awful lot of parking. There are 52 parking spots that are current with this facility. I would urge you to stick with your previous vote and authorize the Technical College System to lease-purchase this piece of property. Thank you.

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

A vote of the House was taken. 37 voted in favor of the same and 76 against, the motion to indefinitely postpone the Resolve and all accompanying papers did not prevail.

Subsequently, the Resolve was finally passed, signed by the Speaker and sent to the Senate.

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#### UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment yesterday, 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 Prohibit the Employment of Professional Strikebreakers (H.P. 88) (L.D. 113)

TABLED - May 19, 1997 (Till Later Today) by Representative KONTOS of Windham.

PENDING - Reconsideration. (Returned by the Governor without his approval)

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

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An Act to Prohibit an Employer from Hiring Replacement Workers During a Strike (H.P. 41) (L.D. 66)

TABLED - May 19, 1997 (Till Later Today) by Representative KONTOS of Windham.

PENDING - Reconsideration. (Returned by the Governor without his approval)

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

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Bill "An Act to Amend the Election Laws" (S.P. 574) (L.D. 1731)

TABLED - May 19, 1997 (Till Later Today) by Representative KONTOS of Windham.

PENDING - Adoption of Committee Amendment "A" (S-230)

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

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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 19, 1997 (Till Later Today) by Representative KONTOS of Windham.

PENDING - Passage to be Enacted.

On motion of Representative LABRECQUE of Gorham, 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.

The same Representative presented House Amendment "A" (H-521) which was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Gorham, Representative Labrecque.

Representative LABRECQUE: Madam Speaker, Ladies and Gentlemen of the House. If you have LD 1572 before you, you will see it is a very thick book. It does make technical changes to the liquor laws. Let me try to explain that to you so that you can perhaps understand why we are where we are. For the last several years, there have been amendments to the liquor laws, which appear at the end of addendum. They are numerous since the law has not been looked at or codified in a number of years. This bill attempts to take those amendments and put them into the laws where they belong. As we reviewed this process in committee, we found a couple of errors which explains the Committee Amendment. I know there was some question that people thought we were changing the day or the time on Sunday when you can purchase liquor. We are not. That law passed in the 117th and you can indeed purchase liquor Sunday mornings starting at 9 o'clock. The reference to that in the committee amendment only addresses the piece of the law that did not get changed.

The amendment that I just put on deals with two state liquor stores, one in South Portland and one in Fairfield that had not been crossed off the list. They were closed in 1994. I hope that brings this bill up to date. It is good that we have many eyes looking at these and hopefully this will be much easier as people now continue to make changes to the liquor laws. Thank you.

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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. My question is to the people that were here in the 117th when we passed the law allowing for cocktails to be served at Sunday brunch and whether or not this opened it for liquor stores? I think there was some confusion whether or not liquor stores were allowed. I don't believe we allowed for liquor stores to be opened on Sunday morning, but only to serve these cocktails at Sunday brunch.

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 Gorham, Representative Labrecque.

Representative LABRECQUE: Madam Speaker, Men and Women of the House. I was here in the 117th and I remember that little incident because it came before our committee it was only to allow Class A restaurants to sell some sort of a drink. However, there was an amendment attached onto that, which opened it up for the purpose of liquor anywhere to sell that on Sunday and that did pass.

House Amendment "A" (H-521) was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (S-182) and House Amendment "A" (H-521) in non-concurrence and sent up for concurrence.

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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 19, 1997 (Till Later Today) by Representative KONTOS of Windham.

PENDING - Final Passage.

On motion of Representative TRIPP of Topsham, the rules were suspended for the purpose of reconsideration.

On further motion of the same Representative, the House reconsidered its action whereby the Resolve 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-240) as amended by House Amendment "A" (H-416) was adopted.

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 House Amendment "A" (H-416) to Committee Amendment "A" (H-240) was adopted.

On further motion of the same Representative, House Amendment "A" (H-416) was indefinitely postponed.

The same Representative presented House Amendment "B" (H-565) to Committee Amendment "A" (H-240) which was read by the Clerk and adopted.

Committee Amendment "A" (H-240) as amended by House Amendment "B" (H-565) thereto was adopted.

The Resolve was passed to be engrossed as amended by Committee Amendment "A" (H-240) as amended by House Amendment "B" (H-565) thereto in non-concurrence and sent up for concurrence.

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

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

TABLED - May 19, 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.

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

TABLED - May 19, 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.

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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 19, 1997 (Till Later Today) by Representative KONTOS of Windham.

PENDING - Acceptance of Either Report.

On motion of Representative TUTTLE of Sanford, the Majority "**Ought to Pass**" Report was accepted.

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

Representative TUTTLE: Madam Speaker, Men and Women of the House. This LD, 255, is An Act to Repeal the Requirement that Race Tracks be Assigned Certain Race Dates. The bill repeals the provision of law that requires every commercial track that is licensed for a specific calendar year to be given all the race dates it requests if it conducted live racing on those dates during the immediate preceding calendar year. The proponents of the bill feel that this is a difficult time for the harness racing industry in Maine. Margins are thin or non-existent. Customers are scarce or getting more scarce and raceworthy horses are short of supply. The commission needs the flexibility to act and react to the needs of the industry as a whole. This bill attempts to level the playing field and helps, particularly, small agricultural affairs. This bill has the support of the Maine Harness Racing Commission. We should let the commission to their job. It is my understanding that Representative Tripp, who is the sponsor of the bill, from Topsham wishes to have an amendment to offer. This, in my understanding, is acceptable to both sides. I hope that we would allow him the latitude to offer that amendment. I would ask you to listen to the debate. I am not an expert on harness racing, but I would ask that you vote your conscience on this bill. Thank you.

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**.

Representative TRIPP of Topsham presented House Amendment "A" (H-539), which was read by the Clerk and adopted.

The SPEAKER: The Chair recognizes the Representative from Old Orchard Beach, Representative Kerr.

Representative KERR: Madam Speaker, Men and Women of the House. I rise to urge this body to support LD 255 as amended and to commend the interested parties in reaching a consensus to handle the issue that addresses the bill and to explain a little history of the importance of the statute as affected by this bill. In 1995, in the 117th we enacted LD 829. When we did so, we enacted a comprehensive revision of the harness racing laws. Every segment of the industry participated in drafting the amended bill. Every segment of the industry made concessions so that a consensus could be reached. The changes have been extremely successful. They have worked well. They have worked fairly. We should be proud of that enactment of LD 829. We have helped to stabilize the great sport and great industry in reference to Maine harness racing. The bargain enacted by LD 829 was fairly simple.

I want to explain to you what happened. Scarborough Downs would provide more than one-half of the horse racing opportunities in Maine, agreed to ship substantial purse money to the fairs and the Bangor Raceway. Scarborough also agreed that it would commit, by statute, providing at least 136 days of live racing, which it can only do at a substantial loss, so that Maine horsemen and women would have adequate racing opportunities to support their families. In exchange, Scarborough received two things. First, an assurance that it would be allowed to provide that racing on its traditional dates and second, an agreement that, just like the fairs, it would continue to have a waiting period before new tracks could participate in certain funds that the downs itself created. Under the amendment, the Harness Racing Commission, as Representative Tripp has explained would hold hearings early each summer to re-evaluate the state's horse supply. If the supply is inadequate, the commission is authorized and instructed to impose a limit on the number of races race tracks may have on certain dates. This amendment preserves the industry, the 1995 bargain that was embodied by LD 829 and it also assures a sufficient horse supply for the historic Topsham Fair.

This amendment, just like LD 829, is evident that the factions of our great harness racing industry work together, they can fashion just solutions in their problems while honoring their commitments that they have made to one another. I commend the fair, Scarborough Downs, Representatives Tripp and Tuttle, for fastening such a just and appropriate solution. I urge the body to support LD 255 as amended.

The Bill was passed to be engrossed as amended by House Amendment "A" (H-539) and sent up for concurrence.

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HOUSE DIVIDED REPORT - Majority (11) "**Ought Not to Pass**" - Minority (1) "**Ought to Pass**" - Committee on **Labor** 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)

TABLED - May 19, 1997 (Till Later Today) by Representative DONNELLY of Presque Isle.

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

The SPEAKER: The Chair recognizes the Representative from Wallagrass, Representative Belanger.

Representative BELANGER: Madam Speaker, Men and Women of the House. I hope that you will vote against the pending motion so that we can go on to adopt the Minority Report. This Resolve would direct the Department of Labor to keep the Fort Kent Unemployment Office open by utilizing other services within the department. I am aware that the



consolidation of the unemployment offices are a result of the Productivity Task Force of the 117th. I also realize that many of you have offices that have closed in your community. My argument is not that the Fort Kent area is so different from other remote areas of our state, but that I am opposed to closing any of the offices. My concern is that the department is transferring the one worker in this office to Presque Isle and replacing her with telephonic processing. I think technology is great, but it cannot replace a real person.

Also, the actual savings are questionable. The position, as I said, is being transferred to Presque Isle and all that is really being saved is about \$11,000 of overhead. Let's send a message to the people of Maine that when they, unfortunately, become unemployed, that they will have a real person in their community to talk to. Please oppose the pending motion and Madam Speaker when the vote is taken, I request a roll call.

Representative BELANGER of Wallagrass 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 Skowhegan, Representative Hatch.

Representative HATCH: Madam Speaker, Men and Women of the House. During the 117th Legislature, we had a lot of hard choices to make, not only did we have the Productivity Realization Task Force, but we also had the federal government cutting back much of the funding to the Department of Labor. We went through this question of what we would do with the employment job services offices and we talked and we discussed and even in my area in Skowhegan where people have to commute from Jackman to sign up, the offices were closed. We tried everything we could think of. The funding wasn't there to do this. We have some regional offices scattered throughout the state. I know that the good Representative would like to keep the office open there, but we understand that there is one in Madawaska, less than 20 miles away. We know it is hard for people when you are unemployed and you would like to talk to a real person and remember, we all discussed this last time. I think we ran around with the DOL and the commissioner's office time and time again trying to save these offices, but there was just no funding. We all took the cuts. We did in Skowhegan, Scarborough and we did it throughout the state, even those of us on the Labor Committee. When push came to shove, there was just no funding available.

I don't know what the fiscal note would be on this particular bill. It probably wouldn't be an awful lot. I know we are all looking out for other things that are happening throughout the state and the funding requests that are flooding it. I had a chance, this morning, to look at the other body's unassigned table on the appropriations. I don't know how many bills are on there, probably 150 that have fiscal notes on it. I just want to request that you stick by the committee. It was a hard choice. We didn't like to do it, but that was the reality. There was just no funding and there was no way to fund this in the future. Thank you.

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

Representative PENDLETON: Madam Speaker, Ladies and Gentlemen of the House. I was that real person that used to sit on the other side of the table when these people came in. We have had quite a history of change in the Unemployment Division over the last, probably, 15 years. At one time, if you were filing for unemployment benefits, you showed up every day of the week. At least once a week to sign your name on a claim record card. During the early 70s, when the computers started taking

over, when the claims load went out of sight, we put these people on mail and we saw them every five weeks. Then we decided that we had such a heavy load that we can't see them every five weeks and we put them on every 10 weeks and they were sending cards in to them. We changed the system again and when they sent us in a card, we sent them back a check with a new card attached to it. Over the years, we developed into processing centers.

The Fort Kent Office has not actually been a processing center to deal with large claims for over a year. They have been taking the initial claim, but all of the work on those claims has been done by the Presque Isle Office. With the policy change that came about during the 117th Legislature, the committee went along with the three offices, Presque Isle, Bangor and Lewiston, with a development. The local offices, as Representative Hatch said, have been closed. They were closed because the financial position for them to be paid for and operated in those areas is just not there. They had to shrink. I was of the opinion that we needed to establish a system where people would not have that obligation to pay their phone bills and talk with an office, but even that was beyond the funding for the state agency. I would encourage everybody to follow the committee's report on this and stand by the policy decision that is made by the department and that policy decision was very, very heartwrenching on their part because they wanted to be able to provide that service at a more closer level to these people than by telephone then the way they are going to have to proceed now. Thank you.

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

Representative BUNKER: Madam Speaker, Ladies and Gentlemen of the House. I would ask that you vote against the Majority "Ought Not to Pass" Report and go on to support the good Representative from Wallagrass. You just heard some of the discussions by the two previous speakers how tough this was. Ladies and gentlemen, we are the ones that set policy in this government. It is not set by a department head. It is not set by the Department of Labor. When you come to Washington County and see double digit, 15 percent unemployment rate and you follow that trail all the way up to Aroostook County and back around the horn and down in Piscataquis County and other counties, ladies and gentlemen, these people need these services in the rural areas, and reach out and touch me just doesn't quite make it. Some of these people need real assistance from people. There are many educators in this room that realize how hard it is for some of these individuals in their learning capacities to deal with technology. Ladies and gentlemen, these people need to be put back out in the rural areas where we can finally attack our high unemployment rate. Please vote against the pending motion.

The SPEAKER: The Chair recognizes the Representative from Wallagrass, Representative Belanger.

Representative BELANGER: Madam Speaker, Men and Women of the House. Just a quick clarification. The office that was referenced in Madawaska is actually an Aroostook County ACAP Office. It is not a state office. I think the costs we are looking at when you take the overhead of the individual plus the office, totals about \$60,000. That individual is being transferred to Presque Isle. There is no cut in the position. When you look at the actual cost of the office to keep it open, it is an extra \$11,000. I don't think that is a lot to ask to keep the remote office open.

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. 231**

YEA - Baker CL, Baker JL, Berry RL, Bodwell, Bolduc, Bouffard, Brooks, Bruno, Bull, Bumps, Cianchette, Clark, Colwell, Cowger, Davidson, Etnier, Fisher, Foster, Frechette, Gagne, Gagnon, Gooley, Hatch, Honey, Jabar, Jones KW, Joyce, Joyner, Kane, Kontos, Labrecque, LaVerdiere, Lemaire, Lemont, Mailhot, McAlevey, McKee, Meres, Mitchell JE, Morgan, Muse, Nass, Nickerson, O'Neil, Pendleton, Perry, Pieh, Powers, Richard, Rines, Rowe, Samson, Sanborn, Savage, Saxl MV, Shannon, Skoglund, Spear, Stanley, Stedman, Stevens, Taylor, Thompson, Tobin, Townsend, Treadwell, Tripp, True, Usher, Vigue, Volenik, Waterhouse, Winn, Winsor, Wright, Madam Speaker.

NAY - Ahearn, Bagley, Barth, Belanger DJ, Belanger IG, Bigl, Buck, Bunker, Cameron, Carleton, Chick, Chizmar, Clukey, Cross, Desmond, Donnelly, Driscoll, Dunlap, Dutremble, Farnsworth, Fisk, Gerry, Gieringer, Goodwin, Green, Jones SL, Jones SA, Joy, Kasprzak, Kerr, Kneeland, Lane, Layton, Lindahl, Lovett, MacDougall, Mack, Madore, Marvin, Mayo, McElroy, Murphy, O'Brien, O'Neal, Ott, Paul, Peavey, Perkins, Pinkham RG, Pinkham WD, Plowman, Poulin, Povich, Quint, Saxl JW, Sirois, Snowe-Mello, Tuttle, Vedral, Watson, Wheeler EM, Wheeler GJ, Winglass.

ABSENT - Berry DP, Bragdon, Brennan, Campbell, Chartrand, Dexter, Fuller, Gamache, Lemke, Shiah, Tessier, Underwood.

Yes, 76; No, 63; Absent, 12; Excused, 0.

76 having voted in the affirmative and 63 voted in the negative, with 12 being absent, the Majority "**Ought Not to Pass**" Report was accepted 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)

TABLED - May 19, 1997 (Till Later Today) 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 Clarify the Laws Relating to Backyard Burning (H.P. 703) (L.D. 967) (C. "A" H-392)

TABLED - May 19, 1997 (Till Later Today) by Representative KONTOS of Windham.

PENDING - Passage to be Enacted.

On motion of Representative ROWE of Portland, 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-392) was adopted.

The same Representative presented House Amendment "A" (H-555) to Committee Amendment "A" (H-392) which was read by the Clerk.

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

Representative ROWE: Madam Speaker, Men and Women of the House. To explain this amendment, it provides the legislative members of the task force to study backyard burning

are entitled to receive legislative per diem. I know I have talked to some of you about this bill. I know some of you had questions about what this bill does and doesn't do. I just want to take this opportunity to explain, briefly.

House Amendment "A" (H-555) to Committee Amendment "A" (H-392) was adopted.

Committee Amendment "A" (H-392) as amended by House Amendment "A" (H-555) thereto was adopted.

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

Representative ROWE: Madam Speaker, Men and Women of the House. This report, as amended, clarifies current law in that the burning of highly combustible trash is prohibited in communities where curbside trash collection service is operated or contracted for by the municipality. It clarifies that that is current law. It basically rewords that. It also clarifies current law that a permit is required for residential open burning of highly combustible trash in open or enclosed incinerators in municipalities where curbside collection service is not available.

Finally what it does, is it establishes a task force made up of the commission of DEP, Department of Conservation and the State Planning Office and a four legislators to study the issue of backyard burning. Our committee heard a lot of concerns about backyard burning in the state, specifically the health affects, the emissions of dioxins and heavy metals. If you are familiar with the law now, you know that you can burn in your barrel if you don't have curbside pick up as long as you get a permit. That is current law and what this does is it takes an examination of the law, so I would encourage your support of the law. Thank you.

Representative WHEELER of Bridgewater 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: The Chair recognizes the Representative from Northport, Representative Lindahl.

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

The SPEAKER: The Representative may pose his question.

Representative LINDAHL: Thank you Madam Speaker. Could we get a list of how many study committees we are actually forming? It seems to me that there are a lot of study committees going through. I have a tendency to vote against them. I would like to vote for them, but I would like to know the total cost and how many we might have. Thank you.

The SPEAKER: I can get that information for you. I obviously don't have it before me at this time. All of those studies, of course, have come from the committees and before this body. We will certainly provide the information to you.

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

**ROLL CALL NO. 232**

YEA - Ahearn, Bagley, Baker CL, Baker JL, Berry RL, Bolduc, Brooks, Bull, Chizmar, Colwell, Cowger, Davidson, Desmond, Driscoll, Dunlap, Dutremble, Etnier, Farnsworth, Fisher, Foster, Frechette, Gagne, Gagnon, Gooley, Green, Hatch, Jabar, Jones KW, Jones SL, Kane, Kerr, Kontos, LaVerdiere, Lemaire, Lemke, MacDougall, Mailhot, Mayo, McKee, Meres, Mitchell JE, Morgan, Muse, O'Brien, O'Neil, Paul, Perkins, Perry, Pieh, Pinkham WD, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Stanley, Stevens, Tessier, Thompson, Townsend, Tripp, Tuttle, Usher, Vigue, Volenik, Watson, Wheeler GJ, Winn, Wright, Madam Speaker.

NAY - Belanger DJ, Belanger IG, Berry DP, Bigl, Bodwell, Bragdon, Bruno, Buck, Bumps, Bunker, Cameron, Carleton,

Chick, Cianchette, Clark, Clukey, Cross, Donnelly, Fisk, Gerry, Gieringer, Goodwin, Honey, Jones SA, Joy, Joyce, Joyner, Kasprzak, Kneeland, Labrecque, Lane, Layton, Lemont, Lindahl, Lovett, Mack, Madore, Marvin, McAlevey, McElroy, Murphy, Nass, Nickerson, O'Neal, Ott, Peavey, Pendleton, Pinkham RG, Plowman, Savage, Snowe-Mello, Spear, Stedman, Taylor, Tobin, Treadwell, True, Vedral, Waterhouse, Wheeler EM, Winglass, Winsor.

ABSENT - Barth, Bouffard, Brennan, Campbell, Chartrand, Dexter, Fuller, Gamache, Underwood.

Yes, 80; No, 62; Absent, 9; Excused, 0.

80 having voted in the affirmative and 62 voted in the negative, with 9 being absent, the Bill was passed to be engrossed as amended by Committee Amendment "A" (H-392) as amended by House Amendment "A" (H-555) thereto in non-concurrence and sent up for concurrence.

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An Act to Create a Permanent Funding Source for the Saco River Corridor Commission (H.P. 850) (L.D. 1155) (C. "A" H-396) TABLED - May 19, 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.

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

TABLED - May 19, 1997 (Till Later Today) 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.

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

TABLED - May 19, 1997 (Till Later Today) 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.

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#### TABLED AND TODAY ASSIGNED

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

HOUSE REPORT - "**Ought to Pass**" as amended by Committee Amendment "A" (H-483) - Committee on **Labor** on Bill "An Act to Exempt Contract Dance Instructors from the Unemployment Tax" (H.P. 24) (L.D. 49)

TABLED - May 16, 1997 by Representative PENDLETON of Scarborough.

PENDING - Acceptance of Committee Report.

Subsequently, the committee Report was accepted.

The Bill was read once. Committee Amendment "A" (H-483) was read by the Clerk.

On motion of Representative HATCH of Skowhegan, Committee Amendment "A" (H-483) be indefinitely postponed.

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 we have just a brief overview of what this Committee Amendment does?

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 Skowhegan, Representative Hatch.

Representative HATCH: Madam Speaker, Men and Women of the House. This in reference to Representative Joy's question. The committee had processed this bill when the department came forward and needed some clarifications of another law that fit into the same statute. What we did is we amended the amendment in committee, but what happened was the first amendment got out before the second one did. The first amendment was on contract dancers. It was to exempt them from the unemployment statutes because they were contracted to a studio rather than dance instructors at that studio. The second amendment, we kept that same provision in, but we also had to put an emergency preamble. I told Representative Joyce, because this is his bill that the contract dancers were getting a special deal because we are putting an emergency preamble on this to amend the other bill into it. It also adds an emergency preamble and clarifies the national service volunteers serving in Maine projects or programs. Americorp USA and Americorp VISTA in receiving stipends in order to allow them to serve their communities and not employees under state law. This amendment also adds a fiscal note to the bill. It is a minor fiscal note. It is just to clarify the bill. It says they cannot draw because they are on a volunteer basis. What they are doing is they are earning service credit either for school or for a stipend. This was a clarification of the law and Representative Joyce agreed we could amend his bill with it. That is what it does.

Committee Amendment "A" (H-483) was indefinitely postponed.

The Bill was given its second reading without reference to the Committee on **Bills in the Second Reading**.

Representative HATCH of Skowhegan presented House Amendment "A" (H-525), which was read by the Clerk and adopted.

Under further suspension of the rules the Bill was passed to be engrossed as amended by House Amendment "A" (H-525) and sent up for concurrence.

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

TABLED - May 19, 1997 by Representative CAMERON of Rumford.

PENDING - Passage to be Enacted.

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

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

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

HOUSE DIVIDED REPORT - Majority (12) "**Ought Not to Pass**" - Minority (1) "**Ought to Pass**" as amended by Committee Amendment "A" (H-560) - Committee on **Education and Cultural Affairs** on Bill "An Act to More Equitably Distribute General Purpose Aid to Schools Based on Property Values" (H.P. 1042) (L.D. 1459) which was tabled by Representative SAXL of Portland pending acceptance of either Report.

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

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HOUSE DIVIDED REPORT - Majority (12) "**Ought Not to Pass**" - Minority (1) "**Ought to Pass**" as amended by Committee Amendment "A" (H-558) - Committee on **Education and Cultural Affairs** on Bill "An Act Concerning the Calculation of the State's Share of School Funding" (H.P. 1180) (L.D. 1671) which was tabled by Representative SAXL of Portland pending acceptance of either Report.

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

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HOUSE DIVIDED REPORT - Majority (12) "**Ought Not to Pass**" - Minority (1) "**Ought to Pass**" as amended by Committee Amendment "A" (H-559) - Committee on **Education and Cultural Affairs** on Resolve, to Promote School Choice by Establishing a Voucher Program (H.P. 1189) (L.D. 1688) which was tabled by Representative SAXL of Portland pending acceptance of either Report.

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

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

Representative MACK: Madam Speaker, Right Honorable Men and Women of the House. I urge a vote no on the "Ought Not to Pass." This bill is a voucher system. This bill would eliminate the way we do general purpose aid for education and put in a voucher system for every student in the State of Maine. What this would do is it would keep the school funding formula how it is today with the state putting in a certain percentage and the towns putting in a certain percentage. All that money would go toward a voucher that the parents can use to the school of their choice. This bill would put the parents in charge of their children's education. I believe that individual parents know what is best for their children, not some bureaucrats who draw arbitrary geographic lines on a map and say your children have to go to this school or that school just because of where you live.

We all want what is best for the children of Maine. I believe that the voucher program would do it. Some critics may say that this would destroy the public school system that we have. I say, nonsense. It would still be public education. It would be publicly funded, just not necessarily a public monopoly. If our public schools are doing a great job, they have got some number one awards in the nation, then they have nothing to fear from competition because if they are doing an excellent job, no one would want to send their kids to another school, but if the public schools might not be doing such a great job, then shouldn't we be glad that these children have an opportunity to go to other schools. We can't be sure what is best for every individual student in this state. If you look at colleges, that is why they have many different types of colleges. There are business schools, art schools, education schools. There are different colleges to specialize in different areas. This could happen with high schools and grade schools also.

If someone wants to send their children to a magnet school or a specialty school, they could do that. Earlier we debated spending more money on art programs. If someone wanted to send their children to a specialty art school, they could do that. We would eliminate all the debate about learning results because it would all be privately done. The public schools would

still exist. If those schools wanted learning results, the parents would have that choice, but if the parents don't want learning results, they don't have to send their children to a school that has learning results.

Another issue that is heard is the separation of church and state. This bill would allow parents to send their kids to private, parochial, public schools or whatever they deem as best. If you read the first amendment, it says that Congress shall establish no religion nor prohibit the practice thereof. If we did not include parochial schools and religious schools in this bill, we would be prohibiting the free practice of religion. Not every parent would want to send their children to a religious school. I was fortunate enough to go to Cheverus. Some parents like the religious schools and some don't. We would not be forcing it. The choice would be there. If a parent wants to send their child to a religious school, that is fine. If they want to send their children to a school that hands out condoms and does other things that some might not agree with, they have that option also. It is up to the parent.

Think of what would happen with the new demand created out there. The entrepreneurs who would open up new schools and new high schools, new opportunities for the children. This bill would put in a voucher program to help all Maine students get the best education. The best according to themselves and their parents, not bureaucrats in the Department of Education. I believe this is the best for the children in Maine and I urge you to vote against the "Ought Not to Pass." Report.

The SPEAKER: The Chair recognizes the Representative from Madison, Representative Richard.

Representative RICHARD: Madam Speaker, Men and Women of the House. The voucher system is becoming popular in many areas. It is something that we gave some consideration to. We have asked for one of those study committees, which actually will be done by the State Board of Education and Department of Education on vouchers, charter schools and all of the school choice issues that came before us. I would alert you to look at the House Amendment that is on this bill because we could be including many, many students who are now home schooled or in church related schools or private schools, who do not receive state funds, would be receiving state funds under this piece of legislation. The fiscal note could exceed \$15 million. Therefore, we decided the best vote was "Ought Not to Pass."

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

Representative PERKINS: Madam Speaker, Colleagues of the House. I am glad to hear this is going to be studied. This is one area that I believe needs a study commission. Actually, I would like to see some bill pass, but in lieu of that, I think it needs studying. I had submitted a bill, along with I don't know how many, in to the Education Committee this year, dealing with school choice. I think there were a half dozen at least. It is a terrifying word to the establishment, apparently, the word voucher. I just want to remind you that the voucher system is alive and well in the State of Maine right now. For high schools in all the towns in my district, you can take that \$5,000 or whatever and pin it to your kids jacket and send them to any school you want in the state or out. It has been that way for years. It keeps the high schools on their toes. Bucksport High School competes with George Stevens in Blue Hill. It is alive and well up in the Old Town and Orono area. It is not something from another planet. It is not some obscure idea. It has been existing for a long time and it works well. Why people are so terrified to try it at the elementary level, it is hard to fathom.

My bill just asks for a pilot program in one school in one district in the State of Maine. That failed, of course, but to say it is going to bring down the system, but we are so afraid to even

try it in even one elementary school in one district, it just befuddles me. Thank you.

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

Representative MCKEE: Madam Speaker, Men and Women of the House. I will be brief. The bad thing about this bill is not the \$15 million fiscal note. The bad thing about this bill is not that it is discriminatory, which it is. The bad thing about this bill is that it is an erosion of democracy. Public schools are the foundation of democracy. The public classroom is a place where students come from rich backgrounds, poor backgrounds, impoverished backgrounds, privileged backgrounds, single parent families, intact families and many faiths to come together to learn and to learn to live with each other. I treasure every day of my life in a public classroom. If public schools are not working today, men and women of the House, it is because you and I lack the will to make them work. We must not abandon our schools. We must not abandon our communities. Our public schools are the center of communities. We must not support this bill.

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

Representative MACK: Madam Speaker, Right Honorable Men and Women of the House. We can study this all we want. Studies have been done. Polls have been taken of this since the vast majority of the Maine citizens support a voucher, but I urge defeat of the pending motion and passage of this bill to set the voucher forth. This bill is, in fact, the most democratic way to fund schools. The most democratic way is to let each parent decide for themselves and for their own children where they should go, not to have talk down big government determine to where the children should go to school. If we had a democratic process where each parent votes with their voucher for their own children, this bill would help poor families the most. If we want to have a level playing field, if we want equal opportunity for everybody, we should put in a voucher system. Right now, only the rich or the well to do can afford a private school. There are many parents in my district that I have spoken with that would like to send their children to a private or religious school, but they can't afford it. They might take out loans or have their children go on work grants to some schools. They just can't afford it.

This voucher would put everybody on a more level field. Everybody would have a voucher to go to the school of their choice. The voucher would be enough to cover Cheverus High School. Incidentally, Cheverus High School is less expensive per school to educate than either Portland or Deering in the same area or Bonney Eagle, which was my other alternative. This will end up saving us money by having the more efficient school take care of the children. If there is a parent that wants to send their child to Cheverus and can't afford it, the voucher will help them. There is a parent that wants to send their child to a school like Wayne Fleet, that the voucher won't cover. They might not be able to afford the \$9,000, but if they had a \$4,900 voucher and only had to come up with \$3,100, that might put Wayne Fleet within their reach. That might give these opportunities to these children that they otherwise wouldn't have. I urge you to vote against the pending motion. Madam Speaker, I ask when the vote is taken, it be taken by the yeas and nays.

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.

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

Representative BRENNAN: Madam Speaker, Men and Women of the House. The Education Committee this year, as

we have in previous years, had about a half dozen bills before us that had to do with charter schools and had to do with school choice. They are vastly different from one another. There is no uniform approach to vouchers, school choice or to charter schools. The Education Committee took a very rational approach, which is to say that rather than try to sift through all of these bills and come to a decision, we are taking those bills and we have asked the Board of Education to do a systematic review of those bills and report back to us next session. I hope when you vote today that you do not vote on the substance of this particular bill, but you support the rational approach by the Education Committee to move forward with this issue through the Board of Education and have it come back next session. Thank you.

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

Representative TRUE: Madam Speaker, Ladies and Gentlemen of the House. This may come as a surprise because of my background, but I have never voted for a voucher system in my life, because there are so many things that need to be ironed out and rather to think about it as a private or a public type situation, I have always tried to think of it as what is best for young people. This is something that needs, as has been stated, to be researched and researched, not with the heart, but researched in the systematic manner whereby that we will not harm our young people by passing such a bill. I believe that perhaps there will be a time, but I don't believe the time is now.

I know in 1990 when I was elected as President of the State Principals Association and as you may know or may not know, that is almost 98 percent public. I felt that it was a trust. I felt that it was a vote that I knew a little bit about schools in being both public and private and also perhaps, a vote for integrity. I ask you to please vote the majority vote. 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. 233

YEA - Ahearne, Bagley, Baker CL, Baker JL, Belanger IG, Berry DP, Berry RL, Bigl, Bolduc, Bouffard, Brennan, Brooks, Bruno, Bull, Bumps, Bunker, Chick, Chizmar, Cianchette, Clark, Clukey, Colwell, Cowger, Cross, Davidson, Desmond, Driscoll, Dunlap, Dutremble, Etnier, Farnsworth, Fisher, Fisk, Frechette, Gagne, Gagnon, Goodwin, Gooley, Green, Hatch, Honey, Jabar, Jones KW, Jones SL, Jones SA, Joyce, Joyner, Kane, Kerr, Kontos, Labrecque, LaVerdiere, Lemaire, Lemke, Lemont, Lindahl, Lovett, Madore, Mailhot, Mayo, McElroy, McKee, Meres, Mitchell JE, Morgan, Murphy, Muse, Nickerson, O'Brien, O'Neal, O'Neil, Paul, Peavey, Pendleton, Perry, Pieh, Pinkham RG, Plowman, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Savage, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Spear, Stanley, Stedman, Stevens, Taylor, Tessier, Thompson, Townsend, Treadwell, Tripp, True, Tuttle, Usher, Vigue, Volenik, Watson, Wheeler GJ, Winglass, Winn, Wright, Madam Speaker.

NAY - Belanger DJ, Bodwell, Bragdon, Buck, Cameron, Carleton, Donnelly, Foster, Gerry, Gieringer, Joy, Kasprzak, Kneeland, Lane, Layton, MacDougall, Mack, Marvin, McAlevy, Nass, Ott, Perkins, Pinkham WD, Poulin, Snowe-Mello, Tobin, Underwood, Vedral, Waterhouse, Wheeler EM, Winsor.

ABSENT - Barth, Campbell, Chartrand, Dexter, Fuller, Gamache.

Yes, 114; No, 31; Absent, 6; Excused, 0.

114 having voted in the affirmative and 31 voted in the negative, with 6 being absent, the Majority "Ought Not to Pass" Report was accepted and sent up for concurrence.

HOUSE DIVIDED REPORT - Majority (11) "**Ought Not to Pass**" - Minority (2) "**Ought to Pass**" as amended by Committee Amendment "A" (H-561) - Committee on **Education and Cultural Affairs** on Bill "An Act to Provide Early Childhood Education Opportunities" (H.P. 1195) (L.D. 1695) which was tabled by Representative SAXL of Portland pending acceptance of either Report.

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

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

Representative BAKER: Madam Speaker, Men and Women of the House. I rise today to speak on behalf of LD 1695, An Act to Provide Early Childhood Education Opportunities. This bill came about through discussions with those involved in the education of young children. After I heard my local superintendent say that we are getting some children too late to help them. By the ages of five and six, too often the damage is done. These concerns were echoed by teachers, principals and others one evening in February at a meeting of the rural school partnership. The evening was a troubling eye opener as I listened to those on the elementary front line say that we are in a constant mode of treating symptoms without solving problems. The home environment has changed. Parents are involved in too much else. They wait and let the schools take over. Despite modern technology, too often used to babysit electronically, children are entering school less prepared. Half the population reports that they have too little time for their families.

Said one elementary teacher, I have to spend more time disciplining, teaching, listening skills and manners before I can teach academics. With so much variance, do I ignore the swift or the slow? Another said, she being a second grade teacher, 50 percent of my students are latch key children. We are losing them early on. Kids personalities are formed by age eight. Many are accepting drugs between seven and nine. I can look at a kid and say he will end up in a penitentiary. Here in Maine we are spending a lot of money on crisis intervention, but we all know that investment in early childhood yields the biggest return.

Economic and special changes have propelled child care and early childhood education to the top of the legislative agendas in many states. We live in an economy that often forces both parents to work. We see a rise in single parents who are their families mainstay. We have welfare policies that require mothers of young children to join the labor force. We have job mobility that takes families further away from helpful relatives because more than half of young children already spend a significant amount of time in child care and pre-kindergarten programs. During the past decade, the number of early childhood education has steadily expanded from 28 in 1984 to 120 pieces in 1995. An increasing amount of research links early learning experiences with later school achievement, adult productivity and a foundation of a sound future economy. The most well-known outcome study of both short and long term benefits of early childhood education is the High Scope Perry Preschool Project. The most recent assessment when the subjects were 27 years old, concludes that those born in poverty, who attended a quality preschool program at ages three and four have fewer criminal arrests, higher earnings and property wealth and greater commitment to marriage than those who did not attend the quality preschool.

The study also showed that for every dollar invested in preschool education, an estimated \$7.16 was saved over the lifetime of the participant. Further educational achievements were significantly higher in those who had the benefit of

preschool education. The conclusion is that those who get a strong preschool experience have a much clearer path to opportunities for success. Although there are federally supported projects to help poor children hurdle problems routed in economics, public school administrators know it will require broader efforts that include all children if we are to adequately address the problems facing us. The Chinese proverb says, "If you are planting for a year, plant rice. If you are planting for a decade, plant trees. If you are planting for a lifetime, educate a child."

I urge your consideration of LD 1695. Thank you.

The SPEAKER: The Chair recognizes the Representative from Madison, Representative Richard.

Representative RICHARD: Madam Speaker, Men and Women of the House. I do not disagree with anything the previous speaker said. She very eloquently described how much we know about childhood learning at younger ages, at this time. I just do want to refresh your memory on what this bill does. It establishes a full-time or full day kindergarten for all kindergarten students. Many districts now have half day kindergartens. This does establish a full day of kindergarten. It establishes a program for children three years of age and another program for children four years of age. This is all to come under the general purpose aid to education. It is laudable. It is good, but until we can fund K-12 better than we are doing now, perhaps we do not have the option to fund these programs for the three and four year olds. That is why the majority of us voted "Ought Not to Pass."

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

Representative MCKEE: Madam Speaker, Men and Women of the House. I just want to say that I completely concur with my good colleague Representative Baker. I think all of you who went door to door last fall have certainly seen some of the same things that I have seen. At the end of each day, I shared with my husband some of my images of children. Things have changed drastically. One of the most permanent things that have been in my memory about that campaign was something that a kindergarten teacher said to me. She said, for the first time in my teaching career, I have had to order cardboard books for five year olds. These children have never picked up a book. They do not have the manual dexterity, nor the tactical ability to turn the pages of the books that we normally use. We have expended \$500 extra dollars just for these children. To me, that is a very serious thing. The other thing that she said was, that for the first time, children's eyes do not move from the left to the right. She thought she could expect that. Children's eyes were at the back of the book, the bottom of the book, top of the page, right, left and all over the place. This shows that the girl that Representative Baker has so courageously brought to the Education Committee is indeed legislation which we will seriously have to consider as a country and as a state. I thank her for bringing it to the floor of the House.

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

Representative O'BRIEN: Madam Speaker, Ladies and Gentlemen of the House. I, too, applaud Representative Baker for bringing this forward. We received on our desk, a few minutes ago, an editorial talking about this. I believe that she is to be commended highly for this. She is a visionary and this is something that in the years ahead that we will be facing and discussing over and over again. I cannot support it. I concur with everything she has said in regards to needing the changing of our children. I am on the Criminal Justice Committee and many of the issues we face daily, I think back, if we could only get these children when they are infants or toddlers. When I say

get these children, I don't mean as a government or as a state. I mean that we need to help the parents and families. It may be a Polly Anna approach, but I still cannot let go of the fact that the children need to be read to at home. They need to be home with their parents. I realize the economy. I realize that this is quite outdated, but that is what I believe in my heart. I am not ready to let them feel that we should sanction them going to kindergarten at a very young age. I will keep my mind open and listen to this in the years ahead because I am sure this issue is not dead. I applaud Representative Baker again, but I cannot support this. Thank you.

Representative WATSON of Farmingdale 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. 234**

YEA - Bagley, Belanger DJ, Belanger IG, Berry DP, Berry RL, Bigl, Bolduc, Bouffard, Bragdon, Brennan, Bruno, Buck, Bull, Bumps, Bunker, Cameron, Carleton, Chick, Chizmar, Cianchette, Clukey, Colwell, Cowger, Cross, Davidson, Desmond, Donnelly, Driscoll, Dunlap, Dutremble, Etnier, Fisher, Fisk, Foster, Frechette, Gagnon, Gieringer, Gooley, Hatch, Honey, Jones SA, Joy, Joyce, Joyner, Kane, Kasprzak, Kerr, Kneeland, Kontos, Labrecque, Lane, LaVerdiere, Layton, Lemaire, Lemke, Lemont, Lindahl, MacDougall, Mack, Madore, Mailhot, Marvin, Mayo, McAlevey, McElroy, Meres, Mitchell JE, Murphy, Muse, Nass, Nickerson, O'Brien, O'Neal, O'Neil, Ott, Paul, Peavey, Pendleton, Perkins, Pieh, Pinkham RG, Pinkham WD, Poulin, Povich, Richard, Rines, Rowe, Samson, Sanborn, Savage, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Snowe-Mello, Spear, Stedman, Taylor, Tessier, Thompson, Tobin, Townsend, Treadwell, Tripp, True, Tuttle, Underwood, Usher, Vedral, Vigue, Waterhouse, Watson, Wheeler EM, Wheeler GJ, Winglass, Winsor, Wright.

NAY - Ahearn, Baker CL, Baker JL, Bodwell, Brooks, Clark, Farnsworth, Gagne, Gerry, Goodwin, Green, Jabar, Jones KW, Jones SL, Lovett, McKee, Morgan, Perry, Plowman, Powers, Quint, Saxl JW, Stanley, Stevens, Volenik, Winn.

ABSENT - Barth, Campbell, Chartrand, Dexter, Fuller, Gamache, Madam Speaker.

Yes, 118; No, 26; Absent, 7; Excused, 0.

118 having voted in the affirmative and 26 voted in the negative, with 7 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.

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

**BILLS HELD**

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)

- In House, Failed of Final Passage.

HELD at the Request of Representative KONTOS of Windham.

On motion of Representative KONTOS of Windham, the House reconsidered its action whereby the Resolve failed of final passage.

On motion of Representative ROWE of Portland, the rules were suspended for the purpose of reconsideration.

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

The same Representative presented House Amendment "A" (H-566) which was read by the Clerk

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

Representative ROWE: Madam Speaker, Men and Women of the House. This amendment removes the emergency preamble in the emergency clause in the Resolve that I presented last evening dealing with the recommendations of a motor vehicle inspection program. I would truly appreciate your support. Thank you.

House Amendment "A" (H-566) was adopted.

Representative CAMERON of Rumford 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: The Chair recognizes the Representative from Portland, Representative Rowe.

Representative ROWE: Madam Speaker, Men and Women of the House. One question that I didn't respond to last evening was, why do we need a Resolve to do this? The reason we need a Resolve to do this is because the federal EPA is concerned that we are not acting. We need to do this and provide them evidence that we are acting. It is very important that we pass this today. Thank you.

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

Representative VIGUE: Madam Speaker, Ladies and Gentlemen of the House. I hope we are not going down, again, another pass such as we went down a number of years back. Hopefully, we understand exactly what is happening here and we don't end up having to undo a law that we passed.

The SPEAKER: The Chair recognizes the Representative from Freeport, Representative Bull.

Representative BULL: Madam Speaker, Men and Women of the House. Very quickly, this is not locking us into anything. All this is is a Resolve to study the issue and to come up with some recommendations later on, which will be voted on by this body. By voting for this Resolve, we are not locking ourselves into any sort of testing program for cars in the state. It is just to look at the issue and figure out the best way to meet the requirements of the federal level. I would appreciate your support on this measure. 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. Is the only reason that we need this proposal in place is to make sure that we don't lose federal dollars? Thank you.

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, I would suggest that is probably not the only reason, although I would suggest that



should be a reason that everyone in this room should be very concerned in that the State of Maine receives over \$91 million a year from the federal government and those funds are going to be in jeopardy if we don't cooperate to some degree. There are other reasons. If you believe that auto emissions are a health problem, then you may want to think about this.

I just want to leave you with this. When the Department of Environmental Protection presented me with a proposal back in December or January, basically, it was a bill that would have authorized the DEP through rulemaking to come up with a program. I said, no, I was not going to sponsor this. I saw what CarTest was. It was a road we don't want to go down again. I agree with you, but we do have to do something. We are pushing back on the EPA. This will give us time to continue to push back to make sure that we do what is necessary. Maine is not the major polluter in the North East corridor, we know that. A lot of the emissions come up. Our chief executive is dealing with that, I think, in a very responsible manner. I support him in his efforts to date. I am just saying this is very important because the consequences could be severe. We may do nothing. I don't know. You will have that decision probably next February or March to make a decision about what the proposal is and what you want to do, whether you like it or not at that time. I am suggesting that we need to do this now, if for no other reason than the threat of losing federal dollars. It seems to me that is a very real threat and it is important. I would truly appreciate your support.

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

Representative VIGUE: Madam Speaker, Ladies and Gentlemen of the House. That is exactly the same argument that they used when we came up with our CarTest. We now have got pending, in the courts and not completely gone, a possibility of a multi-million dollar liability. Ladies and gentlemen, I am going to be opposing this and hopefully you will join me in doing exactly the same thing.

The SPEAKER: The Chair recognizes the Representative from Kennebunk, Representative Murphy.

Representative MURPHY: Madam Speaker, Men and Women of the House. I am a commuter. Every night when I pay the toll, we chat about the weather and what happened up here in Augusta. Directly, in my headlights are a boarded up building that used to be a CarTest. For someone who wasn't in this Legislature and understands the legislative process, as a citizen, I just couldn't understand how that had happened. I would hope that if we do move forward that we can look at alternatives that aren't blanket proposals where everyone has to have the reformulated gas, everyone has to have the testing. I think as we have followed solutions to this problem, we have seen some states that go directly after those that are causing the problem. One single example would be tailpipe fleece, a special monitor to cars. They identify who is making the problem. They address that problem, rather than forcing blanket policies upon every citizen. Some of those blanket policies are pretty expensive. Thank you.

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

Representative CAMERON: Madam Speaker, Ladies and Gentlemen of the House. Representative Murphy just touched on something that I wanted to emphasize on. To say we are doing nothing, I think is very unfair because when we had the CarTest issue and I voted against getting rid of CarTest because I thought it was the wrong thing to do, but I also voted for reformulated gas. To say we are doing nothing, I think is misleading, because we are using reformulated gas and that was

supposed to be one of the things that was going to help us solve this issue with the federal government. Thank you.

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

Representative MORGAN: Madam Speaker, Men and Women of the House. I rise in support of this item to establish a motor vehicle inspection study. This is very important to us here in Cumberland County. We are under a federal watchdog situation. I don't necessarily believe in your garage, the inspection program that we had in the past forcing people to have their automobiles inspected. I don't know of any citizens in South Portland that wanted this very thing, but we do need your help to pass this measure so that we can study this issue and maybe we can come up with something that would be satisfactory to everybody. I think this may just involve York and Cumberland County, but other counties may be drawn into this later on, but we have to face up to this issue. It is not going to go away and as Representative Rowe explained to us, we are bound to lose money on this. They are not going to be very happy with us. I had a situation in South Portland where we didn't necessarily want to follow the DEP in landfill. I wasn't very happy with the idea of spending a million and a half dollars to bring in clay to fill in a landfill, but you can't fight with the DEP and win. We are in a no win situation here. We do really need your support. Thank you.

The SPEAKER: The Chair recognizes the Representative from Saco, Representative O'Neil.

Representative O'NEIL: Madam Speaker, Men and Women of the House. Especially those of you who were here when CarTest was spawned, I can understand that you are probably full of trepidation about creating another boondoggle. If that is the case, I think, as I read it, the way to avoid another boondoggle is to vote green today and participate in the study and if, indeed, we learned any lessons from the CarTest debacle, bring your experience to the study and include your ideas in the report and maybe we won't have to go there again. Please support passage of this measure. 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. To anyone who may answer, is this felt to be necessary to meet existing standards or is it proposed to meet the new suggested standards that have not yet been adopted by the EPA?

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, it is necessary to meet existing standards. The Federal Clean Air Act amendments of 1990 required certain actions on the part of the state. We are in noncompliance. What happened was there was an exception made for certain states in the ozone transport region and Maine was one of them, where we could come up with a lesser program. When I say we are in noncompliance, the EPA is doing nothing now, but if we don't have a program in place implemented by January 1, 1999, we will be noncompliance for sanction purposes. I think the answer to your question is, yes. We are in technical noncompliance with the act, but the EPA has granted us more time to comply under a lesser standard. Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative PINKHAM: Madam Speaker, Men and Women of the House. Why do we need a Resolve to do this? Why can't the DEP just go ahead and do it on their own?

The SPEAKER: The Representative from Brunswick, Representative Pinkham 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, as I mentioned earlier, the EPA wants to see something. I talked with members of the air bureau from the Boston office of the EPA about this before I did it, because I questioned the need for it myself. I said, why can't the DEP just go out and do this? They wanted more than this. They wanted to see that we had actually given rulemaking authority to the DEP. I said, I don't think we want to do that because the Legislature needs to be involved in this because of what happened before. Yes, we need to do this. A copy of this law will be given to the DEP, they need to see in writing that the State of Maine is moving forward and complying with the law. So, the answer is yes. Thank you.

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

**ROLL CALL NO. 235**

YEA - Bagley, Baker CL, Baker JL, Berry RL, Bodwell, Bolduc, Brennan, Brooks, Bull, Bumps, Bunker, Chizmar, Cianchette, Clark, Colwell, Cowger, Cross, Davidson, Desmond, Driscoll, Dunlap, Dutremble, Etnier, Farnsworth, Fisher, Fisk, Foster, Frechette, Gagne, Gagnon, Gooley, Green, Hatch, Jabar, Jones KW, Jones SL, Kane, Kerr, Kontos, LaVerdiere, Lemaire, Lemont, Lovett, Mayo, McElroy, McKee, Meres, Mitchell JE, Morgan, Muse, Nickerson, O'Brien, O'Neal, O'Neil, Paul, Perkins, Perry, Pieh, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Stanley, Stevens, Taylor, Tessier, Thompson, Townsend, Tripp, True, Usher, Volenik, Watson, Wheeler GJ, Winn, Wright, Madam Speaker.

NAY - Ahearne, Belanger DJ, Belanger IG, Berry DP, Bigl, Bouffard, Bragdon, Bruno, Buck, Cameron, Carleton, Chick, Clukey, Donnelly, Gerry, Gieringer, Goodwin, Honey, Jones SA, Joy, Joyce, Kasprzak, Kneeland, Labrecque, Lane, Layton, Lindahl, MacDougall, Mack, Madore, Mailhot, Marvin, McAlevey, Murphy, Nass, Ott, Peavey, Pendleton, Pinkham RG, Pinkham WD, Plowman, Savage, Snowe-Mello, Spear, Stedman, Tobin, Treadwell, Tuttle, Underwood, Vedral, Vigue, Waterhouse, Wheeler EM, Winglass, Winsor.

ABSENT - Barth, Campbell, Chartrand, Dexter, Fuller, Gamache, Joyner, Lemke.

Yes, 88; No, 55; Absent, 8; Excused, 0.

88 having voted in the affirmative and 55 voted in the negative, with 8 being absent, the resolve was passed to be engrossed as amended by House Amendment "A" (H-566) in non-concurrence and sent up for concurrence.

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)

- In House, Majority "Ought Not to Pass" Report of the Committee on **Taxation** read and accepted.

HELD at the Request of Representative SAMSON of Jay.

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

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

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

**ENACTORS**

**Emergency Measure**

An Act to Provide Reimbursement to Spouses Serving as Personal Care Attendants (H.P. 626) (L.D. 851) (C. "A" H-455)

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

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

**Emergency Measure**

An Act to Provide Funding for Mental Retardation Day Services for Nonclass Members (H.P. 1285) (L.D. 1830)

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. 125 voted in favor of the same and 0 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

**Emergency Measure**

Resolve, to Establish the Commission to Examine Rate Setting and the Financing of Long-term Care Facilities (H.P. 486) (L.D. 657) (H. "A" H-458 to C. "A" H-301)

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. 108 voted in favor of the same and 24 against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

**Emergency Measure**

Resolve, Authorizing the Town of Southwest Harbor to Refinance Certain Temporary Bond Anticipation Notes Issued for Its Water Project (S.P. 619) (L.D. 1822)

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. 123 voted in favor of the same and 8 against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

An Act Concerning Theft of Rental Property (S.P. 59) (L.D. 169) (C. "A" S-228)

An Act to Implement the Recommendations of the Task Force on Production and Issuance of Registration Plates (H.P. 207) (L.D. 260) (C. "A" H-364)

An Act to Amend the Laws Regarding Fees Charged in the Elver Fishery (H.P. 251) (L.D. 315) (C. "A" H-457)



An Act to Require the Purchaser of Tobacco Products to Produce Suitable Identification (S.P. 133) (L.D. 412) (S. "A" S-157 to C. "A" S-132)

An Act to Amend the Waste Management Laws Regarding Landfill Closure (H.P. 351) (L.D. 474) (C. "A" H-459)

An Act to Allow Child Support for Juveniles Committed to the Maine Youth Center (H.P. 547) (L.D. 738) (C. "A" H-467)

An Act to Provide Additional Operating Funds for Homeless Shelters (H.P. 660) (L.D. 913) (C. "A" H-409)

An Act to Simplify the Filing of Claims in Probate Estates (H.P. 755) (L.D. 1032)

An Act to Provide Information to the Maine Land Use Regulation Commission (H.P. 757) (L.D. 1034) (C. "A" H-445)

An Act Concerning the Requirement That Employers Garnish the Wages of Their Employees Who Owe Child Support (H.P. 849) (L.D. 1154) (C. "A" H-466)

An Act to Amend Child Protective Laws (H.P. 858) (L.D. 1163) (H. "A" H-456 to C. "A" H-344)

An Act to Reduce Insurance Premiums by Discouraging Insurance Fraud (H.P. 969) (L.D. 1349) (C. "A" H-446)

An Act to Amend the Professional Service Corporation Act As It Relates to Eye Care Providers (H.P. 1301) (L.D. 1844) (C. "A" H-437)

An Act to Provide Regulation of Payroll Processing Companies (H.P. 1329) (L.D. 1878)

An Act Authorizing the Bureau of Insurance to Release Aggregate Ratios of Consumer Complaints to the Public (S.P. 657) (L.D. 1879)

Resolve, Directing the Commissioner of Education to Establish Plans for an Alternative School Calendar (H.P. 1275) (L.D. 1805) (C. "A" H-461)

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 Authorize a Physician's Assistant or a Nurse Practitioner to Sign Papers Transferring a Patient for Evaluation for Emergency Involuntary Commitment (S.P. 83) (L.D. 263) (C. "A" S-227; S. "A" S-229)

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

On motion of Representative PLOWMAN of Hampden, was set aside.

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

An Act to Expand Access to Maine's Technical Colleges (H.P. 263) (L.D. 327) (C. "A" H-348)

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

On motion of Representative RICHARD of Madison, was set aside.

On further motion of the same Representative, 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-348) was adopted.

The same Representative presented House Amendment "A" (H-564) to Committee Amendment "A" (H-348) which was read by the Clerk and adopted.

Committee Amendment "A" (H-348) as amended by House Amendment "A" (H-564) thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-348) as amended by House Amendment "A" (H-564) thereto in non-concurrence and sent up for concurrence.

An Act to Create a Family Division within the State's District Court (H.P. 896) (L.D. 1213) (Governor's Bill) (C. "A" H-347)

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

On motion of Representative WATERHOUSE of Bridgton, was set aside.

The same Representative 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. 236**

YEA - Ahearn, Bagley, Baker CL, Baker JL, Belanger DJ, Belanger IG, Berry DP, Berry RL, Bigl, Bodwell, Bolduc, Bouffard, Bragdon, Brennan, Brooks, Bruno, Bull, Bumps, Bunker, Cameron, Campbell, Carleton, Chartrand, Chick, Chizmar, Cianchette, Clark, Clukey, Colwell, Cowger, Davidson, Desmond, Donnelly, Driscoll, Dunlap, Dutremble, Etnier, Farnsworth, Fisher, Fisk, Frechette, Gagne, Gagnon, Gieringer, Gooley, Green, Hatch, Honey, Jabar, Jones KW, Jones SL, Kane, Kerr, Kneeland, Kontos, Labrecque, LaVerdiere, Lemaire, Lemke, Lemont, Lovett, Madore, Mailhot, Mayo, McAlevey, McElroy, McKee, Meres, Mitchell JE, Morgan, Murphy, Muse, Nass, Nickerson, O'Brien, O'Neal, O'Neil, Ott, Paul, Peavey, Pendleton, Perkins, Perry, Pieh, Pinkham RG, Plowman, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Savage, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Snowe-Mello, Spear, Stanley, Stevens, Taylor, Tessier, Thompson, Townsend, Tripp, True, Tuttle, Usher, Vigue, Volenik, Watson, Wheeler GJ, Winglass, Winn, Wright, Madam Speaker.

NAY - Buck, Cross, Foster, Gerry, Goodwin, Jones SA, Joy, Kasprzak, Lane, Layton, Lindahl, MacDougall, Mack, Marvin, Pinkham WD, Stedman, Tobin, Treadwell, Underwood, Vedral, Waterhouse, Wheeler EM, Winsor.

ABSENT - Barth, Dexter, Fuller, Gamache, Joyce, Joyner.

Yes, 122; No, 23; Absent, 6; Excused, 0.

122 having voted in the affirmative and 23 voted in the negative, with 6 being absent, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

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

The House recessed until 2:00 p.m.

(After Recess)

The House was called to order by the Speaker.

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

**ENACTORS**  
**Emergency Measure**

An Act to Increase the Effectiveness of the Maine Blueberry Commission (H.P. 1169) (L.D. 1646) (C. "A" H-444)

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

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

The SPEAKER: The Representative may pose his question.

Representative BERRY: Madam Speaker, Men and Women of the House. Is there a fiscal note with this bill?

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

Representative POVICH: Madam Speaker, Men and Women of the House. Well there is a kinda sorta of a fiscal note. We are trying to resolve that. It is a \$20,000 fiscal note for the Maine Wild Blueberry Commission, not unlike the Maine Dairy and Nutritional Council that has a self-tax. In this case the Maine Blueberry Commission taxes one-half cent per pound, which goes into a fund which the state administers. The state has determined that their may be a \$20,000 cost to go after those deadbeat blueberry growers to pony up their own tax. We don't feel that this note is going to encumber the bill. We are working on that. I urge you to support the motion.

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

Representative BERRY: Madam Speaker, Men and Women of the House. Another point of this bill I would like to call your attention to is that this \$20,000, I guess, is going to be to justify the name from the Maine Blueberry Commission to the Wild Blueberry Commission of Maine. Is the Maine Blueberry Commission that is going to be wild? I would like to pose another question through the Chair.

The SPEAKER: The Representative may pose his question.

Representative BERRY: Madam Speaker, Men and Women of the House. Does anybody know what the Farm Bureau's position was on this bill?

The SPEAKER: The Representative from Livermore, Representative Berry 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 Farm Bureau, I believe, was in the room with many others on various issues including this one. I didn't hear anybody speak in opposition of this proposal. As a matter a fact, the only people I heard speak on this proposal were in favor of giving the Blueberry Commission the ability to go out there and do their job the most effective and business like way possible. This bill allows that just like the Potato Board and many other boards in the State of Maine. I ask for your support on Enactment.

The SPEAKER: The pending question before the House is Enactment. 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 being necessary, a total was taken. 104 voted in favor of the same and 5 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

An Act to Amend the Liquor Laws (H.P. 204) (L.D. 257) (C. "A" H-428)

An Act to Provide Equal Political Rights for Employees (H.P. 740) (L.D. 1004) (C. "A" H-429)

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

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

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The House recessed until the Sound of the Bell.

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(After Recess)

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The House was called to order by the Speaker.

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Under suspension of the rules, members were allowed to remove their jackets.

**TABLED AND TODAY ASSIGNED**

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

HOUSE DIVIDED REPORT - Majority (9) "**Ought to Pass**" as amended by Committee Amendment "A" (H-551) - Minority (4) "**Ought Not to Pass**" - Committee on **Labor** on Bill "An Act to Amend the Prevailing Wage Laws" (H.P. 1037) (L.D. 1454)

TABLED - May 19, 1997 by Representative SAXL of Portland.  
PENDING - Motion of Representative HATCH of Skowhegan 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, Ladies and Gentlemen of the House. I feel like I have been fighting against everything we did in labor in term. However, I would like to speak on this one a little bit. This bill, LD 1454, is known as the Davis Bacon bill for the State of Maine. The federal building is Davis Bacon and each state passed their own mini versions of that. This bill tries to bring in to the prevailing wage, the calculation of the prevailing wage using the wage that is being paid by employers and those benefits that those employers have. I am against this. This tends to be an inflationary thing. I am against it more because of the way the prevailing wage is calculated. The prevailing wage is calculated by the Bureau of Labor Standards, the Research and Statistics Division. They use as their source to send a survey form to, the listing of firms in the State of Maine that are in the construction business. Their latest form for determining the prevailing wage was sent out for the Maine Construction Wages rates in 1995. In 1995, they sent out 2,328 forms to construction firms. Of those 2,328 firms, they found 1,436 had gone out of business or had five or less trade workers. Of the remaining number, 281 survey forms were not returned, which represented approximately 31 percent of all forms sent out. Six hundred and one forms covering 9,892 workers came back for representation of 69 percent of the firms. The department itself felt that they covered only 45.5 percent of the total number of employers in construction.

This form did not collect the information on benefits. If we were to pass this bill, they would have to send out another form

and collect that information for the next year and redesign their form because it wasn't on it. This is something that would not be very difficult to do. However, I feel that each firm has negotiated with their employees whatever their benefit structure would be. It would be different for every single one of them. It would be better off for them to be dealing with the wage. I voted against this bill because I do not feel that the benefit structure that these employers have should be included into the calculation for the prevailing wage because it will give a very wide range of money because they will calculate the prevailing wage, but they won't say this is the prevailing wage for its benefits, it will just say prevailing wage. This is the wage that will have to be used on any construction project in the State of Maine that is let out for less than \$10,000 or less. The employers would have to pay that wage. For that reason, I feel that benefits should not be included in the calculation of the minimum wage. I believe that using the benefits will cue the figures dramatically. Thank you very much.

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

Representative WRIGHT: Madam Speaker, Men and Women of the House. Perhaps we need a little history, as the original Davis Bacon Act was implemented during the Great Depression by the federal government. It was proposed by two Republican Representatives and signed by a Republican President. The reason it was put in place was, during the depression, many people were out of work and these companies were traveling from state to state bringing low wage workers in and depressing the local economies. It was told at that time that if the federal government was going to be paying out this money, they should not be undercutting the local economies and racing to the bottom of the wage scale. Maine's Davis Bacon Act has been in place for nearly three decades and it is modeled after the federal one, except for, it doesn't include benefits. The federal Davis Bacon does include benefits. All it is is another line on the form that they send out that is filled out anyway. It just adds what benefits you paid and how it was paid.

About 20 years ago is when the federal government put their benefits in, when this was first implemented it wasn't common for benefits to be paid to workers, but the majority of the good respected companies that respect their employees started paying benefits to retain the good workers. What this does is it help retains the highly skilled workers and it made the jobs more efficient. There was a survey done for 14 years, from 1980 - 1993, showing that the more highly paid workers, the job for construction was actually much lower. This is because you retained your workers and you didn't have to train people to do the work and it was safer. Most construction jobs are seasonal. The people that work on these jobs can't always be guaranteed a full years work. It is these people that need the benefits more than anybody. Most of the work done is generally toward heavy highway construction and such. Most of the workers are young men with families growing. It is just this portion of our population that we need to support and we need to help.

These jobs are being paid for by taxpayer's dollars. It is my feeling that if we are paying this money out, should we not support these people? The forms that are being sent out are sent out. If the contractors choose not to send them back, that is their prerogative, but the forms that are sent back, that is what the prevailing wage is calculated on. This isn't the highest wage. This isn't the lowest wage. This is the average wage. Just to show you how low Maine's wages are, in those 14 years of that study on the heavy highway, Maine ranked 50th out of all the states in paying those workers. Their wages were \$5.85 an hour. Our closest neighbors, New Hampshire and Vermont, pay nearly double that amount. The next lowest state in the pay range were \$1.50 to \$2 more per hour than we are and those are states such

as Alabama, Georgia and Arkansas. Life is tough in Maine. As I said, most of this work is physically taxing. You can't keep up long at it. I know because I do it. These are the people that we need to support and I feel that if we are paying out state money, we should support these people. I urge you to support this.

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

Representative TREADWELL: Madam Speaker, Ladies and Gentlemen of the House. This legislation will affect the construction of important infrastructure improvements in our local communities by narrowing the field of available contractors to do that work. In fact, it will force a lot of contractors out of the business of doing some of these small community contract jobs. It will significantly increase the cost of public works jobs, I believe, from the testimony we heard during the hearings on the bill. The number of projects will be reduced also. We have a limited source of revenue for these jobs and this legislation is about mandating where our scarce dollars are going to be spent. Many of Maine's local governments are still working to meet the mandates to protect our drinking water, control storm water and close our landfills. Additional mandates on the costs of these projects will force communities to raise taxes, increase fees and delay needed infrastructure projects. Thank you Madam Speaker.

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

Representative HATCH: Madam Speaker, Men and Women of the House. I rise today to ask for your support on LD 1454. The reasons are many. Under this bill, it would include benefits that would be reportable. It would also sort of level the playing field. There are a lot of statistics being thrown out here. I had one in my information packet that I thought you might be interested in. Everyone talks about jobs, more particularly, good jobs for Maine, but, in fact, after many years of talking about it, Maine is 40th out of 51 states and the District of Columbia in wage levels and 6th in New England. This particular bill would sort of level that playing field a little bit. Just to give you a for instance, a lot of construction outfits are doing a very good job. They pay their people well. Those people come back year after year after year to the same employer. They do a great job. People who have done business with them and particularly towns employ them. Under this, it wouldn't change anything. There are other construction outfits who hire new people who don't pay a good wage, approximately \$10 an hour for part-time and seasonal work. If you are working three and four months of the year and you are getting \$10 and the rest of the year you are making nothing, that is not a very good wage. To skirt the laws so that they don't have to report things, they tell people, okay, we will give you a per diem. What they do is they pay them for their motel rooms and they pay them so much a day. They sort of skirt the law. They don't report this income because this is a side income. All we are asking is for them to report their benefits. If they report their benefits, it is going to bring the prevailing wage up a little. It won't take care of those nine or ten months when they are not working, but it will help. I ask for your support on this bill. Thank you very much.

Representative CLARK of Millinocket 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 Wells, Representative Carleton.

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

The SPEAKER: The Representative may pose his question.

Representative CARLETON: Thank you Madam Speaker. Is this bill a mandate?

Representative CARLETON of Wells asked the Chair if this Bill was a mandate.

Subsequently, the Bill was tabled by the Speaker pending a ruling of the Chair. (Roll Call Ordered)

HOUSE DIVIDED REPORT - Majority (8) "**Ought to Pass**" as amended by Committee Amendment "A" (H-550) - Minority (5) "**Ought Not to Pass**" - Committee on Labor on Bill "An Act to Allow Agricultural Workers to Bargain Collectively" (H.P. 1177) (L.D. 1654)

TABLED - May 19, 1997 by Representative HATCH of Skowhegan.

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

The SPEAKER: The Chair recognizes the Representative from Easton, Representative Kneeland.

Representative KNEELAND: Madam Speaker, Men and Women of the House. There are only a few states that allow collective bargaining of agricultural workers. Adoption of this legislation would put Maine farmers at a competitive disadvantage. Agriculture is an uncertain endeavor at best. We play with the weather, disease and a number of other things, price. It all goes with this and we have to bear all this in mind. We sometimes tie up a large amount of money in a crop and it takes about all you can get to carry on. By establishing a threshold of 75 employees for 180 days that this legislation would create a deterrent for the expansion of diversification and the formation of cooperative agriculture enterprises are so critical to the competitive Maine agriculture.

In Aroostook County we have two large broccoli farmers that raise 2,000 acres or more and they have from 120 to 175 people. They use other people's farms because people do not have the labor and this is like a cooperative effort. This would be a deterrent to them. This bill also allows for collective bargaining for employees working for a company that raises 1,000 hogs or more regardless of the number of employees over the length of time that they work. How is 1,000 hogs different than 500 cows or 700 apple trees or 100 acres of potatoes? This bill would be very damaging to the farmers of Maine. I would ask you to please vote no on the pending motion.

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

Representative SAMSON: Madam Speaker, Men and Women of the House. Currently, under federal law workers are covered for collective bargaining. Exempt are agricultural workers and public employees. Quite a while ago in Maine statute, we passed laws that allow public employees to form unions to bargain collectively. This bill will do the same thing for agricultural workers. As was just stated by Representative Kneeland, agricultural workers under this act would be anyone who had 75 or more agricultural workers in 180 working days per year or 1,000 hogs. This bill first gives employees of agricultural employers the right to bargain collectively. Second, it specifies the parties' mutual obligation to bargain. Third, it creates procedures for determining bargaining units and bargaining agents, including procedures for appeal of such determination. Fourth, it prohibits specified acts of agricultural employers and agricultural labor organizations and provides for enforcement of those prohibitions by the Maine Labor Relations Board, and subsequently through civil action and superior court.

As stated in Section 1321 of this bill titled Purpose, it is declared to be the public policy of this state and it is the purpose of this chapter to promote the improvement of the relationship

between agricultural employers and their employees by providing a uniform basis for recognizing the right of agricultural employees to join labor organizations of their own choosing and to be represented by those organizations in collective bargaining for terms and condition of employment. It is also the public policy of this state and the purpose of this chapter by encouraging voluntary agreements between agricultural employers, employees and their organizations. To limit industrial strike, promote stability in the farm labor force and improve the economic status of workers and businesses.

To be honest with you, this bill was brought about because of my dealings a year or so ago with the people that work at DeCoster Egg Farm. That is no secret. I was contacted back then by an investigative reporter to go down and talk to the migrant workers that were working there. I did that, being on the Labor Committee. Everything they told me, I wrote down. The problems they had with not being paid for work that they had performed, the working conditions, the safety violations and all kinds of problems. I am the kind of person who takes a person's word to be true until they can prove to me that they lied. We investigated all those claims we found and all of them were true. During that course, I thought, wouldn't it have been better for these workers to have an organization that would look out after themselves. In other words, like when these workers represent themselves and bargain with their employer over their working conditions, the safety problems and so forth. I firmly believe that if that had been done years ago, we would not have had the problems we have had at the DeCoster Egg Farm.

All this does is set up a framework and a law that workers can organize under if they want to. It is not a mandate for workers to organize. It doesn't tell workers to organize. All it does is it sets up a law that they can organize under if they choose to. In order to organize, they have to have the majority. They have to have more than 50 percent of those workers there that will agree to do that. Then they have to be willing to sit down and bargain with the employer. This framework basically says that the employer has to sit down with the employees to bargain in good faith, just like the majority of the workers in this country. Thank you.

The SPEAKER: The Chair recognizes the Representative from Cherryfield, Representative Layton.

Representative LAYTON: Madam Speaker, Ladies and Gentlemen of the House. As you heard the good Representative from Jay, he made constant reference to the DeCoster Egg Farm. That is specifically where this bill was designed to hit home. It was stated at the work session of AFL-CIO representatives that this bill was not intended to impact on other portions of agricultural employees or employers in the state. They made an assumption that perhaps if they addressed the DeCoster issue that the potato farmers, blueberry, cranberry and apple growers would just sit idly by and let this come into being. That is certainly not the case. As you heard Representative Kneeland speak, it will have a detrimental impact, this legislation will, on the potato industry. I can tell you from Washington County that it will have an even more negative impact on the blueberry harvest.

I want you to understand that just about a month ago, the Governor held a big press conference over a pact that was put together by a major blueberry company in Cherryfield to open up 900 acres for cranberries and what a great advancement this was in the agricultural business. Right now, blueberry companies are on the threshold of this 75 employee limit. Those companies will certainly go over that limit when cranberries come into affect. This past week, LURC authorized for one company, Cherryfield Foods, a 900 acre project. This is on the fast track. Those companies feel very threatened by this legislation

because it is soon, like I say, that they will surpass the 75 threshold. It is very important for everybody here to understand that agricultural companies are really at a disadvantage in collective bargaining primarily because they have a crop that is on the vine or in a tree or in a bog that needs to be harvested. Any interruption, any work stoppage at all, could result in that total harvest just not taking place and those companies suffering huge losses.

It is my contention that if the Labor Committee wanted to target DeCoster, as they have in other legislation attempts, then that is exactly what they should have done and should have taken into consideration other areas of the state or employers in the state who are not like DeCoster has been reported to be. They should have looked at the broad sweep that this type of legislation would have in areas that are economically depressed at this time. We need the expansion down there. We need the jobs in Washington County. The expansion of the blueberries and cranberries, we need all this here. We don't need legislation like this here to impede that.

To establish different labor standards in Maine versus other producing areas, discourages any new agricultural businesses from locating in the State of Maine or any future expansion of blueberries, apples or cranberries. By having thresholds of employees and a number of days of employment, this bill could discourage expansion of farms that might be important to Maine's economic future. I want you really to think about this here. If it is Decoster that this bill is targeting, then I think it should be amended to go in that direction and not really sweep with a broad paintbrush over the entirety of the state.

The 75 employee limitation with 180 days is just not practical. We deal with the potato industry and the broccoli industry and the cranberry industry and the blueberry industry with a migrant population. They are in the state. They are out of the state. Some come one year and don't come again, ever. Some come back two or three or four years later. To have them try to join a union for this collective bargaining, it is just not practical. The most important thing is that this is going to have a real sad effect on Aroostook County, Washington County and any future expansion that is going to take place in those two counties to these agricultural businesses. I urge you to defeat the pending motion and vote the "Ought Not to Pass." Thank you.

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

Representative TREADWELL: Madam Speaker, Men and Women of the House. We have heard a reference to this being a DeCoster bill a couple of times and that is exactly what it was from the testimony in the public hearing. The unintended result of this will be that, as you have also heard, that it may impact on other agricultural business in the State of Maine. We have heard testimony from the Department of Agriculture that there are five new businesses that are, right now, contemplating moving into the State of Maine. All five of those, by the way, would reach that threshold of 75 employees. One of those is a biomedical business that would be raising hogs for the purposes of harvesting, I guess is the right word, the livers of those hogs for biomedical research. These companies probably would think twice before they would come into the State of Maine with this kind of a law on the books. One other point that I would like to make is that the agricultural workers have the authority, right now, or have the right to form a collective bargaining unit, if they so choose. They don't need this law to do that. When the vote is taken, if it hasn't already been moved, I would move that we vote by the yeas and nays.

Representative TREADWELL of Carmel 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 Skowhegan, Representative Hatch.

Representative HATCH: Madam Speaker, Men and Women of the House. I would ask for your support on this bill. I would like to read to you from some of the comments that were made at the hearing. This comment is testimony from Eric Nelson, Pine Tree Legal Assistant, Farm Worker Unit. I don't know if you know about the Pine Tree Organization, but they deal with migrant worker population year round. This is a comment that was made from Page 3. "This bill is really one about basic fairness. As you review this bill and listen to testimony for both for and against, please keep in mind a simple question. Why, as we approach the year 2000, should farm workers not have the right to sit down at the table with their employer to bargain over basic terms and conditions of their employment, their livelihood? The bargaining demands of farm workers are demands of basic fairness and justice, a livable wage, reasonable rules of employment and a safe workplace. I suggest that the experience in many parts of the country over the past 20 years with collective bargaining between farm workers and their employers demonstrate that any reason put forth by those opposing this bill, are simply employer interests and concerns that can be negotiated about at the bargaining table. Agricultural employees in Maine are themselves organized for their own mutual aid and protection into a number of associations, such as the Farm Bureau, the Maine Poultry Federation, the Maine Blueberry Commission, the New England Brown Egg Council and the New England Apple Council. I expect that you probably have heard from some of these employer unions, either today or in the past and maybe even on Agriculture Day. Given such a high level of organization of agricultural employers, it is only fair that farm workers be given the right to bargain with them through their own designated representatives."

We asked at the hearing how many agricultural entities that this would involve. I wasn't there every minute of every day, even during the work session, I may have disappeared for drink or to go to the bathroom. I never had one come forward and say it is going to involve hundreds of thousands. This bill is set up for 75 or more workers. I wouldn't involve dairy farms. I don't know of any dairy farms in the state that have more than 75 workers. As a matter of fact, if they have 15, they are a pretty large dairy. That is 180, those are 180 work days. That is almost eight months. I don't know of too many agricultural producers in the state that work that many months out of the year, maybe four or five or maybe even six or seven, but not eight months.

I would like you to take a good look at this. This is a basic fairness bill. We keep eluding to DeCoster, maybe he is the only one that can organize now, who knows? Under federal statutes and under the state law, they can't right now. Migrant workers coming and going, well you may have migrant workers who do hold a union card and who work in the State of Maine and is not valid. Think about it. I ask for your support. This is a good bill and it is a good attempt at a start and I thank you very much.

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

Representative FULLER: Madam Speaker, Ladies and Gentlemen of the House. I have not, all my life, been a great supporter of labor unions. Although I belonged to MSEA when I was working for the state. There were times when I think labor unions have gone too far. However, when I heard about what was going on at DeCoster Egg Farm, my comment was, this is a business that their employees need to have a labor union. It is when businesses don't treat their employees right that labor

unions become strong. If this is a DeCoster bill, so be it. Those workers deserve to be able to organize. I would also point out as far as new business coming to this state, if they are going to treat their employees right, they don't need to be afraid of this bill. I say let's pass it.

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

Representative NICKERSON: Madam Speaker, Ladies and Gentlemen of the House. I knew this was another DeCoster bill. You can see it all over it. I think we ought to let up on him a little bit. OSHA is after him. He has made a settlement with OSHA. That was finalized yesterday. He had a meeting with all the employees over there yesterday and everything is on the up and up there now. Everybody has an invitation to come over and look the place over and see what is taking place over there. The trailers have been replaced. The housing is being inspected monthly. I see no reason for this bill. You have the union in there. You call a strike on him. Where are the eggs going to go? It is kind of hard to shut the hens down from laying. They kind of like to lay on schedule. It is a little bit unhandy to cut them off. Besides that, this is not the only farm that affects me. We have Ricker Hill Orchards there that are putting in cranberry bogs over there to supplement their orchards. The orchard business is not looking good right now. They are going to go into the cranberry business. This will also affect them. I would like to ask you all to vote "Ought Not to Pass." Thank you.

The SPEAKER: The Chair recognizes the Representative from Saco, Representative Kane.

Representative KANE: Madam Speaker, Men and Women of the House. I would hope that this is much less an issue of DeCoster Farms than it is a matter of social justice. We have been hearing for months that some of us signed on to the list of social justice principles when there was a gathering down in the Hall of Flags a couple of months ago. We can quickly forget about what all of that meant, but ladies and gentlemen of the House, this is what those principles were all about. These are among our most vulnerable and least able to defend for themselves workers in the State of Maine. I hope as we consider our vote on this issue that we keep in mind what our position was with respect to those principles that many of us may have signed on to. Thank you Madam Speaker.

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

Representative PENDLETON: Madam Speaker, Ladies and Gentlemen of the House. I am on the minority side of this bill. The reason I am on the minority side of this bill is, don't get me wrong, I think that Representative Samson and the people that helped him craft this bill, did an excellent job. I worked for the Department of Labor for a long time. I chased a lot of migratory workers around the State of Maine and around New England. I looked at a lot of their housing. I fined a lot of employers for having poor housing. This is a bill that probably, in time, should be here. Is now the time? I am beginning to wonder. When we start directing ourselves specifically at one particular employer for something that he has done wrong and the outcome is unintended to a lot of other people, maybe we ought to stop and think and review it very carefully.

The thing that bothers me about this bill, more than anything, is that all of the people that spoke directly to it and responded directly to the bill, as to why it was needed, was the sponsor, the AFL-CIO, Pine Tree Legal and a couple of other parties that had a vested interest in doing something to Mr. DeCoster because of the conditions. We have already hurt Mr. DeCoster in a way that he has taken notice of and he is trying to correct himself. How long will that last? Your best guess, but it is there. None of the current employees of DeCoster Egg Farm that spoke at that

hearing, other than telling about what the conditions had been like and what they were working under, made a direct request to have a labor union. None of them. Not one of them that testified. I am talking of the current employees. That is one of the reasons that I am against the bill. I just don't feel that at this time, we should be directing the efforts of the State of Maine against any individual employer, specifically. Thank you.

The SPEAKER: The Chair recognizes the Representative from Nobleboro, Representative Spear.

Representative SPEAR: Madam Speaker, Ladies and Gentlemen of the House. I rise to oppose this "Ought to Pass" motion, in that we are not talking so much about the egg production here in Maine as I am all the other things that this could affect. This could affect our potato industry, broccoli industry, blueberry industry and cranberry industry. In Aroostook County, most of these people combine two products, as I just mentioned, the broccoli and the potatoes. They end up in a very long season. This could very well have an affect on a few of those farms up there. This is not just an egg issue. This does affect agriculture all across the state. Very few states across this nation have collective bargaining. You just think about that. If you put Maine into perspective to all the other states and what our gross product for income here is in the state, we sure are very low compared to most other states. We would be having a collective bargaining here in Maine. I think we ought to stop and think about that.

Also it mentions in here, it throws into the bill that it allows for collective bargaining for employees working for a company that raises 1,000 hogs or more. Why is 1,000 hogs any different than 500 cows or 700 apple trees? I think we are picking out one segment of agriculture and one or two here that is not fair for the agriculture here in Maine. Establishing different labor standards here in Maine than most other states is going to make it very difficult to attract new agriculture to the state, which we desperately need. We have the natural resources here, we just have to make it enticing for people to want to move here and put these natural resources to best use. I would urge you to vote against the pending motion. Thank you.

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

Representative MUSE: Madam Speaker, Men and Women of the House. I would just like to say very briefly that I will be delighted when we can once and for all put Jack DeCoster to bed and hopefully in one of his own trailers and we don't have to keep continuously hearing that this is a DeCoster bill or that is a DeCoster bill. Collective bargaining rights are nothing more than an avenue to treat employees like human beings with respect and dignity. To afford any workers and for the members who have mentioned dealing with 1,000 hogs, yes, give their workers collective bargaining rights. The only people who are afraid of collective bargaining rights are people who are not treating their employees with respect, dignity and like human beings. People who are treated with respect make for a happier workforce, a more satisfied workforce who are going to produce better and provide a better product for their employer. I would strongly urge and ask everybody to vote for this bill. Thank you.

The SPEAKER: The Chair recognizes the Representative from Waterboro, Representative McAlevey.

Representative MCALEVEY: Madam Speaker, Ladies and Gentlemen of the House. I had an occasion during this session to testify to a bill in front of Agriculture this year. During that disclosure of questions and answers, one of the members of the Agriculture Committee made the comment that, gee, there aren't any farmers on the Agriculture Committee. Look around. Gee, there aren't many farmers left in this state. I grew up working on a farm. You certainly have a different perspective after you have



been slapped on the side of the head by a cow and its tail. I have also been a steward for the Local 48 Teamsters and past president of the Arundel Teacher's Association. I am aware of union issues. Let's keep something in perspective. In order to have agricultural workers in the state, you have to have farms for them to work on. We are going to throw a stone today into a pond. That stone is going to cause waves and we have no idea what shores those waves are going to wash against. How many of you have checked the price of grapes in a grocery store lately? That is what you get when you have some people who are organized. That goes back many, many years in California. We have an endangered species and that is the farmer. We need to protect them, not at the expense of employees, but that stone you are throwing at DeCoster is going to cause those waves to wash against the shores of many, many small farms and many, many blooming situations that may, in turn, grow and create jobs. Just keep that in mind. Thank you.

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

Representative LEMAIRE: Madam Speaker, Men and Women of the House. I was not going to rise on this because I think I have been up a little bit much in the last two days. I do want to say something about the grape workers in California. Probably the best thing that ever happened to them was to be unionized. The way they were treated California was outrageous and it took them 20 years to get to the point where they could defend themselves across the table. Let's talk about collective bargaining. It is a matter of fairness. Who is afraid of it? Why would employers be afraid to sit across the table from their workers because their workers wanted to be treated in a decent manner? Why would agricultural workers be treated differently? Is it because they are less educated? Is it because they are paid less? Is it because they are not as bright as the rest of us? I don't think so. I think all of us in this room have a right to be treated with decency, dignity, self-respect and I find it almost abhorrent to think that all of us there in this room are just worried about the employer. The way you treat your people at work is the way you wish to be treated yourself. I urge you to support this pending motion.

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

Representative JOY: Madam Speaker, Ladies and Gentlemen of the House. I had every intention of rising to speak on this particular issue. I think that one of the things that is perhaps misleading some people a little bit is that we think that this is a bill which was designed to be anti one firm, and has unintended consequences. I don't think that the consequences are unintended at all. With regard to the last speaker, referring to farm workers being less educated. I can recall in the not too distant past in the particular field that I happened to be working, there were five people there with masters degrees. I wouldn't say that that is perhaps having people who are uneducated. I realize in some situations there may be, but there certainly weren't in those cases. When they used to close schools down, most of the teachers were out there working on the agricultural things to supplement their income.

I think probably most of you in this House, if you haven't heard it, you will hear it now is that in Maine, we are at war. We have three natural resource industries in the State of Maine, farming, fishing and forestry. Every single one of those industries is under the most severe attack that you could possibly imagine. Much of them under attack by legislation that is present in this body. The attempt to unionize farm workers is one more front, which the farmers in this state must defend. In Aroostook County, the potato farmers have to contend with the subsidized farms in Canada and the glut that they present on the

market. We are also being asked again to correct something that our departments, which are overflowing with employees, did not do. If the departments of the State of Maine and the federal government had done their job, the situation which led to all of the problems that existed at the farm that has been mentioned so frequently and the good Representative from South Portland doesn't want to hear anymore, which I don't either, if they had done their job, things would have never deteriorated to the point where these types of actions or this type of legislation had to be put in place.

Again, if it is going to only affect no one or very few people in the State of Maine, why are we passing legislation which may have the unintended consequences or not have the unintended consequences that this one is going to do? I urge you to think about those thoughts just a little bit. I urge that when you vote, you defeat the "Ought to Pass" message and support the "Ought Not to Pass." Thank you.

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

Representative VIGUE: Madam Speaker, Ladies and Gentlemen of the House. For the last seven and a half years I have been traveling the route the back way to Winslow. There are two beautiful big farms that I face every single day and the cows run in the fields. He was making a great living, so I thought. In the last four months, we now have one left. One just disappeared. He sold all the cows and everything he had and now it is an empty farm. The wife is selling vitamin pills and the farmer himself is doing something else. I don't know if he has gone to work for someone. Ladies and gentlemen, anytime that we do any of these things that will take and restrict the ability of people to run their businesses, to conduct their own lives, then we are harming the industry. We are harming business. I think that we have to learn to stop trying to restrict the ability of people to make a living and try to create a problem that is not there. This guy had a problem, he couldn't make a living. We are going to add a cost to his ability to make a living. Ladies and gentlemen, I urge you to please not accept the Majority "Ought to Pass" Report and vote against the pending motion. Thank you.

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

Representative BERRY: Madam Speaker, Men and Women of the House. I thought most everything had been said in this debate, but I am concerned with the perception that allowing employees to vote is automatically going to mean that all farmers are going to have organized farms and that it is going to be detrimental to the demise of the family farm in Maine. I highly doubt that. The employees of DeCoster may or may not vote to organize a union. I saw a strong opinion expressed at the public hearing against it. I will tell you one thing, the ballots at an election are always secret ballots. You won't know who voted for or against the union. It is because the federal government recognizes the reality of intimidation and fear. It may be true that there are fewer farmers today. Just a comment to Representative McAlevey's statement that cows don't all have tails anymore either. Things have changed. As Representative Samson stated, this is not a mandate that all workers and farm workers will be organized. I know there is a great number of farmers that are highly respected by their employees. I know several in this body that I respect. I don't expect that there would ever be a drive there. I don't view it as a negative action, that these workers would have a right to speak out without fear of retribution. I believe they deserve that if they decide that they may need that. It doesn't demand that it happens and then they become organized. All I ask you is to allow them to have that opportunity to make this vote. Thank you.

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. 237**

YEA - Ahearne, Bagley, Baker CL, Baker JL, Berry RL, Bolduc, Bouffard, Brennan, Brooks, Bull, Bunker, Chartrand, Chizmar, Clark, Colwell, Cowger, Davidson, Driscoll, Dunlap, Dutremble, Fisher, Frechette, Fuller, Gagne, Gagnon, Gerry, Goodwin, Green, Hatch, Jabar, Jones KW, Jones SL, Kane, Kerr, Kontos, LaVerdiere, Lemaire, Lemke, Mailhot, McKee, Mitchell JE, Morgan, Muse, O'Neal, O'Neil, Paul, Perry, Pieh, 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 DJ, Belanger IG, Berry DP, Bigl, Bragdon, Bruno, Bumps, Cameron, Campbell, Carleton, Chick, Cianchette, Clukey, Cross, Desmond, Donnelly, Etnier, Foster, Gieringer, Gooley, Honey, Jones SA, Joy, Joyce, Kasprzak, Kneeland, Labrecque, Lane, Layton, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, Marvin, Mayo, McAlevey, McElroy, Meres, Murphy, Nass, Nickerson, O'Brien, Ott, Peavey, Pendleton, Perkins, Pinkham RG, Pinkham WD, Plowman, Poulin, Savage, Snowe-Mello, Spear, Stedman, Taylor, Tobin, Treadwell, True, Underwood, Vedral, Vigue, Waterhouse, Wheeler EM, Winglass, Winsor.

ABSENT - Bodwell, Buck, Dexter, Farnsworth, Fisk, Gamache, Joyner, Tuttle.

Yes, 75; No, 68; Absent, 8; Excused, 0.

75 having voted in the affirmative and 68 voted in the negative, with 8 being absent, the Majority "Ought to Pass" as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (H-550) 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-550) and sent up for concurrence. Ordered sent forthwith.

On motion of Representative KONTOS of Windham, the House reconsidered its action whereby Bill "An Act to Amend Certain Provisions Dealing with the Subjects of Juvenile Petition, Adjudication and Disposition" (S.P. 175) (L.D. 504) (C. "A" S-249 and S. "A" S-265) was passed to be engrossed as amended by Committee Amendment "A" (S-249) and Senate Amendment "A" (S-265).

On further motion of the same Representative, the House reconsidered its action whereby Senate Amendment "A" (S-265) was adopted.

On further motion of the same Representative, Senate Amendment "A" (S-265) was indefinitely postponed.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (S-249) in non-concurrence and sent up for concurrence. Ordered sent forthwith.

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

Bill "An Act to Amend the Election Laws" (S.P. 574) (L.D. 1731) which was tabled by Representative KONTOS of Windham pending adoption of Committee Amendment "A" (S-230).

Subsequently, Committee Amendment "A" (S-230) 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**.

Under further suspension of the rules the Bill was passed to be engrossed as amended by Committee Amendment "A" (S-230) in concurrence.

The following item was 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 to Pass" as amended by Committee Amendment "A" (H-567) on Bill "An Act to Clarify the Qualifications of State Auditor" (H.P. 1269) (L.D. 1795)

Signed:

Senators: GOLDTHWAIT of Hancock  
LIBBY of York

Representatives: BUMPS of China  
FISK of Falmouth  
GERRY of Auburn  
GIERINGER of Portland  
KASPRZAK of Newport  
DUTREMBLE of Biddeford

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

Signed:

Senator: NUTTING of Androscoggin  
Representatives: AHEARNE of Madawaska  
BAGLEY of Machias  
SANBORN of Alton

Was read.

Representative AHEARNE of Madawaska moved that the House accept the Minority "Ought Not to Pass" Report.

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

Representative BUMPS: Madam Speaker, Men and Women of the House. Very briefly I will repeat some of the comments that I have made on similar legislation that we have considered already this session. This is a very simple bill introduced by the good Representative from Presque Isle, Representative Donnelly. This bill simply requires that the State Auditor upon taking office be a certified public accountant. The amendment, which you will note has a filing number of (H-567) simply changes a second portion of law to comply with the first. Also, it clarifies that the bill applies to State Auditors elected after the effective date of this act. If anyone is concerned about this applying to our current State Auditor, your fears should be relieved by the fact that this only applies to auditors who might be elected in the future. I think that the point that I have made before, and is worthy of making again, is that we should remember that the State of Maine is the probably the only entity, public or private, in this state that would consider hiring someone for a job and then allow them nine months to become qualified. I would urge you to vote against the Minority Report, "Ought Not to Pass" and go on to accept an "Ought to Pass" report on this bill. When the vote is taken, I request a roll call.

Representative BUMPS of China requested a roll call on the motion to accept the Minority "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 Madawaska, Representative Ahearne.

Representative AHEARNE: Madam Speaker, Ladies and Gentlemen of the House. This bill is not needed. Currently, I believe, it is sufficient as the law states now. If we were to enact this legislation, yes, you would have to be a CPA upon being elected as State Auditor. It doesn't say that you have to wait until you are actually sworn in. That, I believe, limits the pool of perspective candidates. It repeals the section regarding that this person have a CIA, certified internal auditor, or a public accountant. This will limit that pool in terms of candidates of which they could be prospects of being chosen or elected as a State Auditor. I believe, in written testimony given to the State and Local Government Committee from Carol Lactoe, who is the Director of Audit within the Department of Audit. She states, "The role of the State Auditor is to oversee and direct the work of the department, including serving as a liaison to the Legislature. In addition to understanding about auditing, the State Auditor must have management skills and understanding of and interest in state government environment. Simply because an individual is a CPA provides no assurance that the individual has any understanding of the specialized requirements of a government audit, any management skills or any ability to communicate with the elected representatives of the people who we serve." I believe that statement stands correct and I ask you to accept the "Ought Not to Pass" report.

The SPEAKER: The Chair recognizes the Representative from Newport, Representative Kasprzak.

Representative KASPRZAK: Madam Speaker, Men and Women of the House. I would have you notice that there are at least 11 states currently that require their auditors to be CPAs. Also, I might pose a question and that is how many CPAs are there in the State of Maine at this moment, if we are talking about making the pool smaller? Thank you.

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

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

**ROLL CALL NO. 238**

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

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

ABSENT - Bodwell, Buck, Dexter, Fisk, Gamache, Joyner.

Yes, 74; No, 71; Absent, 6; Excused, 0.

74 having voted in the affirmative and 71 voted in the negative, with 6 being absent, the Minority "Ought Not to Pass" Report was accepted and sent up for concurrence. Ordered sent forthwith.

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

An Act to Prohibit the Employment of Professional Strikebreakers (H.P. 88) (L.D. 113) which was tabled by Representative KONTOS of Windham pending reconsideration.

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

Representative SAMSON: Madam Speaker, Men and Women of the House. This will be the last time that this bill will be before you. I will speak quickly on it. This is the professional strikebreaker bill. There is a law on the books now that has been on the book since 1965 that makes it illegal. It is a criminal offense to provide professional strikebreakers. The bill decriminalizes it so that we can bring civil action. It defines what a professional strikebreaker is. That is anyone that provides 100 or more strikebreakers three times in five years. It also exempts current employees, security and special maintenance. I urge you to vote to override the veto. Thank you.

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

Representative JOY: Madam Speaker, Men and Women of the House. As I think nearly everyone in the House is aware, this has been ruled to be pre-empted by federal law by the Attorney General. Madam Speaker, I request the vote be taken by the yeas and nays.

Representative JOY of Crystal requested a roll call on reconsideration.

The Chair ruled that a roll call is required pursuant to the Constitution.

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

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

The SPEAKER: The Representative may pose his question.

Representative SAXL: Madam Speaker, Men and Women of the House. I am wondering whether all laborers in the State of Maine are covered by the National Labor Relations Act?

The SPEAKER: The Representative from Portland, Representative Saxl 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. Not all workers in the State of Maine are covered under the National Labor Relations Act.

The SPEAKER: A roll call has been ordered. The pending question before the House is Shall this Bill become a law notwithstanding the objections of the Governor? All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 239V**

YEA - Ahearne, Bagley, Baker CL, Baker JL, Berry RL, Bigl, Bolduc, Bouffard, Brennan, Brooks, Bull, Bunker, Cameron, Chartrand, Chizmar, Clark, Colwell, Cowger, Davidson, Driscoll, Dunlap, Dutremble, Etnier, Farnsworth, Fisher, Frechette, Fuller, Gagne, Gagnon, Gerry, Goodwin, Green, Hatch, Jabar, Jones KW, Jones SL, Kane, Kasprzak, Kerr, Kontos, Lane, LaVerdiere, Lemaire, Lemke, Lemont, Mailhot, Mayo, McKee, Meres, Mitchell JE, Morgan, Muse, O'Neal, O'Neil, Paul, Perkins, Perry, Pieh, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Stanley, Stevens, Tessier, Thompson,

Townsend, Tripp, Tuttle, Usher, Volenik, Watson, Wheeler GJ, Winn, Wright, Madam Speaker.

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

ABSENT - Bodwell, Buck, Dexter, Fisk, Gamache, Joyner.

Yes, 87; No, 58; Absent, 6; Excused, 0.

87 voted in favor of same and 58 against, with 6 being absent, and accordingly the veto was sustained.

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

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

The same Representative presented House Amendment "A" (H-546) to Committee Amendment "A" (H-382) which was read by the Clerk and adopted.

Representative PERKINS of Penobscot presented House Amendment "B" (H-571) to Committee Amendment "A" (H-382), which was read by the Clerk.

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

Representative PERKINS: Madam Speaker, Men and Women of the House. When I first saw this bill title, I thought it was finally a move to ban cigarette smoking. I am not sure that it doesn't the way it is worded. A ban on inhaling toxic vapors for effect. If that doesn't include smoking tobacco, I don't know what does, but anyway. My amendment simply limits this ban to juveniles. It limits the ban to people under 18. When I first asked the prime sponsor about this bill, I was told that it was her understanding that this was limited to juveniles. I talked with the good House Chair of the committee and I believe he said he thought it only applied to juveniles. I got a copy of the bill and the amendment and sure enough, it is everybody. I have never tried snuffing whatever this is, but the point is apparently the problem is with juveniles and that is what this amendment just limits to juveniles. Apparently it is not a problem with adults. We have enough laws on the books and none of us go back to our districts and hear people say to put on more laws, we need more laws. That is what this is. It limits it to juveniles. Thank you.

The SPEAKER: The Chair recognizes the Representative from Waterboro, Representative McAlevey.

Representative MCALEVEY: Madam Speaker, Men and Women of the House. I urge you not to support my colleagues' amendment "B" because when we discussed the bill in committee, we were advised by the Attorney General's Office, as well as the Department of Corrections, that when you create a law that is a criminal offense for a child and not for an adult, that is considered a status offense. This Legislature since its inception of this government does not have status offenses on the books. We don't have a two-tier system. We do have offenses in the criminal code that deal with alcohol and marijuana with children and it makes it a civil offense if you are an adult. Those two items are specified and spelled right out in the juvenile code from the very beginning. To pass a law and say it is against the law for children to do it, but it is okay for adults is not a road we want to go down. We haven't done that in the 175 years we have been here. We, I think, really need to be considerate of that fact. I can understand the good representative's feeling about trying to limit this with children. I believe the bill came to us directly limiting it for children, but we were advised why we shouldn't go that route. I would ask you not to support Amendment "B."

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

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

The SPEAKER: The Representative may pose his question.

Representative WATERHOUSE: Madam Speaker, Men and Women of the House. Could anybody address Representative Perkins' concern, because when he brought it up, I now have that concern. Is there any guarantee from committee members that this language wouldn't include cigarette smoking?

The SPEAKER: The Representative from Bridgton, Representative Waterhouse has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Ellsworth, Representative Povich.

Representative POVICH: Madam Speaker, Men and Women of the House. The bill says to inhale, ingest, supply or sell gases, vapors or fumes of any gas, hazardous inhalant, substance containing a volatile chemical or substance containing chemical material and capable of releasing toxic vapors or fumes for the purposes of causing intoxication, euphoria, inebriation, excitement, stupefaction or the dulling of that brain or nervous system and others. I would further, if I may continue Madam Speaker. LD 305 came out as a unanimous "Ought to Pass" as amended report. The Committee Amendment represents the work of all interested parties, including Kevin Sweeney of the Cape Community Coalition. Representative Marvin brought Kevin Sweeney to our workshop and our public hearing. We were very impressed with what he had to say and the commitment that he has shown to this problem. Representative Marvin, from Cape Elizabeth, also brought us Dr. Anthony Thomason of the Maine Poison Center. There was no discussion about making this a juvenile violation or a crime only. The Committee Amendment puts violation in Title 22 along with civil violations, like possession of drug paraphernalia, which applies to juveniles and adults alike. Our floor amendment also provides sentencing options of treatment. The Committee Amendment is workable by making use or possession of toxic vapors or inhalants a civil violation instead of a crime like the original bill. It reduces the standard to a preponderance of the evidence. It is easy to prove and hence, does not require a violation. A violator to be provided an attorney or be sent to jail. Finally, well not exactly finally, I have one more point, there may be a large problem for juveniles, but this problem exists for

adults too. I just received the amendment a few hours ago. It is three pages. It did not have the benefit of a public hearing. Our bill had the benefit of a public hearing. I can't say that there is not merit on this. I am saying right now that the floor amendment does not have the benefit of a public hearing. For that reason, I move that we Indefinitely Postpone this amendment and all its papers.

Representative POVICH of Ellsworth moved that House Amendment "B" (H-571) to Committee Amendment "A" (H-382) be indefinitely postponed.

The SPEAKER: The Chair recognizes the Representative from Cape Elizabeth, Representative Marvin.

Representative MARVIN: Madam Speaker, Ladies and Gentlemen of the House. This bill came unanimous "Ought to Pass" out of committee. At the time, we worked it three different times. As Representative Povich just indicated to you that a variety of people came and spoke to us on the topic. Yes, it is true that mostly children do this, but there are adults who do this too. The fact of the matter is, nobody should be doing this. I don't know if all of you are aware what this is, huffing. It is smelling things like glue, gas or nitrous oxide in an attempt for a quick high. Yes, mostly children do it because they can go to the store and they can buy a butane lighter or they can go to the store and they can go under the sink in their own home and find some kinds of cleaning solutions.

The point is that it is very dangerous and we don't want to be sending a message to our kids that it is okay when you get to be 18 to do this sort of thing. This is just the type of behavior that is not acceptable. People die from doing this every year. We had two young men came to the committee to testify and they were eight and nine years old when they started doing this type of behavior. One of the reasons they did it was because their parents were involved in this type of behavior. They are both about 20 years old now and they are in a substance abuse program. I think that this was just the first step toward a lot of other different types of substance abuse for them. I just think that huffing is not a good idea for anybody and I would encourage you to support the pending motion. Thank you.

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

Representative PERKINS: Madam Speaker, Colleagues of the House. With all respect to my friend Representative Ginn Marvin, if you have to explain a problem to State Representatives, we represent each about 8,000 people, the most direct people directly tied to the people, I say it isn't a problem. I ask you to search your souls. If you have a problem in your district with this, is this something you have heard of ever before you got this bill before you? The other point, after hearing the good Representative from Ellsworth describe toxic substance, if that doesn't describe tobacco, I don't know what does. I would like someone to tell me, please, how cigarettes would not be banned under this?

This reminds me of some of the other things that we come up with. I am not saying it isn't a problem with children. I don't know. I have never heard of it in my district. I certainly have never heard of it for problems with adults. It seems to me that this is like so many things that we want to get tough on crime so we invent a crime and then we make it illegal so we can say we got tough on crime. Madam Speaker, I request a roll call.

Representative PERKINS of Penobscot requested a roll call on the motion to indefinitely postpone House Amendment "B" (H-571) to Committee Amendment "A" (H-382).

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

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

The SPEAKER: The Representative may pose his question.

Representative WATERHOUSE: Madam Speaker, Men and Women of the House. I just have one more question to ask. Is nicotine classified as a toxic substance? Can anybody answer that question?

The SPEAKER: The Representative from Bridgton, Representative Waterhouse has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Harpswell, Representative Etnier.

Representative ETNIER: Madam Speaker, Men and Women of the House. To revisit discussions of earlier, second hand tobacco smoke is definitely classified as a class A carcinogen. I would assume that directly inhaled cigarette smoke would be somewhat detrimental to your health. I am not sure about nicotine directly, but certainly a class A carcinogen. There is only eight of those classified by the EPA.

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

Representative BUNKER: Madam Speaker, Men and Women of the House. As some members here have indicated, they didn't think there was a problem out there. I just couldn't sit here and not respond to that. I haven't been in enforcement for several years now and I could give you many stories where huffing had been a problem with no solution, no way to help the child or the young person.

Also, in my military career it was a major problem in military ships where sailors would get a hold of glue and sniff it and they didn't have a clue where they were at for hours afterward. It was a major problem. In the Navy, many of you may not realize, we have Article 134, which means if you are not guilty of something else, then we can tag you with that one. We could control that within the service by that article. In Maine, we don't have a suitable instrument to do this. This bill will provide that. I can remember probably the most outrageous problem that I ran into, I went to assist an officer one day and we went to a home and found a 12 or 13 year old child that had been sniffing white gas, the unleaded gas that you put into your Coleman stove, Coleman fuel. This young fella didn't have a clue where he was. I went to where he was sitting on the couch, ladies and gentlemen, and he was sitting on his mother's couch and that whole gallon can of white unleaded fuel was completely soaked across that whole couch. If you don't think there is a problem out there, somebody should have lit a match. There is a problem out there. This is a vehicle to solve the problem and please don't let this bill not be enacted because we are having a debate over a national smoking issue. I don't think you will find anybody in enforcement or DA in the state that is going to bring a charge like this and try to tie it to cigarettes. Thank you.

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

Representative CARLETON: Madam Speaker, Men and Women of the House. I think it is important that we clear up a question that is still outstanding on this floor once and for all. The record of the House can be used to determine legislative intent. I have heard one or two people seem to indicate that this bill has an a wider scope than perhaps the bills sponsors have intended. I would like to hear somebody from the relevant committee stand up and definitely address what the intent of this bill is, the scope of this bill, just so the record is clear.

The SPEAKER: The Representative from Wells, Representative Carleton has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Waterboro, Representative McAlevey.

Representative MCALEVEY: Madam Speaker, Men and Women of the House. I hope I can answer this question. It is my recollection from the testimony that we heard at the

committee as well as the committee discussion that we were concerned with vapors that were ingested by inhaling into the lungs. That, in effect, created an altered state, a state of intoxication or a state of excitement as far as physically affecting your mental capacity as well as your physical capacity. We also heard a lot of testimony dealing with the dangers of this, in terms of having major affects on your liver, spleen or other items. That is my recollection of the committee. There was no discussion of cigarettes. One might think that might be a smoke screen, but I can't comment on that.

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

Representative THOMPSON: Madam Speaker, Men and Women of the House. I would like to address my comments to this amendment and whether it should be adopted or not or whether it should be indefinitely Postponed or not is the question. We are talking about an offense where kids, young people primarily are going out and sniffing and getting high and causing brain damage. We are trying to set up a situation where we are telling them that it is wrong. We won't tolerate it. It is a tough crime to prove so they did not make it a crime. They made it a civil offense. I had a slight objection to the bill, which the good committee handled by making sure that the mandatory fine levels were able to be worked off with community service.

The issue here is what message are we going to send to the kids. Are we going to say that if you are a senior in high school and you are 17, you can't do it. If you are a senior in high school and you are 18, you can do it. Is that the message this Legislature wants to send? Whether you vote for or against this bill based on other issues, the issue right now is whether you want to send that split message. I don't think that is an appropriate message to send. If it is a wrong thing to do, it is a wrong thing to do. I would ask you to vote to Indefinitely Postpone this amendment.

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 Penobscot, Representative Perkins.

Representative PERKINS: Madam Speaker, Men and Women of the House. Just quickly to respond, we do it in several other areas. We have different laws for people under 18. We have it for smoking, tobacco smoking, already. This isn't unprecedented. What kind of message is that? We say that you can't have cigarettes when you are under 18. We do it with alcohol, so talk about a message. I think the message is clear. We treat juveniles differently. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is to Indefinitely Postpone House Amendment "B" (H-571) to Committee Amendment "A" (H-382). All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 240**

YEA - Bagley, Baker CL, Baker JL, Barth, Berry DP, Berry RL, Bigl, Bolduc, Bouffard, Bragdon, Brennan, Brooks, Bruno, Bull, Bumps, Bunker, Cameron, Campbell, Carleton, Chartrand, Chick, Chizmar, Cianchette, Clark, Clukey, Colwell, Cowger, Davidson, Desmond, Donnelly, Driscoll, Dunlap, Dutremble, Etnier, Farnsworth, Fisher, Frechette, Fuller, Gagne, Gagnon, Gerry, Gieringer, Green, Jabar, Jones KW, Jones SL, Joyce, Kane, Kerr, Kneeland, Kontos, LaVerdiere, Lemaire, Lemke, Lemont, Lindahl, Lovett, Mack, Madore, Mailhot, Marvin, Mayo, McAlevey, McElroy, McKee, Meres, Morgan, Murphy, Muse, Nickerson, O'Brien, O'Neal, O'Neil, Ott, Paul, Peavey, Pendleton, Perry, Pieh, Pinkham RG, Plowman, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Spear, Stanley, Stedman, Taylor, Tessier, Thompson, Tobin, Townsend,

Tripp, True, Tuttle, Underwood, Usher, Vigue, Volenik, Watson, Wheeler EM, Wheeler GJ, Winglass, Winsor, Wright, Madam Speaker.

NAY - Ahearne, Belanger DJ, Belanger IG, Cross, Foster, Goodwin, Gooley, Honey, Jones SA, Joy, Kasprzak, Labrecque, Lane, Layton, MacDougall, Nass, Perkins, Pinkham WD, Savage, Snowe-Mello, Treadwell, Vedral, Waterhouse, Winn.

ABSENT - Bodwell, Buck, Dexter, Fisk, Gamache, Hatch, Joyner, Mitchell JE, Stevens.

Yes, 118; No, 24; Absent, 9; Excused, 0.

118 having voted in the affirmative and 24 voted in the negative, with 9 being absent, House Amendment "B" (H-571) to Committee Amendment "A" (H-382) was indefinitely postponed

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

Representative CAMERON: Madam Speaker, Ladies and Gentlemen of the House. I have some real concerns about this bill. I am not going to stand up here and say we don't have a problem. I know there is a problem and I don't live in a ass house or in a box. I know the problem exists. My concern and I heard Representative Thompson make some reference to it. His concern is about working off the fine. I went back and read the amendment and it seems to me that working it off means you can work in addition to the fine. It doesn't say instead, it says in addition to, but be that as it may, in my mind, the issue is not to criminalize and yes we just had a discussion about whether it is adults or children. I think the discussion came down to the majority of the problem is with our young people. I don't think there is a lot of debate about that. It seems to me that the issue is not criminalizing these children. It seems to me that we should be focusing on education and doing community work. Those kinds of things, especially the education piece, rather than the fine piece. I have a problem with that. I can't for the life of me figure out how anybody is going to prove that anybody did this intentionally, assuming in the unlikely event that you actually can. It is not a criminal issue, I don't think we are talking about. Representative Bunker made the point about that the problem existed and the young man spilled the gas all around him. It is a great point. He is absolutely right. Again, it is not a criminal issue. We want to educate that child as to what he or she is exposing themselves to. I have a problem with it. I don't have an amendment to offer so, therefore, I would encourage you to vote against it until it can be fixed. Thank you.

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

Representative POVICH: Madam Speaker, Men and Women of the House. I would like to respond to the good Representative from Rumford who was my seatmate for two years on the Business Committee. In our bill and the amendment, your concerns are, I think, covered Representative Cameron. In addition to the civil forfeitures required by subsection 6, the judge may order the juvenile to perform specified work for the benefit of the state, the municipality or other public entity or charitable institution or to undergo evaluation, education or treatment with a licensed social worker or a licensed substance abuse councilor. This is a civil infraction, it is not a criminal act. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Waterboro, Representative McAlevey.

Representative MCALEVEY: Madam Speaker, Ladies and Gentlemen of the House. I hope I can alleviate any fears. The discussion we had at the committee level was that by the time a child starts to huff, no amount of education is going to prevent that. The way it is supposed to go and maybe it is a good idea that we read it into our record, is that this brings the child into the juvenile justice system, which treats juveniles a lot differently

than adults. Juveniles are adjudicated, they are not convicted. That is a discussion for another day, which would take about an hour to explain and I won't do that today. What will happen is the juvenile comes into the system and somewhere along the line, a probation officer or a judge will order counseling. It is a leverage, a wedge, something to hold over the child's head. You will have to go to counseling and be evaluated to see if you have a substance abuse problem. Hopefully, that is the way it is supposed to work to get these kids off this habit or practice of huffing. I think by the time anybody recognizes that he or she is doing this, they are beyond any education, unless they get into a qualified substance abuse program, which is geared just toward this type of abuse. I hope that will alleviate any concerns that most people will have. Thank you.

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

Representative JOY: Madam Speaker, Men and Women of the House. This is a very serious problem and it is not just in Maine, it is all through the country. I have some very close friends who lost two sons in one night as a result of inhaling starting fluid. I think that the family probably will never get over that. However, I think that there is a problem, if the summary on the amendment is written correctly. I think there is a problem with this bill. I think, Madam Speaker, if this bill had an emergency and the Chief Executive could sign it before tomorrow morning, you would probably be facing a house that would only have those people who were within walking distance or perhaps bicycle distance from here.

In the summary in Amendment "A," it indicates that possession of inhalants is covered under this bill and its amendment. As we have already indicated, that includes gasoline, antifreeze, WD 40, which we use to lubricate many things, hair spray, which I have no use for anymore, glue and the starting fluid that I mentioned earlier. The inhalers for asthma sufferers, which to the wrong person can be a great problem. Madam Speaker, I would pose this question to the chair, how are we going to get around that little clause in there, for adults and juveniles, if we are not allowed to have it in our possession any of those items?

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 Cape Elizabeth, Representative Marvin.

Representative MARVIN: Madam Speaker, Ladies and Gentlemen of the House. The Amendment "A" and the summary section 2, it says, "No person may intentionally or knowingly possess a toxic substance with the intent to inhale, inject, apply or smell." Thank you.

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

Representative O'BRIEN: Madam Speaker, Ladies and Gentlemen of the House. I hope that the previous speakers have alleviated any concerns that Representative Cameron and any others may have in regards to that. The question was asked earlier, when we were going door to door, did we hear this was a problem? Did any constituents mention this? In all honesty, I had never even heard of this until this came up in committee, but I was really appalled by the testimony that we heard and when I went home and brought it to my children, I asked if they have ever heard of it? They said, oh, you mean white out, standing behind an air conditioner and smelling the gases. This is a common occurrence. There is nothing wrong with that my son said. We had more discussion, but it is a problem. A very, very serious problem. The issue was raised about education. You are right that education after the fact usually is a moot point. We, in the committee, have stressed and did stress in this

discussion that the DARE Program and other drug education programs adopted this as part of their curriculum because it is becoming an increasingly serious concern. I would ask your support. It was a unanimous committee report. Thank you.

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

Representative MUSE: Madam Speaker, Men and Women of the House. I would just like to continue one line where my friend, Representative Marvin, left off. "For the purpose of causing a condition of intoxication, euphoria, etc." This isn't going to prohibit anybody from driving their car and smelling the exhaust fumes from your car. Ladies and gentlemen, if you don't think that this is a problem from sea to shining sea, from Kittery to Fort Kent, then I would strongly urge each and every one of you to go inside, throw the switch on the perimeter flood lights and light this issue up. Ladies and gentlemen, it is happening here in Maine and it is probably happening with some of your children and you don't even realize it. It is something that is killing children here in the State of Maine. Thank you.

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

Representative PLOWMAN: Madam Speaker, Men and Women of the House. First of all, possessing the toxic fumes or however you want to say it, is not the only way. I just heard the Representative from Augusta say that children stand by an air conditioner, that is not possession. That is placing themselves in an area where they are able or capable of inhaling the fumes. They have not violated this because they haven't possessed it. They have just stood there. I, too, had never heard of huffing and was absolutely amazed at the different ways that kids get high.

Having decided that I can't address each and every one with my child, I sat them down to watch television ads that shows the mother spoon feeding her 10 or 11 year old son and when it got through, we talked about how that little boy ended up that way and it was by huffing. Having watched that, I can guarantee you that my son has absolutely no interest in ending up having me spoon feed him for the rest of his life, especially when I told him it would be baby food. The serious part that got through to him was that you shouldn't be doing it. That is the education. I don't think you can find a more graphic way to show a child what the dangers are then to show what the results are. I am not sure this legislation will do that. I see it as a problem. I see it as a danger and I don't see this piece of legislation as being able to address that. The fine goes to the family and the family is going to be quite upset when they find out their child violated the law that they probably don't even know about and did something that they didn't even know he or she was doing. It may be too late. Finding a dead kid doesn't help anything at all. I think we are putting the emphasis in the wrong place right now.

Believe it or not, until two or three years ago, people didn't think it was dangerous to shake a baby. California spent millions of dollars on education to teach people not to shake babies. I think that this is something that we need to address very forcefully in educating our kids as to the results and not worry too much about how we are going to fine them.

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

Representative CAMERON: Madam Speaker, Ladies and Gentlemen of the House. I must apologize. When I asked the question the first time I was up, I could not hear the response. I know Representative Povich attempted to answer my question, but I don't know what he said.

The SPEAKER: Would the Representative repeat his question please.

Representative CAMERON: My question was about the fine portion. I have a problem with fining the children for doing this. I heard some people say that the fine is optional, but I would call your attention to the amendment. On line 16 on page 2 at the end of that line, to me, it clearly says, which may not be suspended. That seems to me that you have to impose the fine and then you can impose some other type of punishment, if you will, be it public service. It seems to me that we should be focusing on the public service and the education piece, not the fine piece. I don't see the money as being what we are trying to accomplish here. I think it is very important that we address that issue. The other part of my question comes on line 32, when it does talk about evaluation and it narrows it to a social worker or a licensed substance abuse counselor, which I have a concern, from sitting on the committee that I sit, that it is too narrow a focus on who can address that counseling piece, particularly in the rural parts of Maine where there are very few of these people and we have eliminated a medical doctor as a person who can address this counseling issue. Those are my questions. 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 Ellsworth, Representative Povich.

Representative POVICH: Madam Speaker, Men and Women of the House. To answer the question, my answer would be, yes, you are sentenced to a fine, but the judge has an alternative or in addition to the civil forfeiture required or may assign the violator to perform specified work for the benefit of the state, municipality or other public entity or charitable institution or may order the violator to undergo evaluation, education or treatment. I understand a licensed social worker or licensed substance abuse counselor may not, in the Representative's opinion, represent the best referral, but we have faith in our licensed substance abuse counselors and that is why it was put in the amendment. Thank you.

Representative POVICH of Ellsworth requested a roll call on the motion to adopt Committee Amendment "A" (H-382) as amended by House Amendment "A" (H-546).

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 the motion to adopt Committee Amendment "A" (H-382) as amended by House Amendment "A" (H-546).. All those in favor will vote yes, those opposed will vote no.

#### ROLL CALL NO. 241

YEA - Ahearne, Bagley, Baker CL, Baker JL, Barth, Belanger DJ, Belanger IG, Berry DP, Berry RL, Bigl, Bolduc, Bouffard, Bragdon, Brooks, Bull, Bumps, Bunker, Campbell, Carleton, Chartrand, Chick, Chizmar, Cianchette, Clark, Clukey, Colwell, Cowger, Davidson, Desmond, Donnelly, Driscoll, Dunlap, Dutremble, Etnier, Fisher, Frechette, Fuller, Gagne, Gerry, Gieringer, Gooley, Green, Hatch, Honey, Jabar, Jones KW, Jones SL, Kane, Kasprzak, Kerr, Kneeland, Kontos, Lane, LaVerdiere, Lemaire, Lemke, Lemont, Lindahl, Lovett, Mack, Madore, Mailhot, Marvin, Mayo, McAlevey, McElroy, McKee, Mitchell JE, Morgan, Murphy, Muse, Nass, Nickerson, O'Brien, O'Neal, O'Neil, Ott, Paul, Peavey, Pendleton, Perry, Pinkham RG, Plowman, Poulin, Povich, Powers, Quint, Richard, Rowe, Samson, Sanborn, Savage, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Snowe-Mello, Spear, Stanley, Stevens, Taylor, Tessier, Tobin, Townsend, Tripp, True, Tuttle, Usher, Vedral, Vigue, Volenik, Waterhouse, Watson, Wheeler EM, Wheeler GJ, Winglass, Winn, Winsor, Wright, Madam Speaker.

NAY - Bruno, Cameron, Cross, Farnsworth, Foster, Goodwin, Jones SA, Joy, Joyce, Labrecque, Layton, MacDougall, Meres, Perkins, Pieh, Pinkham WD, Rines, Saxl JW, Stedman, Treadwell, Underwood.

ABSENT - Bodwell, Brennan, Buck, Dexter, Fisk, Gagnon, Gamache, Joyner, Thompson.

Yes, 121; No, 21; Absent, 9; Excused, 0.

121 having voted in the affirmative and 21 voted in the negative, with 9 being absent, Committee Amendment "A" (H-382) as amended by House Amendment "A" (H-546) thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-382) as amended by House Amendment "A" (H-546) thereto in non-concurrence and sent up for concurrence.

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

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

An Act to Provide Reimbursement to Spouses Serving as Personal Care Attendants (EMERGENCY) (H.P. 626) (L.D. 851) (C. "A" H-455) which was tabled by Representative CLUKEY of Houlton pending passage to be enacted.

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. 111 voted in favor of the same and 15 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate. Ordered sent forthwith.

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

#### SENATE PAPERS

##### Divided Report

Majority Report of the Committee on **Taxation** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-260) on Bill "An Act to Exempt Nonprofit Ambulance and Fire Emergency Services from the State's Sales Tax" (EMERGENCY) (S.P. 189) (L.D. 607)

Signed:

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

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

Signed:



Senators: RUHLIN of Penobscot  
DAGGETT of Kennebec  
MILLS of Somerset

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-260).

Was read.

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

The Bill was read once. Committee Amendment "A" (S-260) 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-260) in concurrence.

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#### Divided Report

Majority Report of the Committee on **State and Local Government** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-263) on Bill "An Act to Amend the Law Governing Municipal Zoning with Respect to Community Living Arrangements" (S.P. 292) (L.D. 943)

Signed:

Senators: NUTTING of Androscoggin  
GOLDTHWAIT of Hancock  
LIBBY of York

Representatives: AHEARNE of Madawaska  
BUMPS of China  
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:

Representatives: KASPRZAK of Newport  
FISK of Falmouth

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-263).

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" (S-263) 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-263) in concurrence.

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#### Divided Report

Majority Report of the Committee on **Agriculture, Conservation and Forestry** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-245) on Bill "An Act to Remove the Large Lot Exemption from the Definition of 'Subdivision' within the Laws Administered by the Maine Land Use Regulation Commission" (S.P. 356) (L.D. 1175)

Signed:

Senators: KILKELLY of Lincoln  
PARADIS of Aroostook

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

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

Signed:

Senator: CASSIDY of Washington  
Representatives: LANE of Enfield  
DEXTER of Kingfield

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-245).

Was read.

Representative BUNKER of Kossuth Township moved that the House accept the Majority "**Ought to Pass**" as amended Report.

On further motion of the same Representative, tabled pending his motion to accept the Majority "**Ought to Pass**" as amended Report and specially assigned for Wednesday, May 21, 1997.

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

#### SENATE PAPERS

##### Divided Report

Majority Report of the Committee on **Criminal Justice** reporting "**Ought Not to Pass**" on Bill "An Act to Reinstate the Death Penalty" (S.P. 492) (L.D. 1524)

Signed:

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

Representatives: POVICH of Ellsworth  
BUNKER of Kossuth Township  
FRECHETTE of Biddeford  
JONES of Greenville  
MUSE of South Portland  
McALEVEY of Waterboro  
PEAVEY of Woolwich  
O'BRIEN of Augusta

Minority Report of the same Committee reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-252) on same Bill.

Signed:

Representatives: WHEELER of Bridgewater  
TOBIN of Dexter

Came from the Senate with the Bill and accompanying papers indefinitely postponed.

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

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

Representative PLOWMAN: Madam Speaker, Men and Women of the House. Before you have the many arguments against the death penalty, frankly, I think this should be an option for the judges of the State of Maine. There are just some things

that are so heinous that punishment fits the crime and this would be the punishment that fits some of those crimes. Do I think it is a deterrent? No. Do I think it is cost savings? No. Do I think it is a punishment? Yes. Do I think we should have it as a sentencing option? Yes. Have you ever heard, in for a penny, in for a pound? That is some of the ideology or line of thinking that you are going to find in some of our prisons. I dare say that in for a penny, in for a pound was the thinking behind the people who beat to death the child molester at Thomaston a few years ago. If you are in for one murder and they can't do anything else to you, you might as well not worry about having to stop. Life without parole. That is great. Can you guarantee me life without escape? How dangerous are people who escape who are convicted murders? I, for one, don't like to play Russian Roulette. How many children do you want to give a bad guy a shot at? We are talking bad guys. We are not talking people who had a bad childhood and grew up not able to do anything else, but murder, rape and molest children. We are talking about really, really bad people. When a judge looks at them and sees absolutely no redeeming value, their crimes were raised to such a heinous level that they are qualified. I want that option to be there. What does that make me? I think it makes me a mom that is worried to death about what is on the streets of the State of Maine. I think it makes me a vengeful person who says, it is a punishment. I don't care if it deters. I dare say recidivism is very low once you have put someone to death. They are not likely to be a repeat offender. Madam Speaker, I ask for the yeas and nays.

Representative PLOWMAN of Hampden 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 Ellsworth, Representative Povich.

Representative POVICH: Madam Speaker, Men and Women of the House. The Criminal Justice Committee received long and arduous testimony concerning restoration of the death penalty. I have a folder that is two inches thick on my desk. The prime sponsor in the other body determined to withdraw his support and asked us, ultimately made a motion to Indefinitely Postpone this bill. The prime sponsor had come to the realization that this current LD that we are looking at and that is what we are talking about, was arbitrary, unconstitutional and seriously flawed. This LD, again, considered the current LD arbitrary, unconstitutional and seriously flawed. This LD doesn't do the job. If we determine we want this, this is not the vehicle.

Maine is a great state. It is a compassionate state. Maine is a stern state. We have a serious penalty for heinous homicides. That is a natural life. In Maine, we gave up parole 20 years ago. When a sentence of natural life is imposed, we mean it. That murderer will never get out. Escape, I suppose that is always a possibility, but we are treating our prisoners inside the facility. The only way that they will escape is if they are being sent to AMHI for treatment. We are determined not to do that in our mental health stabilization unit. This murderer will never get out and will remain in a 42 foot square foot cell his entire natural life. I urge you to please support the pending motion. Thank you very much.

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

Representative O'BRIEN: Madam Speaker, Colleagues of the House. As the previous speaker said, the Criminal Justice Committee heard some extremely compelling and emotional testimony. I would like to talk to you a little bit about some of that testimony. One was an extremely articulate man who spoke

about, he had befriended John Jubert. He had spoke about the death of John Jubert. For those of you who don't remember, John Jubert was a young man from Maine who killed, I believe, three young boys and was ultimately sentenced to death in Nebraska. This man who spoke to us, as I said, was extremely emotional. He was extremely articulate. He went on for three pages worth of testimony telling us what a wonderful really inner person John Jubert was. He talked about the band directors that John Jubert had, his teachers. What a really nice boy he was. The guys at the prison were very surprised to find out that he really wasn't the monster that they thought he would be. This person who gave the testimony, talked about finally, ultimately seeing John Jubert die in the electric chair. He gave graphic testimony what he looked like. He talked about the words that John Jubert uttered. I love you to all his friends and relatives that were there watching the execution. He talked about the hardest call he had to make was calling John Jubert's grandmother and telling her that yes, John had died.

I was shaking. I was so upset about this testimony. It was extremely emotional, as I said. All I could think of and I said to this man, with all due respect, what about those victims? What about those little boys? They didn't get a chance to say I love you to their mother. Their mother doesn't even know what their last words were. I was just so upset with this. As you can see, I am on the Majority "Ought Not to Pass" Report. Let me tell you why. There are several reasons that other people may stand up and say that they are against it. I am not convinced that many innocent people are put to death wrongly. I am not convinced of that. I am not convinced that there is a cost savings. I am not convinced that there is disparity with the minorities and poor. I am not convinced of that.

There are some basic issues why I am opposed to it. We heard some other compelling testimony from another young woman whose aunt was recently murdered. She was the victim of a man who killed two women. He has yet to be sentenced. She gave very, very emotional testimony. I asked her at the end of this if you could honestly tell us that if this man were put to death that it would ease your heartache. She said, if I searched my soul, I would say no. I think I would feel safer, but would I feel better? No.

I want to close by telling you one story that is very close to me. A friend of mine and some of you in this chamber I have told this story to. A friend of mine, within the last few years suffered the worst tragedy that I can ever imagine. Her son, she had four children, her nine year old son was killed by her ex-husband, the boy's father. You may have heard about this situation. He had kicked the child in the stomach. It took two days for the child to die. During that two days of intense suffering, he also hit him with a baseball bat. As tragic as that is, it is even more tragic to know that the father set up the brother, the 11 year old, to find the dead body and ultimately blame the 11 year old for the death. This man, who is now serving time in Thomaston, was convicted and put away for a very long time, but he left three children. I ask you, would those three children, would that help them if their father, besides their brother were killed? I don't think so. The 11 year old is suffering greatly. He feels intense guilt because he testified against his father on behalf of his dead brother. The guilt he feels is immense. If he also knew that his father was also put to death because of him, I can't imagine a deeper tragedy.

Representative McAlevy is not in the chamber now, but he said something very compelling in our discussions and I would like to repeat that because he is not here. He said that he cannot condone this because he could not do it himself. I ask you to search your soul. We need to be tough on crime. These people, for atrocious crimes, should be put away, as they are,



with no possibility for parole. I ask you, could you pull that lever or inject that needle? If you couldn't do it, how in good conscience could you ask the Department of Corrections to do it? Thank you.

The SPEAKER: The Chair recognizes the Representative from Woolwich, Representative Peavey.

Representative PEAVEY: Madam Speaker, Men and Women of the House. I rise to urge you to consider all the aspects of the death penalty and then I urge you to consider supporting the Majority "Ought Not to Pass." When any of us hear the details of horrendous, cruel and outrageous crimes, our first instinctive reaction is a gut feeling, an emotion that is just down deep and instinctive. Right then you can consider that perhaps the death penalty is a possible solution. Our committee listened to hours of testimony against and for the death penalty. Questions were asked and answered. Is the death penalty a deterrent? The answer is no. In the average murder rate in states that have abolished the death penalty, it is actually lower than states that have the death penalty. Are innocent people ever convicted and sentenced to death? The answer is yes. In 20 years, 58 people have been released from death row and set free. Several had been sitting there for 14 years. They were found to be innocent with substantial and strong evidence. I am not talking about small technical trial related evidence. This is real evidence that found them to be innocent. Since the turn of the century, 23 people have been put to death and later proven innocent.

If, as a Legislature, we direct the Department of Corrections to pull that switch and we direct that one innocent person is killed, has justice been served? Another question that was asked was, do we save money with the death penalty or does it cost more? The answer is, the death penalty costs far more than imprisoning someone for life. Remember in Maine, life means life. There is no parole. The average time spent on the appeals process during the time of the appeals process too, a prisoner has to be in a separate facility called death row, which we don't have one of. The average time spent in death row is 12 years. Several studies have been done around the country. In North Carolina, a study of actual death penalty cases found that the average cost per case is \$2.3 million. In New Jersey, the public advocate estimated that it will cost \$7.3 million to sentence someone to death. In Kentucky, a study of two specific capital cases found that they would cost \$2.5 million and \$7 million each, as opposed to the \$700,000 or \$800,000 that it would cost to imprison those people for life.

Maine has an excellent appeals system and many very competent and thorough defense attorneys and prosecuting attorneys. The testimony that we heard that I found very compelling was by a lawyer who had tried some death penalty cases in Pennsylvania. He described the massive amounts of resources and manpower that it took to actually put together a case and take it to court. It took weeks and weeks set aside to just pick the jury. Months and months with several lawyers working to prepare the case. Please remember that most of these cases are done pro-bono, which means for free. That sets all the costs of those cases and all through the appeals, 12 years worth, on the taxpayer. In the end when you look at all those factors, we are left with that gut feeling. That is just terrible and we feel awful about it. It is not a deterrent. Innocent people can be put to death and we would be responsible. The cost is enormous. One more question, which Representative O'Brien mentioned and I thought was very, very telling. When she asked that young woman whose aunt had been raped and murdered and she had been very, very close to her aunt and was sobbing and very emotional through her testimony, we said, will you feel

better? Through her sobs, she said no. There you have it. I urge you to vote "Ought Not to Pass" on this bill.

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

Representative PLOWMAN: Madam Speaker, Men and Women of the House. I apologize for rising again, but I feel compelled. This morning the *Lewiston Sun Journal* carried a story about a 21 month old child who was killed in her mother's bed by her mother's boyfriend. If you could stomach the details of that, you could probably continue on through the article. As the mother of an 18 month old daughter, I couldn't. Could I push that button for my daughter? Yes, I could. Would it make me feel better? Would it ease my heartache at losing my daughter? Absolutely not. It is punishment. It is vengeance. It is expensive. It is an option. Attorney General Reno decided just last week to ask for the death penalty in a major case. It was available to her.

When I first moved to the Bangor area, a young man chased another young man to Arcadia National Park and shot him in cold blood. Because that happened on federal property, the death penalty was available and considered. When I worked for the US Attorney's Office we prosecuted a woman who beat her child to death at the Air Force Base in Limestone. The death penalty was available because it happened on federal property. Men and women of Maine should know that the death penalty is available if the crime is committed on the right piece of soil. That is the only difference. The only difference in the State of Maine, you can ask for the death penalty for your loved ones or a particularly heinous crime if it happens on federal soil. I saw a woman abusing her child in the federal building. We were able to get help for that child a whole lot quicker because it happened on federal property.

The federal government recognizes that some of the crimes rise to the level they have provided for. They provided for it in places in Maine. Should your loved one be killed on state property, public property or private property, you don't have the same access. When I first came here, I was not for the death penalty. I have seen a lot since I have come here. I had my eight year old dog put down. He was going to die and he was in horrible pain. When I made the decision and they had put my dog down and he drew his last breath, I wanted to take it back because I didn't feel that I could make this decision. I was using that as a rational for not being able to make a decision at this level. Then, I thought it through. My dog was loyal. He never hurt me. He never hurt anybody. He didn't deserve to be in pain. He didn't deserve for me to punish him as long as his life would be a sense of pain. Once I separated that part out, I had no problem deciding that there are people who should not walk the face of the earth any longer than they do. Yes, that makes me hard.

Gerry Conley used to say that I was one of the hardest people he had ever met. I am sorry if I think that people, like that man who killed that young girl in her mother's bed after violating her brutally and tying her up with a boy scout belt. I can't see why, I or you, would think that the guy deserves to live any longer than the judge or the jury can take into consideration. Mind you, if he had killed that baby in his mother's bed at the Air Force base, this would be a whole different story. I ask you, please, to go on. I would be willing between the bodies to work toward some sort of compromise on some of the language that has been talked about earlier. It is not a mandate. It is an option. It is not for every case. It is for some cases. Maine doesn't have that many murders. It is not going to happen that often that this will be and I daresay that the Maine Bar is not the kind of bar that does really sloppy defense work, having worked for many, many attorneys in the State of Maine. There are very few cases

overturned on incompetent council. Maine is a different state. Unfortunately we can't close our borders to some of the people who come here to prey on our children, our elderly and our men and women.

I lived in Portland when John Jubert's victim was found. I was horrified. I drove by there that morning. I didn't see the body, but that is how I went to work. I was just appalled that this could happen in Portland, Maine in the early 80s. He did the same thing in another state and in that state, they could put them to death for the same thing he did in the State of Maine that we can't. Asking for the death penalty, you are not asking for anything special or different. You are asking for it to apply to every inch of soil in the State of Maine instead of just federal property. Thank you.

The SPEAKER: The Chair recognizes the Representative from Saco, Representative O'Neil.

Representative O'NEIL: Madam Speaker, Men and Women of the House. Earlier this legislative session, many of us, myself included, had to think long and hard about some difficult decisions having to do with the sanctity of life. I am sure as I look around the room today most of us who came down on one side of that argument will come down on the same side today. By sanctimony of life, you apply an inherent goodness and holiness to life. As such, I have a difficult time really finding any person, no matter how heinous their actions, as a bad person. That being said, I am going to follow my beliefs and vote against taking anybody's life. Thank you.

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

Representative BOUFFARD: Madam Speaker, Men and Women of the House. One life taken away by being put to death and finding out that person is innocent is one life too many. Having graduated from the same Catholic high school as Representative Plowman has, I do know that two wrongs don't make a right. Defeat this. Thank you.

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

Representative MUSE: Madam Speaker, Men and Women of the House. I would like to address some of the comments that Representative Plowman made, if I may. The comment was made that this would be vengeful. Yes it would. Laws are not made and laws are not passed for revenge. This is the purpose behind laws. Revenge disappeared a long time ago in the philosophy of our legal system. I respect Representative Plowman's feelings when she said, could I throw the switch if it were my daughter that was killed? So could I. I have worked in a jail for over 20 years. I have sat with, I have eaten with, I have played basketball with some of the most heinous criminals that the State of Maine has had to offer in the legal system. Could I throw the switch on some of them? Maybe, but that is me. It is not the State of Maine. There is a big difference, a very big difference.

I had people come and talk to us and testify at this hearing, defense attorneys as well as prosecuting attorneys who said, Maine, simply put, is not ready for this for a number of reasons, cost reasons, the fact that we don't have a death row. We would need to build a death row. We need to build a separate facility for these individuals. We would need to hire a staff to work there. The cost for that alone, we don't even want to look at. The cost for training attorneys, we don't want to deal with. If you can't for those reasons alone, vote "Ought Not to Pass" on this piece of legislation. The simple fact that the major sponsor of this bill, a judge, has agreed that this piece of legislation is unconstitutional, that ought to be enough. If you want to proceed with a death penalty bill, go to the drawing board during the off season, draw up a piece of legislation. There are some people

in this body who are supportive of a death penalty bill. Collectively get together and draw up a piece of legislation that is at least legal and constitutional. I will be there to fight it. I would like to think that the majority of people, members of this body, will be there with me to fight it. We can have enough of a compelling argument to kill it later. Right now for the simple reason that it is simply put, an unconstitutional piece of legislation ought to be enough. I would strongly urge everyone to recognize that and vote "Ought Not to Pass."

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 Not to Pass" Report. In doing so, I would call your attention to something this body did, I believe, in a unanimous vote. This body voted on a recent bill to award money to someone who everyone in this chamber felt was improperly prosecuted and persecuted by the State of Maine. Can the State of Maine make mistakes? We voted they did. Can you then say we are going to take the same office and have them prosecute death penalty cases and feel comfortable and be able to go to sleep at night saying that I know they won't make mistakes? Do you have that much faith in government? Isn't it ironic, do you have that much faith in the state government that they won't make mistakes?

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

Representative WATERHOUSE: Madam Speaker, Ladies and Gentlemen of the House. The justice system is not supposed to be set up for vengeance, I agree with that. It starts out as the penile system to punish. When I testified on this bill in the committee, I knew all the arguments against it. I knew all the arguments for it. It basically came down, and I justified that it is not an issue of deterrence and not an issue of cost and not an issue of discriminatory practices or all the rest of it. It is going to come down to the members, I think. I thought at the time of one philosophy and that is, do you believe that people who commit these heinous crimes deserve the ultimate punishment? Not vengeance, the ultimate punishment that 39 other states have on the books or do you think life in jail is sufficient for the crime, these heinous crimes that they do? Certainly you and I would think that life in jail was something worth living, but folks, there are people who believe that.

We have a person here who has worked in corrections for a number of years and I have known corrections guards. I have known people who have served time in prison. It is a whole different community. It is a whole different lifestyle. I heard people testifying about John Jubert being put to death and getting emotional about that. I get very emotional when I think of those little kids, those little kids they found with teeth marks. I can tell you folks that I will listen to all the testimony in the world from that guy's family, but it won't bring one tear to my eyes. I served on the Criminal Justice Committee in the 117th Legislature. I have had occasion to listen to a mother come before us and tell about her little daughter who was run down by a car, knocked off her bike, kidnapped her and then raped her, say he wasn't going to hurt her and then slice her throat and leave her for dead. We all, I think, have heard about that tape. That very same person, by the way, that little girl had the forethought to hold her throat so she wouldn't bleed to death and run for help. That nice fella, I am sure his family and his friends from the past would say, gee, he was a quiet person. He kept to himself. He was found to have killed another woman they found in the gravel pit, through DNA.

My good friend and Criminal Justice Committee colleague from the 117th, mentioned another incident that happened where

a girl was kidnapped, raped and left for dead. She was buried in a shallow grave where a car ran over her. She wasn't dead. She tried to crawl her way out of that shallow grave and the whole side of her face was burnt off from the hot muffler system on the car. I just read in the newspaper just recently where we have a case now where somebody is accused of strapping a 21 month old baby to a bed, raping the baby and suffocating the baby. These are the little darlings that we don't want to put to death. We want to put them in life so they can hang around with the rest of their buddies in jail and have three squares, exercise equipment, get an education or whatever. It certainly isn't vengeance. I don't know if you call that justice. We got DNA and forensics. You wouldn't believe.

When you think about this, think about those people that we are shutting up for life. You and I certainly wouldn't enjoy it, for sure, but would they? The point was made by another speaker earlier, some people are on the other side of another issue in the sanctity of life. How could somebody support that issue and not support this because this is life too? Well, I tell you, an innocent child deserves a lot more protection from me, and I would hope from society, then a mass murderer or somebody who strapped a little baby to a bed so he could rape her and suffocate her. That is called discernment folks. If we can't make that discernment and distinction between an innocent life and these cretins, then we are in trouble as a society. I urge you to vote against the pending motion.

The SPEAKER: The Chair recognizes the Representative from Greenville, Representative Jones.

Representative JONES: Madam Speaker, Ladies and Gentlemen of the House. I am not going to belabor this because this is serious and we have heard enough debate, but death is death. I also want to follow up on Representative Bouffard's comment. I agree with him 100 percent. It doesn't matter what soil you are on, death is death. I walked out of this capitol that night with a woman who had a daughter that had been murdered. They have never found this murderer. We asked her during testimony, whether she felt that if the person was caught and convicted that he or she should be sentenced to death? She said, no. As I walked out with this frail, elderly lady, I asked her again. I said, how can you feel like this? She said, one death does not make another death correct. Thank you.

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

Representative VIGUE: Madam Speaker, Ladies and Gentlemen of the House. I had to stand to say a few words concerning the pending motion and how I feel about this. I will not vote for the death penalty. I will tell you, when I listen to what happened in the recent past concerning late term abortions and I hear all this compassion for people that have committed all these crimes, I wonder where we are going that we have no compassion for late term abortions for innocent babies and now we are defending the rights of criminals. Ladies and gentlemen, I think we probably should get some new thinking and rethink our positions. I will not vote for the death penalty, but I will tell you what, I think we have some problems here.

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

Representative TOBIN: Madam Speaker, Ladies and Gentlemen of the House. I hadn't planned to speak on the issue, but we have had a lot of debate on the floor. I think it is only right that I explain why I voted the way I did. A lot of the reasons why I voted the way I did have already been spoken. There are a couple of reasons that haven't been mentioned that I would like to mention. The first one is that we did hear a lot of testimony. There are 38 states, out of 50 in the United States of America, who have the death penalty. I asked the question, how many of

those states have repealed the death penalty in the 20th Century? Zero, none. If this is such a bad idea in the last 20th Century and 38 other states, not one of those states have repealed the death penalty.

I also had a neighbor who was stabbed 56 times, a killer that wouldn't be eligible for this penalty. In the last four months serving here in the Legislature, visiting all of the correctional facilities that the state has, also had a tremendous influence in my decision. We visited Thomaston. I talked to several murderers. We visited the Super Max and had urine thrown at us out through the bars by the prisoners. The stories of a prison guard being stabbed with a toothbrush and thank God the toothbrush was made of plastic. It hit his sternum and broke. I shook the hands of the other guard who saved that guard's life. I heard stories of the prisoners bragging about the most severe punishment at the Super Max is that they put them in a chair with a straight jacket and handcuff them to a chair. They were bragging. I was there for seven hours and 53 minutes. They were bragging about the most severe punishment that the state has in the State of Maine. There is a tremendous lack of respect for the law within the system and there is a tremendous lack of respect out here in the public with the system. That is why I voted the way I did, even though this law may not be the best law. Thank you very much Madam Speaker.

The SPEAKER: The Chair recognizes the Representative from Waterboro, Representative McAlevey.

Representative MCALEVEY: Madam Speaker, Ladies and Gentlemen of the House. I won't belabor the point. I know a number of people who would qualify for this death penalty. Their crimes were so heinous that they certainly are infamous. They are right where they belong. I would recommend that everybody make an arrangement and take a tour of Thomaston and the Super Max. It is not a pleasant place. Life is life. We have over 400 prisoners in Thomaston doing time. Almost 200 of them are there for the rest of their life. They go through that door and I have been with them when I walked with them through that door. When that door shuts behind them, it is a pretty solid sound. The only way they leave is dead. They have to die or to kill themselves. For the most part, prisoners who kill children or commit heinous, heinous crimes against children spend their life in a cell that is seven feet long and four and a half feet wide. They are segregated or they are in protective custody. Yes, they get up every day, but they are told what to eat, when to eat, what to wear, when they can and can't go to the bathroom. Their whole lives are controlled. We have a number of corrections officers, men and women, who are doing life on the installment plan, eight hours at a time. They are the people who keep us safe. They are the people who keep these monsters right where they belong. In jail.

You can only watch so much Oprah. You can only do so much in your daily life, but you can't walk through that door and go home. Everyday they get up and realize there is their effort. They are where they belong. There is a lot of issues why we shouldn't have a death penalty, whether it is financial or whatever. The issue is this, we are handling our murderers in an appropriate manner. We are being protected from them. I agree that the death penalty would stop recidivism, but in the State of Maine, they go to prison for life. That is where they belong. It is not a very pleasant existence, but I would encourage all of you to take a tour of the Max and of Thomaston. Thomaston is where most of the murderers are and see for yourself. I wouldn't keep my dog in one of those cells for a weekend in a kennel. They are right where they belong. We feed them. We protect them, care, custody and control. Thank you.

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

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

The SPEAKER: The Representative may pose her question.

Representative PLOWMAN: Madam Speaker, Men and Women of the House. To anyone who may answer, if a convicted murderer murders again in prison, what more can the State of Maine do to punish a murderer who murders in prison?

The SPEAKER: The Representative from Hampden, Representative Plowman 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 the good Representative, our job in society in law enforcement and corrections officers is to protect and serve. That is exactly what these men and women do. They protect society from people who don't deserve to be in society any more. That is our task in this state. That is how we remove people from the streets that have caused these heinous crimes. We remove them so that they don't return to the streets again in a life sentence. The question asked by the Representative is what happens inside that community? How many of you really care what happens inside that little community that this person now belongs to for the rest of their lives? You may and you may not by listening to some of your discussions here today. I want you to know that they live inside of maybe Thomaston and that is their whole world within that small community. When they error inside that small community, they pay dearly for it amongst the members of that small community, then they get transferred to Super Max and get put in a box that is four feet wide by seven feet long and they live the rest of their life in a room by themselves. There is plenty that can be done within that community and I think that our job to protect and serve is being well founded in the State of Maine.

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. 242**

YEA - Ahearne, Bagley, Baker CL, Baker JL, Belanger IG, Berry DP, Berry RL, Bigl, Bolduc, Bouffard, Brennan, Brooks, Bruno, Bull, Bumps, Bunker, Cameron, Carleton, Chartrand, Chick, Chizmar, Cianchette, Clukey, Colwell, Cowger, Cross, Davidson, Desmond, Donnelly, Driscoll, Dunlap, Dutremble, Etnier, Farnsworth, Fisher, Frechette, Fuller, Gerry, Gieringer, Goodwin, Gooley, Green, Hatch, Jabar, Jones KW, Jones SL, Kane, Kerr, Kontos, Labrecque, LaVerdiere, Lemaire, Lemke, Lemont, Lindahl, Lovett, Madore, Mailhot, Mayo, McAlevey, McKee, Meres, Mitchell JE, Morgan, Murphy, Muse, Nickerson, O'Brien, O'Neal, O'Neil, Ott, Paul, Peavey, Pendleton, Perkins, Perry, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Savage, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Spear, Stanley, Stedman, Stevens, Taylor, Tessier, Thompson, Townsend, Tripp, True, Usher, Vedral, Vigue, Volenik, Watson, Wheeler GJ, Winn, Wright, Madam Speaker.

NAY - Barth, Belanger DJ, Bragdon, Buck, Campbell, Clark, Foster, Gagne, Honey, Jones SA, Joy, Joyce, Kasprzak, Kneeland, Lane, Layton, MacDougall, Mack, Marvin, McElroy, Nass, Pieh, Pinkham RG, Pinkham WD, Plowman, Snowe-Mello, Tobin, Treadwell, Tuttle, Underwood, Waterhouse, Wheeler EM, Winglass, Winsor.

ABSENT - Bodwell, Dexter, Fisk, Gagnon, Gamache, Joyner. Yes, 111; No, 34; Absent, 6; Excused, 0.

111 having voted in the affirmative and 34 voted in the negative, with 6 being absent, the Majority "Ought Not to Pass" Report was accepted in concurrence.

**Non-Concurrent Matter**

Bill "An Act Concerning Fuel Taxes for Carriers Operating School Buses under Contract" (H.P. 1249) (L.D. 1768) on which the Minority "Ought to Pass" as amended Report of the Committee on Taxation was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-533) in the House on May 19, 1997.

Came from the Senate with the Majority "Ought Not to Pass" Report of the Committee on Taxation read and accepted in non-concurrence.

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

**Non-Concurrent Matter**

Bill "An Act to Promote Wildlife Rehabilitation Centers" (H.P. 551) (L.D. 742) on which the Minority "Ought to Pass" as amended Report of the Committee on Taxation was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-535) in the House on May 19, 1997.

Came from the Senate with the Majority "Ought Not to Pass" Report of the Committee on Taxation read and accepted in non-concurrence.

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

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

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

An Act to Prohibit an Employer from Hiring Replacement Workers During a Strike (H.P. 41) (L.D. 66) which was tabled by Representative KONTOS of Windham pending reconsideration.

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

Representative SAMSON: Madam Speaker, Men and Women of the House. Again, this will be the last time I speak on the strikebreaker legislation this session. As everyone knows the Chief Executive has vetoed this legislation. Although I respect the man very much, I disagree with his decision. You have to realize and I wish I had a poll to show you, but approximately 70 percent of the people in this country believe that when a worker is on strike and the strike ends that the worker that has been on strike should return to his or her job. Strikes are going to happen again in the State of Maine. There hasn't been one for a long time because workers were permanently replaced and that strike lasted a long, long time because of that reason. Instead of bargaining for improvements in wages and benefits, they were bargaining over their very jobs.

I do ask you that before you vote this evening, I want you to ask yourself this question. When a strike is over, either because there was an agreement with management because there was an unconditional return to work, who should have the job? Should it be a worker that has been there for 10, 20, 30 or 40

years or should it be the person they hired a week or month before?. Before I sit down, I want to thank everybody that has voted for this in the past. I thank you from the bottom of my heart.

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

Representative BERRY: Madam Speaker, Men and Women of the House. The labor movement, working men and women, have been struggling for hundreds of years to achieve fairness in the work place. Part of the struggle has moved forward and backward as well through the use of strikes. There have always been winners and losers, but until the 1980s, the use of permanent replacements was not practiced. Now it is prevalent in our society to replace and threaten to replace our organized workforce. The use of permanent replacements is to reduce the number of strikes effectively, eliminating the democratic rights of employees to bargain for wages and working conditions. It has actually eroded decades of bargaining agreements due to intimidation. In desperate times, strikes will still occur. I predict the players will be far more resentful and desperate to bargain with their employers. Passage of this bill will not require the next strikers to challenge the right to permanently replace, but it will allow them to challenge this despicable practice.

The bill does not limit the use of temporary replacements. The balance of labor management relations does not exist and will not exist as long as it is legal and accepted by our society to permanently replace our great working men and women. We respect the wonderful work ethic and productivity of our Maine workforce. I ask that you allow our own workers to bargain in good faith with their employers and without the intimidation of permanent replacements. As the good Representative from Jay said, I am grateful for the previous support of this body. I never want to see again what I saw happen in Rumford in 1986 and Jay in 1987. That was only 10 years ago. I appreciate the Chief Executive of the State of Maine's concern for the message to business. I don't appreciate his disregard of Maine citizens who have been and will be victims of permanent replacement. He did not live in the struggle of 1,200 men and women who were replaced by IP in June of 1987. He did not see the pain in the faces of the workers and their children, brothers and sisters and even the grandparents that became intimately involved in this terrible dispute. I ask that you vote to override the veto. Thank you.

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

Representative LEMKE: Madam Speaker, Men and Women of the House. There are few so solemn occasions as to consider overturning a veto of the Chief Executive of the State of Maine. It is something which is not done often. I do not believe for the stability of our government, it should be done often. I have great respect for the office of Governor and, personally, I have great respect for the Chief Executive, but I am asking you today, having taken that into consideration, to vote to overturn this veto. This is about jobs. It is about Maine jobs. I ask you, considering the strong stand which the Chief Executive has taken, which, frankly and sadly, I believe is against Maine jobs and against Maine workers. I ask you how many times has the Chief Executive come out strongly for those workers? I will go further. How many times has he taken a strong and definitive stand beyond speeches, at which he excels and none of us can compete, for small business? I would ask you to recall the veto of the warranty bill. It was a unanimous vote in committee. It sailed through both houses. It was vetoed by the same author of this veto.

I believe, and I think a lot of you know that I have believed for some time, that we have to transcend partisan politics. That is

what the people of Maine expect of us. We must go beyond Republican, Democrat and Independent. I would really like to see today a truly bipartisan vote. Republican and Democrat, in effect, you might say it is sort of a declaration of independence of the two parties in regard to this veto. I think also it transcends the usual issues of labor versus business. Whether you are a small businessman struggling to pay a payroll, get ahead, meet the bills or you are a worker in the mills and elsewhere, you are a worker. We are talking about a job. I hope we will also transcend the usual division between labor and business because I believe in the final analysis it is a false division. We are all workers together. It is all of our jobs together to be concerned. I have to say that the author of this veto, while he has not shown what I would consider the consideration necessary to small business and labor, he has shown considerable consideration for corporate big business.

He will be coming to us with a bill, which with amendment, I will support, but a bill that is very favorable to corporate big business. You all know which one I am talking about. What about Maine jobs? What about the jobs affected that aren't of corporate CEOs, but the people that work all day and put some bread and butter on the table and hopefully get a little sleep and go on to the next day. What about them? Where do you think, ladies and gentlemen, that these professional strikebreakers come from? Do you think we are really talking about helping Maine jobs and Maine workers by allowing in professional strikebreakers to replace Maine jobs and Maine workers? I do not mean this facetiously at all. I have been very facetious on the floor on many things. Madam Speaker, the south may rise again, but not at the expense of Maine jobs. I urge you to vote together against this.

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

Representative JOY: Madam Speaker, Ladies and Gentlemen of the House. I, too, have a definite concern for Maine jobs and I can appreciate the comments that have been made by the previous speaker, but passage of this bill is not going to guarantee or protect a single one of those Maine jobs. The reason being is that this bill is also pre-empted by federal law and may be unconstitutional. The Attorney General has ruled the same on this one as he did on the preceding one. I think that if this should be passed, a lot of people are going to have some false hopes and it is going to result in an awful lot of costly lawsuits to no avail. I urge you to sustain the veto. Thank you.

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

Representative STANLEY: Madam Speaker, Men and Women of the House. This is not a job issue. This is a quality of life issue. The reason why I say this is, you take Madawaska, Woodland, Bucksport, East Millinocket, Millinocket, Brewer, Lincoln, Westbrook and Bath. You take all these one horse towns with just one industry in them. When you start laying off people, you start bringing other people in, you are affecting the quality of life for people in this state. This is a quality of life issue, not a jobs issue. Something we have to protect is our quality of life that we maintain here. By bringing in replacement workers, ask Representative Berry, he can tell you how the whole atmosphere in a community changes because of bringing other people in. To me, this is a quality of life issue, not a jobs issue.

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

Representative VIGUE: Madam Speaker, Ladies and Gentlemen of the House. I must add the Winslow portion that was not mentioned by the previous speaker, my friend,

Representative Stanley. The reason I mentioned Winslow is because we have a mill in Winslow right now that is probably not going to require any replacement workers or strikers in the near future. I am very concerned. I have spoken with the Chief Executive and asked for his help and we are looking at a possible closing of the mill within a two year period. Ladies and gentlemen, I ask you, is this sending a message that we want these businesses in the state? Am I sending a message to these people that I want them to stay in Winslow? This is 500 jobs. They are the best jobs that we have in Winslow. Am I going to send them that kind of a message, saying that we really want them here, but they are probably not going to be there in two years? I am asking you maybe we ought to probably reconsider this. I will be voting to sustain the Governor's veto.

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

Representative DUNLAP: Madam Speaker, Men and Women of the House. When we discussed the messages being sent forth from this chamber and from this capital to businesses or people in the communities, there is always a double edged sword when you send out a message. The argument in favor of sustaining the veto and it was issued in the communication received from the executive, was that it would send a bad message to the businesses of this state and businesses that would come into this state. I ask you this, what message do you want to send home to your working families that you are surrounded by? That the message is going to be to a business that you don't have to negotiate with the workforce in the State of Maine? You don't have to negotiate with them, just let them go on strike and bring in some people to replace them, don't worry about it. You will break their necks.

I don't think that is really a very wholesome message to send to the working people of this state. Without working people, there is no business, because they have no money to buy anything with. There is nothing to sell. You could extrapolate to the point where the entire state could shut down, I suppose, which would be a ridiculous hypothesis, but I think it is a very real one in a sense and certainly to a very real extent. I hope you will vote to sustain the veto. I have a mill in my town. We have not had the sort of divisive strikes in Old Town that have so plagued other communities in the State of Maine. Businesses have gone out of the area in the last 30 years. That is not just true of Old Town, that is true of the entire State of Maine. I don't think it is because workers strove for what was right for them.

There have been many strikes in Old Town and they are famous strikes. The workers were only asking for what was fair and they got it. Those strikes did not lead to those mills shutting down. Changes in markets caused those mills to shut down. That is not something that you can control by slamming the door on the working people of the State of Maine. I hope you override this veto because that is how I am going to vote. Please join me. Thank you.

The SPEAKER: The Chair recognizes the Representative from Norridgewock, Representative Meres.

Representative MERES: Madam Speaker, Ladies and Gentlemen of the House. When it comes to this issue, I guess I have walked the walk. My husband does work at that mill in Winslow. I can talk with a little bit of experience and a lot of listening. I will tell you that the best possible environment for good business is a good working relationship between management and labor. You can't run a mill or a business without the cooperation and the trust that comes from the working people and the belief that everybody is working for the best good of those people. I honestly feel and I have also lived in an area where we have had families broken because of issues, not necessarily labor, but the town I live in has had that

problem. You cannot heal a wound in a community unless there is that collaborative effort and that trust level. I would not want to be an employee or a manager in an environment where there was no trust and no respect for individual rights and individual people. This bill only allows the people who work in that mill who have differences the opportunity to come back and work them out. I would never, never support any bill that did not reinforce that level of trust and respect. I ask you to please override the Governor's veto. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is Shall this Bill become a law notwithstanding the objections of the Governor? All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 243V**

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

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

ABSENT - Bodwell, Dexter, Fisk, Gagnon, Gamache, Joyner.  
Yes, 89; No, 56; Absent, 6; Excused, 0.

89 voted in favor of same and 56 against, with 6 being absent, and accordingly the veto was sustained.

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

**REPORTS OF COMMITTEES**

**Divided Report**

Majority Report of the Committee on **Legal and Veterans Affairs** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-563) on Bill "An Act Regarding the Economic Security and Safety of Harness Horsepersons" (H.P. 1239) (L.D. 1756)

Signed:

Senators: FERGUSON of Oxford

CAREY of Kennebec

Representatives: CHIZMAR of Lisbon

FISHER of Brewer

GAGNE of Buckfield

TRUE of Fryeburg

LABRECQUE of Gorham

BIGL of Bucksport

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

Signed:

Senator: DAGGETT of Kennebec

Representatives: TUTTLE of Sanford



GAMACHE of Lewiston  
TESSIER of Fairfield  
BELANGER of Wallagrass

Was read.

On motion of Representative TUTTLE of Sanford, tabled pending acceptance of either report and specially assigned for Wednesday, May 21, 1997.

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### SENATE PAPERS

The following Joint Order. (S.P. 661)

**ORDERED**, the House concurring, that the Joint Standing Committee on Health and Human Services report out legislation regarding welfare reform to the Senate.

Came from the Senate, read and passed.

Was read and passed in concurrence.

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### REPORTS OF COMMITTEES

#### Divided Report

Majority Report of the Committee on **Agriculture, Conservation and Forestry** reporting "**Ought Not to Pass**" on Bill "An Act to Regulate Camp Lot Leases" (H.P. 1046) (L.D. 1463)

Signed:

Senators: KILKELLY of Lincoln  
PARADIS of Aroostook  
CASSIDY of Washington

Representatives: BUNKER of Kossuth Township  
LANE of Enfield  
SAMSON of Jay  
SHIAH of Bowdoinham  
GOOLEY of Farmington  
BAKER of Dixfield  
McKEE of Wayne  
CROSS of Dover-Foxcroft  
DEXTER of Kingfield

Minority Report of the same Committee reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-572) on same Bill.

Signed:

Representative: VOLENIK of Brooklin

Was read.

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

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

Representative VOLENIK: Madam Speaker, Men and Women of the House. I hate to contest a 12 to 1 report, but I will anyway, in this case. For 100 years now paper companies have leased camp lots with very few problems. In the last 10 or 15 years, there have been some disturbing trends, however. Services provided by camp owners have declined and lease rates have skyrocketed. One camp owner testified on this bill that his lease went from \$65 to \$1,100 in just 12 years. That works out to a 24 percent increase annually. At the same time that paper companies total tax burden to the state has remained relatively stable. Paper company profits should not be on the backs of small camp owners, nor should those small camp owners have to bear the cost of multi-national mergers.

When word of this bill reached Bowater, that company fired off a letter to its 1,600 camp leasees. I quote that letter. "Dear leasee, Attached is your new five year lease agreement. There are two changes in the lease agreement that I would like to call to your attention. First, in section 2 under term, a notice has

been included that conditions the lease agreement to terminate in the event that legislation is passed that would significantly affect the rights of the leasor and the terms and conditions of the lease. Also, the automatic renewal clause has been deleted. This action has been taken to protect Great Northern Paper's leased assets on the advise of legal council and in response to LD 1463, An Act to Regulate Camp Lot Leases. LD 1463 is currently before the Maine Legislature."

This threatens that if leasees do not get their legislators to back down, then their leases will terminate. This bill, as amended, would address several problems. First, it clarifies that a camp lot lease may not include a provision that terminates the lease upon enactment of legislation relating to leases. Second, it guarantees that the leasee may extend the lease term for an additional five years unless the leasee is in default. Third, the lease fee may not be increased beyond the fair market value of the land. Fourth, if the camp lot is sold, the leasee will have first option to purchase at fair market value. Finally, when the lease is terminated by leasor, the leasor must compensate the leasee for all buildings and improvements, again, at fair market value.

I urge you to reject the pending motion and accept the Minority Report. Otherwise, we will see lease fee increases so large that leasees will be forced from their camps, many of which are their year round homes and we will see leases terminated for no reason and no recourse for the leasee. The Majority Report does nothing.

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

Representative CLARK: Madam Speaker, Men and Women of the House. Since this lease has come out by Bowater, a lot of the people in my area have gone to the credit union or the banks in their community to ask for home equity loans on their property. Since this lease has come out, none of the institutions will lend to them because of the threat that they put in this letter.

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

Representative CROSS: Madam Speaker, Ladies and Gentlemen of the House. This is a bad bill. This bill will, in all seriousness, if it is passed, will hurt a lot of people. My good friend, Representative Volenik, referred to and read from a letter from Great Northern. What he failed to mention after that was that the committee had a meeting and we kind of struck back at their letter and emphasized what it said, that they have in turn written another letter to these lease holders and have again changed the language so they will not not be renewing their leases. I firmly believe, and you can tell by the number that voted, that this is a bad bill and we should accept the Majority "Ought Not to Pass" immediately. Thank you.

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

Representative BUNKER: Madam Speaker, Men and Women of the House. Respectfully to the Representative from Brooklin, Representative Volenik, I really think he brought out a Minority Report because he really believes that there are issues out there that need to be resolved. I don't disagree with the Representative at all. This bill, in its current form, will not resolve the issues before us and will not resolve the many problems. The gist of this problem, it did not come from Bowater. It did not come from the Millinocket area. It came from the northern Aroostook County area for Representative Sirois. It happens to be dealing with a totally different issue. The issue that Representative Sirois is trying to address is a company coming in and changing hands and doing things with leases and not giving the person that has a year round residency on a piece of leased land the courtesy and the right to try to buy that piece of property. The company may try to threaten to sell the property



right out from under them. It is a completely different issue than regulating leases. We just couldn't get to that. The Attorney General came to our committee and made it very clear that we did not have the right to pass a law, which this bill has in it, that says you must sell your property to somebody. That is what the bill has in it. That is the fallacy in this bill. I hope that you would vote "Ought Not to Pass." I am sure that at a later date, we are going to have to get some language or try to get some encouragement to some of these large landowners that, for some reason, put themselves in a position of leasing property year round for full time residency. I think they all agree that the testimony in committee was that most companies don't do this. It is not something they are doing now and they are all trying to go to the permitting process and trying to help as many people out of this predicament as possible. This bill will not solve the problem.

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

A vote of the House was taken. 98 voted in favor of the same and 14 against, the Majority "**Ought Not to Pass**" Report was accepted and sent up for concurrence.

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#### Divided Report

Majority Report of the Committee on **Education and Cultural Affairs** reporting "**Ought Not to Pass**" on Resolve, to Determine How to Increase the Number of Students Consuming School Meals (H.P. 1086) (L.D. 1529)

Signed:

Senators: PENDLETON of Cumberland  
SMALL of Sagadahoc

Representatives: RICHARD of Madison  
BRENNAN of Portland  
BARTH of Bethel  
McELROY of Unity  
STEDMAN of Hartland  
BELANGER of Caribou  
WATSON of Farmingdale

Minority Report of the same Committee reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-573) on same Resolve.

Signed:

Senator: CATHCART of Penobscot  
Representatives: DESMOND of Mapleton  
SKOGLUND of St. George  
BAKER of Bangor

Was read.

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

On motion of Representative KONTOS of Windham, tabled pending the motion of Representative RICHARD of Madison to accept the Majority "**Ought Not to Pass**" Report and later today assigned.

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#### SENATE PAPERS

##### Divided Report

Majority Report of the Committee on **Labor** reporting "**Ought Not to Pass**" on Bill "An Act to Permit Whitewater Rafting Guides to Be Paid at a Daily Rather Than an Hourly Rate" (S.P. 362) (L.D. 1221)

Signed:

Senator: CATHCART of Penobscot  
Representatives: HATCH of Skowhegan  
SAMSON of Jay

BOLDUC of Auburn  
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**" on same Bill.

Signed:

Senator: MILLS of Somerset  
Representative: CLARK of Millinocket

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

Was read.

On motion of Representative RINES of Wiscasset the Majority "**Ought Not to Pass**" Report was accepted in concurrence.

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#### Divided Report

Majority Report of the Committee on **Appropriations and Financial Affairs** reporting "**Ought Not to Pass**" on Bill "An Act to Continue the Operation of State Government for the First Two Quarters of the Fiscal Year Ending June 30, 1998" (EMERGENCY) (S.P. 620) (L.D. 1823)

Signed:

Senators: MICHAUD of Penobscot  
CLEVELAND of Androscoggin  
Representatives: KERR of Old Orchard Beach  
LEMAIRE of Lewiston  
POULIN of Oakland  
BERRY of Livermore  
STEVENS of Orono  
TOWNSEND of Portland

Minority Report of the same Committee reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-267) on same Bill.

Signed:

Senator: BENNETT of Oxford  
Representatives: MARVIN of Cape Elizabeth  
WINSOR of Norway  
OTT of York  
KNEELAND of Easton

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

Was read.

On motion of Representative KONTOS of Windham, tabled pending acceptance of either report and specially assigned for Wednesday, May 21, 1997.

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On motion of Representative OTT of York, the House reconsidered its action whereby An Act to Authorize a General Fund Bond Issue in the Amount of \$13,000,000 to Construct Water Pollution Control Facilities, to Close and Clean Up Municipal Solid Waste Landfills, to Clean Up Tire Stockpiles, to Mitigate Storm Water Pollution through a Comprehensive Watershed Protection Program and to Make Drinking Water Improvements (S.P. 88) (L.D. 268) (C. "A" S-213) was passed to be enacted.

On further motion of the same Representative, tabled pending passage to be enacted and specially assigned for Wednesday, May 21, 1997.

LEGISLATIVE RECORD- HOUSE, May 20, 1997

On motion of Representative JABAR of Waterville, the House adjourned at 7:07 p.m., until 9:00 a.m., Wednesday, May 21, 1997 in honor and lasting tribute to Jacquelyn Rennie Wagner and Malcolm J. Fortier.