

# 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  
32nd Legislative Day  
Thursday, May 22, 1997

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

Prayer by Deacon Howard A. Chick, Lebanon and North Berwick Baptist Church.

Pledge of Allegiance.

The Journal of yesterday was read and approved.

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**SENATE PAPERS**

The following Communication: (H.C. 282)

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

May 21, 1997

The Honorable Elizabeth H. Mitchell

Speaker of the House  
118th Maine Legislature  
2 State House Station  
Augusta, Maine 04333

Dear Speaker Mitchell:

In accordance with Joint Rule 506, please be advised the Senate today confirmed, upon the recommendation of the Joint Standing Committee on State and Local Government the nominations of Susan M. Pinette of Brunswick and Charles R. Weeks of Old Town for reappointment and Anthony Monfiliette of Bath and J. Thomas Accomando of Saco for appointment as members of the Workers' Compensation Board.

Thank you for your attention to this matter.

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

Was read and ordered placed on file.

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The following Communication: (H.C. 281)

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

May 21, 1997

The Honorable Elizabeth H. Mitchell

Speaker of the House  
118th Maine Legislature  
2 State House Station  
Augusta, Maine 04333

Dear Speaker Mitchell:

In accordance with Joint Rule 506, please be advised the Senate today confirmed, upon the recommendation of the Joint Standing Committee on Utilities and Energy the nomination of William M. Nugent of Yarmouth for reappointment to the Public Utilities Commission.

Thank you for your attention to this matter.

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

Was read and ordered placed on file.

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The following Communication: (H.C. 283)

**THE SENATE OF MAINE  
3 State House Station**

Augusta, Maine 04333  
May 21, 1997

The Honorable Joseph W. Mayo

Clerk of the House  
State House Station 2  
Augusta, Maine 04333

Dear Clerk Mayo:

Please be advised that the Senate today adhered to its previous action whereby Bill "An Act to Amend the Laws Relating to Notaries Public" (H.P. 1094) (L.D. 1537) and all accompanying papers was Indefinitely Postponed.

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

Was read and ordered placed on file.

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The following Joint Resolution: (S.P. 638)

**JOINT RESOLUTION COMMEMORATING THE  
350TH ANNIVERSARY  
OF THE TOWN OF KITTERY**

**WHEREAS**, one of the chain of historically important towns that is located along the coast of Maine is Kittery, home of the Portsmouth Naval Ship Yard, nationally known for its shipbuilding and ship and submarine overhauling achievements; and

**WHEREAS**, Kittery, believed to have been named after a settlement on the River Dart in England, is the oldest town in Maine, having been first settled in 1623 and incorporated on October 20, 1647; and

**WHEREAS**, Kittery, with its small rolling hills and location near major bodies of water, the Piscataqua River on the west and the Atlantic Ocean on the south, has an abundance of natural resources including salt marshes, clam flats, tidal embayments, marine invertebrates, fish, a heron rookery and a sea bird nesting area; and

**WHEREAS**, the Town of Kittery offers numerous recreational activities including boating, fishing, shipping, beaches, historical sites, museums and the well attended Seaside Festival; and

**WHEREAS**, Fort Foster, Fort McClary, the Lady Pepperrell House, the Bray House, the Dennett Home and the William Whipple Home are among the historical landmarks in Kittery; now, therefore, be it

**RESOLVED:** That We, the Members of the 118th Legislature, now assembled in the First Special Session, take this occasion to recognize the 350th anniversary of the Town of Kittery and to extend our best wishes to the citizens of that community as they celebrate the special occasion; and be it further

**RESOLVED:** That a suitable copy of this resolution, duly authenticated by the Secretary of State, be transmitted to the municipal officers of the Town of Kittery in behalf of the citizens of the town.

Came from the Senate, read and adopted.

Was read and adopted in 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 Expand the Board of Trustees of the University of Maine System" (S.P. 523) (L.D. 1628)

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" (S-289) on same Bill.

Signed:

Senator: CATHCART of Penobscot

Representative: BAKER of Bangor

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

Was read.

On motion of Representative RICHARD of Madison the Majority "**Ought Not to Pass**" Report was accepted in concurrence.

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**Divided Report**

Majority Report of the Committee on **Banking and Insurance** reporting "**Ought Not to Pass**" on Bill "An Act to Provide Health Insurance Coverage for Prostate Cancer Screening" (S.P. 320) (L.D. 1060)

Signed:

Senators: LaFOUNTAIN of York

MURRAY of Penobscot

Representatives: CARLETON of Wells

SAXL of Bangor

WINN of Glenburn

O'NEIL of Saco

BRUNO of Raymond

STANLEY of Medway

JONES of Pittsfield

Minority Report of the same Committee reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-274) on same Bill.

Signed:

Senator: ABROMSON of Cumberland

Representatives: MAYO of Bath

PERRY of Bangor

DAVIDSON of Brunswick

Came from the Senate with the Minority "**Ought to Pass**" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-274).

Was read.

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

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

Representative MAYO: Madam Speaker, Men and Women of the House. I hesitate starting off this early in the morning with a divided report that's going to engender some discussion, however, there are definitely two sides to this particular issue. I would urge the members of this body to not support the current motion, to allow us to move on with the Minority Report.

The Minority Report replaces the Bill and it requires that all individual and group contracts of non-profit hospital and medical services, insurers in health maintenance organizations provide insurance coverage for prostate cancer screening. Coverage for prostate cancer screening must be provided annually to men 50 years of age or older until the man reaches 72.

What we are talking about with the prostate cancer screening is referred to as PSA test, Prostate Screening Antigen test. It is a blood test. You will hear, as this debate moves forward, that there are some medical questions with regard to this test. That is 100 percent correct statement that you will hear. There are some. It does, at times, produce false positives and it does, at times, produce false negatives. We are not as concerned with the false positives as we are, of course, with the false negatives. However, prostate cancer is a problem in this country. Over 300,000 men each year are diagnosed with prostate cancer. If through this test, and through the DRE (digital rectal exam) we are able to detect prostate cancer in the male population, and to reduce the incidence of death by prostate cancer, those of us on the minority of this particular report feel that we will have accomplished a great deal.

The cost associated with this test are minimal. It will, and you will hear, it will increase costs slightly for all of those who are currently having health insurance. It will increase it for the women who do not have a PSA test. However, I would remind you that this body has in the past, and will again discuss mammography, that, also, is on the calendar for today. Mammography is for women, however, the men with their health insurance do see an increase in the premium, in their premium, for a test that is not for them. I think that the argument that you are going to hear later on, with regard to this being applied to all insurance policies is rather a false argument.

I would seriously urge your full consideration of this item. Anything that we can do today to decrease the incidence of cancer, number one, and decrease the incidence of death by cancer, number two, certainly should be receiving full consideration by this body. I would urge that you defeat the Majority "Ought Not to Pass" Report, so that we may go on with the Minority Report. Thank you.

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

Representative BRUNO: Madam Speaker, Men and Women of the House. I want you to understand that I am not against preventing cancer in any form, but you have to be objective in how you look at this. We're looking at a test that is not 100 percent accurate. It produces a lot of false positives, a lot of false negatives. This bill covers men from age 50 to 72. Most men when they reach the age of 65 go on Medicare and Medicare does not even cover this exam because it is not that reliable.

What you need to know is that most insurance companies will pay for this exam as a tool when there are other symptoms present. This test, what we're trying to do, is pass as a screen. The *Portland Press Herald*, on Monday, had an article in there saying that researchers are very close to finding the gene that causes prostate cancer and when they do there will be a test developed that will be used as a screen, but what we will do if we pass this piece of legislation today into law, we will have a different screen that is not reliable on the books, which to me, doesn't make any sense. You have to realize that medical technology is changing quickly in this country and we will have, on the books, a law that will probably be outdated. We will have better tests, yet we will not mandate insurance companies to perform those tests.

We have in front of us a mandate report that costs this legislature \$9,000 to research this issue and I have not read a mandate report that is more opposed to this test than this one I'm holding right here in my hand. Doctor David Muggian Calder, who is the Chair of the Cancer Prevention and Control Advisory Committee in the State of Maine opposes this test. He says, it's too unreliable. There is no point in mandating this test right now.

You'll hear of passing mammography bill that's coming up later on, either today or tomorrow and you'll notice that we all support that, the reason being it's a reliable test. This test, this PSA, is not the way to go. It is not reliable. Should it be used as a tool, absolutely. If someone comes in and has symptoms, at that point, the doctor says, we want you to go for a PSA, an insurance company will pay for that test. But as an overall screening method, we're just adding another mandate onto health insurance that doesn't do what it's suppose to do. I urge you to support the Majority "Ought Not to Pass" Report.

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

Representative CARLETON: Madam Speaker, Men and Women of the House. The National Cancer Institute, the US Preventive Services Task Force, the American College of Physicians, the International Union Against Cancer, the World Health Organization, the Canadian Task Force on Periodic Health Examinations, the Canadian Cancer Society, the Maine Cancer Prevention and Control Advisory Committee, are some of the organizations which say that mandating routine screening via the so called PSA test is not worth it. To be fair, there are 3 or 4 organizations that do recommend that it be done, most of those organizations are involved in the diagnostic test itself.

As the previous speaker has indicated, there is a law in this state that provides that whenever a health care mandate is proposed, that a report be issued, not by the Bureau of Insurance, but by an independent consultant. That independent consultant is required to investigate fully many aspects of the proposed mandate and come back with a report. The report is 30 or 40 pages in length, it's from William Mercer and Company, out of Wisconsin.

Let me just tell you what they say. Neither the digital rectal examination, nor the PSA test are considered to be very good diagnostic tools. Even if they do detect a small number of cancers that have no other signs or symptoms, there is little agreement in the medical community whether to treat aggressively, or watch and wait. In many instances, the aggressive treatment leads to a poor quality of life. These slow growing tumors are not always a threat to a man's life expectancy. This report also contained a review, what other states had done, and quoted from various medical journals about this particular test. There are only 6 other states that require this test. The medical literature generally takes a dim view of the current, state of the art, of diagnosing, and treating of prostate cancer. The conclusion is that no treatment has been developed that has been proven capable of providing a cure for the disease. The current treatments provide little, if any, demonstrated extensions to life expectancy. Some treatments may provide more harm to the patient than good.

The National Cancer Institute says screening for prostate cancer and subsequent treatment is of unknown benefit, but carries known treatment related morbidity and mortality risks. The US Preventative Services Task Force guide to clinical preventive services says, routine screening for prostate cancer with digital rectal examinations and PSA is not recommended. Dr. Arnold Pakowski, in the *Journal of American Medical Association*, 1995, the effects of early detection are a double edged sword. Dr. Richard Roberts, in the *Journal of Urology*, 1994, the generalist physician should refrain from the screening of prostate cancer without consulting men about the risks, benefits, alternatives and uncertainties of early diagnosis and treatment of prostate cancer. Dr. Craig Flemming, *Journal of the American Medical Association*, 1994, in the aggregate we predict that screening will result in net harm, rather than net health benefit. Dr. Steven Wolf, *Journal of Urology*, 1994, recommendations for screening in the absence of explicit

rational, raised concerns about conflicts of interest, especially when the downstream effects of the recommendations include increased incomes for the group promoting screening. Dr. Hans Adarmie, *Cancer Epidemiology*, 1994, it is difficult to find a scientific foundation for the current recommendations for screening by the American Urological Association, the American Cancer Society, indeed unless further investigation indicates that screening will have a net beneficial impact, it clearly should not be done.

Recommendations of the first Michigan Conference on Prostate Cancer, the group agreed that PSA testing should not be considered a routine part of health maintenance, rather, each man should be informed about the options for early detection of prostate cancer, the potential risks, and the potential benefits. Scott Cantor, *Journal of Family Practice*, if life expectancy is the only criteria for decision making, and cost is not a consideration, screening may extend the patients life by a few months. When quality of life factors are included, however, screening men for prostate cancer is not indicated. I could go on, but let me just read a letter from Dr. Donald Magenella, who is the Chair of the Cancer Prevention and Control Advisory Committee, for the State of Maine, in a letter dated April 9, 1997, to the consultants. And I quote, "It is obvious, in these times of rising health costs that care must be exercised in identifying preventive services to be included as mandated benefits. Those chosen to be mandated must clearly decrease mortality, morbidity, and costs when they are provided to the whole population. Unfortunately, population based screening for prostate cancer does not meet these requirements based on currently available scientific studies." Now we may say, that routine screening, at whatever the costs, may save a few a lives, it's worth it, but let me leave you with this. We have limited resources in this country for lots of things and it is true of health care as well, when we say that we are going to spend money for this or that, we always have to determine what the alternative is, where can that money, perhaps, be better spent. In the case of prostate screening, there is some controversy about what the costs will be, but think about what the money could be spent for, if it is not spent for this mass screening. Perhaps, it might pay for inoculations for children, perhaps it might pay for lots of other things whose benefit has been clearly determined. In this case, the medical evidence is divided, at best. I think we should save our mandates for those procedures, diagnoses whose benefit is clearly determined, because otherwise, we may be wasting our money. Thank you.

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

Representative PIEH: Madam Speaker, Ladies and Gentlemen of the House. I'm not a doctor. I'm not a scientist. What I do know is that my next door neighbor was just diagnosed with prostate cancer and went in for surgery within about 5 days. He will live. Had he had this test, perhaps, he would not have been in for what he's in for now. I know that it may not always be reliable, I also know it's the best test we currently have. I also know that if there is argument about how much it costs, it still cost very, very little to do this test. I encourage you to defeat the pending motion. Thank you.

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

Representative TUTTLE: Madam Speaker, May I pose a few questions through the Chair?

The SPEAKER: The Representative may pose his question.

Representative TUTTLE: What are the six states that require this test presently and why do they do that?

The SPEAKER: The Representative from Sanford, Representative Tuttle has posed a question through the Chair to

anyone who may care to respond. The Chair recognizes the Representative from Bath, Representative Mayo.

Representative MAYO: Thank you, Madam Speaker. In answer to the question through the Chair, the six states that do currently require are Alaska, Colorado, Delaware, Georgia, North Carolina, and West Virginia. They, too, according to the report, have wrestled with the same questions that we are wrestling with in this chamber this morning. While I am on my feet, I would appreciate the opportunity to answer some of the questions or comments that have been made by a couple of the previous speakers. Even before I start that, I would like to remind the people in this chamber that there is at least one member of this body who has gone through a prostate cancer surgery situation. His cancer was not detected by the PSA test. It was detected by the digital. He is alive today. He has been with us for two legislative sessions and is currently in his third session and in talking with him, earlier this week, he may admit that the quality of his life is not exactly the same as it was before the detection and the operation, however, he did relay to us that he is happy to be able to see the sun rise every morning, to continue to play golf and to be a member of this body. We have also, as I think most of us know, experienced another problem with prostate cancer in this legislature this year.

We have heard that the exam is not reliable. There are many exams that are not 100 percent reliable. We can always use that as an excuse not to do something. The remark made by the good Representative Bruno, earlier, that there will be a different test in the future. I have no doubt that that statement is correct, but it is very easy for this body, or the other body to make a change in the statute to include that test, or to change from PSA to another test, that may, or may not, be developed. We make changes in the law every day and we have made changes in mandates in this body, both at this session, and in the previous session.

With regard to the particular mandate report that has been eluded to, by the Mercer Company of Milwaukee. This is the first report that the Banking and Insurance Committee received back from this particular company. Normally, the mandate studies have been done in House through the Department, however, the woman, and there is only one person in the Department that has any history of doing these mandate studies, she has been out on maternity leave. Therefore, these reports were farmed out. It's an entirely different report than any that we have seen in the past. They are using modern technology, the access the Internet, which is the first time that we have ever seen anything off the Internet in one of these reports. The Internet gave both a plus and a minus to this. We can't say it's 100 percent in favor, and it certainly was not a 100 percent opposed to it. We are looking at a whole new situation with regards to these reports. I would urge that you not feel that this report, that I have here in my hand, is the end all, and the be all, as far as prostate screening.

There were at least three groups, national cancer groups, that support prostate screening, the PSA test and the digital test. One of those being the American Cancer Society. One of the others, the American Urological Society. Ladies and gentlemen, I would repeat what I said earlier, cancer is an insidious disease, if it is possible for us to do anything to hold down the rate of cancer and the death by cancer for ten cents a month on an insurance policy, I feel that we should move forward. I think we have living examples of early detection in this body, and I think we should bear that in mind as we vote on this particular issue. I would urge that you do not accept the Majority "Ought Not to Pass" and that we move forward with the Minority Report. Thank you.

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

Representative TRUE: Madam Speaker, Ladies and Gentlemen of the House. I apologize if I repeat anything, because I was late getting here this morning, and I, too, would urge you to vote down the "Ought Not to Pass" and vote to pass this particular law.

Last year, my doctor said that I should get some specialist help because of possible prostate cancer, I had taken the PSA test and those of you who know anything about it, that if you test over four, you may have a problem, and I tested 22. For 9 months, I was back and forth to a specialist and the hospital, and biopsies and things of that nature, to find out whether or not that test was true or whether or not it was something else that needed to be taken into consideration.

Each time that I went to this specialist, his office was full, some younger than I and some older, and I can tell you that it's a frightening experience and thank goodness that with the help that I received and when the biopsies came back that I did not have cancer and they found that other things had to be taken care of, that I can stand here today, to say that I was indeed frightened, and frightened enough so that I now go every 6 months to be tested and what Representative Mayo has said is absolutely true about cost. Those of you that are old enough, in my age group, to be in the American Legion, the American Legion trust fund insurance and they advocate for you to do this. You have an opportunity to have this test free if you have their insurance and that's \$6.20 a month that covers that and many, many other things.

My family has a history of cancer and I'm sure that many of you have family members that have had it. I think that the ounce of prevention is worth a pound of cure, if I remember that phrase. It doesn't cost much and is it perfect? No. Does it help? I can tell you that it helps if you find out you don't have it and I'm sure that it helps if you find out that you do have it and perhaps you found out in time to do something about it and I urge you to give other people the opportunity to have this and can afford to have it. Thank you.

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

Representative BRUNO: Madam Speaker, Men and Women of the House. It's awfully hard to put your emotions aside when you hear testimony like the Representative from Fryeburg. The thing that I want to repeat is that if you have symptoms and your doctor says, we need you to take this test, your insurance company will pay for it. Every insurance company that came before our committee said that. If this test is so reliable, then why doesn't Medicare pay for it? Why don't they pay for it as a routine screening? We're talking about a routine screening here, meaning every male over age 50 who goes into a doctor's office will get it as routine blood work. Doesn't matter if you have symptoms or not. I am not opposed to this test used as a diagnostic tool, but what I am opposed to is, as an employer, adding some more cost onto my insurance for a test that is not that reliable.

My father has had prostate surgery. He was symptomatic, he had the blood work done and then he had his problem taken care of. Does that mean that I endorse that everybody should go in and get this blood work done? No. Does this mean that I don't support mammograms for women over 40? No. It's a different test, it's much more reliable. What you have to remember, if you get a false positive, you have two options. Do nothing, or go in and have a biopsy done. Now what happens to the male who has a biopsy done, no cancer is found, he only had a slightly raised blood level, but there was nerve damage done because of that biopsy. This surgery is just not routine surgery.

It's very sensitive. Now what happens to the quality of life, because we mandate a test that can produce a lot of false positives. I ask you to think about that and I want you to remember, if you are symptomatic, with problems of prostate disease, your insurance company will pay for this test, to be used as a diagnostic aid.

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

Representative DAVIDSON: Madam Speaker, Men and Women of the House. It's not often that I find myself on the other side of a report from the Representative from Raymond, or the Representative from Wells. I'd bet the farm that they're smarter than I am and certainly have been around a lot longer than I have. These issues are tough. We've been asked a number of times this session to impart our judgment on issues ranging from metabolic problems with children, covering synthetic food, covering mammograms, covering prostate, PSA screening. It isn't an exact science. Medical science is, I'd bet you, inherently an inexact science. What I'm asking you to consider, today, and I won't repeat what the Representative from Bath has gone through, is that 220 men in this state are going to die every year from this disease. All you have to do, I had the opportunity to have lunch yesterday with Senator Nutting, his father was lucky enough to get this test and Senator Nutting very clearly stated that he doesn't know what would have happened if he hadn't gotten the test, because the disease itself is so rapid and so vicious, that I'm willing to go out on a line and I have voted and the Representative Bath and other people have voted against things, this session in committee, that we deeply care about because it is the wrong thing to do. It was the wrong to tack on money to all of our health care premiums to mandate certain things that affected small amounts of people, that affected large amounts of people. We made those calls in committee. Look at this report, it's always bipartisan out of this committee.

What I'm saying to you today is pretty simply and it's fairly clear, that we have an opportunity to save people's lives. We have an opportunity to save people's lives. Are we going mandate something? Yea, we're going to mandate something by doing this. But I urge you to reach inside yourself and take a chance on this, because I assure that it is a chance that deals with people's lives. I'm not all that happy about mandating technology in mills dealing with dioxin, I'm not happy about mandating certain medical procedures. I don't like it, I think technology is moving too rapidly, medical science is moving too rapidly, what we do today may be altered three days from now. I assure you that I put a lot of faith in further legislatures to come back and change that if they need too. It isn't exact, absolutely. Is it going to save people's lives? I bet absolutely. So I hope you will defeat this pending motion and go on to accept the "Ought to pass". Thank you, Madam Speaker.

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

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

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

Representative SAXL: Madam Speaker, Men and Women of the House. I've enjoyed listening to my male committee members speak on this issue, and have kind of held back because this, of course, is a vital issue to them, but I think it's important for me to stand up, as the Chair of this committee, and to explain to you why I am on the Majority, "Ought Not to Pass" Report. If I believed that this would save lives and this was a definitive test for prostate cancer, I would be on the "Ought to Pass" Report. The answer is that if there are signs and

symptoms, your doctor will order this test and it will be covered by Blue Cross and by all the other insurance carriers. What we're talking about is whether this ought to become a screening method. Screening, by saying, it ought to become a part of your routine physical examination. That's where we differ, because the reliability of this test, according to this report, and according to the people who came before the committee, that this test is not reliable. If it gets a false positive the way we've heard described today, it results in a biopsy and you can be very pleased and happy that you didn't have prostate cancer, but if it results in a false negative, than you have missed an opportunity and then you consider yourself well and the disease progresses. The best thing to do is to work with your physician in concert, and if your physician feels as if you need it, and he will make that decision based on physical examinations and on the basis of your history. That's the time when this test ought to be ordered, and so though I'm very pleased that Blue Cross and the other insurance companies support this finance and cover this test when the doctor has found cause to order it. I would not be in favor of its being used as a regular screening method. That explains my vote and why I ask you to support the Majority "Ought Not to Pass."

The SPEAKER: The Chair recognizes the Representative from Bath, Representative Mayo. 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 MAYO: Madam Speaker, Men and Women of the House. I will keep this very brief. I would like to read a couple of sentences on page 2 of the Mercer Report because I think some, not erroneous information, but some questionable information may have been passed around here this morning. To quote, "Based upon information collected in a telephone survey. Indemnity policies offered by Blue Cross/ Blue Shield and other commercial carriers, generally, generally, cover these procedures, only if ordered by a physician for diagnoses or treatment that results from signs and symptoms. Blue Cross and Blue Shield and the other commercial health insurance carriers, do not automatically, cover screenings if ordered by a physician. They may, or they may not, it is strictly up to them, it is not 100 percent situation."

The SPEAKER: The Chair recognizes the Representative from Hallowell, Representative Cowger.

Representative COWGER: Madam Speaker, Men and Women of the House. Just a brief personal note on this, I didn't want to speak but I will. My father had this test done, his physician did not recommend it for him, but he insisted upon it, it did show an early detection of prostate cancer, early enough for him to have a complete cure, so I would urge you to defeat the pending motion and accept the "Ought to Pass" Report.

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: I believe Representative Davidson said this was a mandate. I was wondering how you can mandate that somebody go to the doctor and have this test done every year? That doesn't make sense to me.

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 Wells, Representative Carleton.

Representative CARLETON: Perhaps, we all have not been clear. The mandate aspect of this is not mandating that somebody take the test, but when we talk about mandate, we're

talking about mandating the insurance coverage that pays for the test.

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.

At this point, the Chair recognized the Doctor of the day, Pamela J. Wansker, D.O., Falmouth.

**ROLL CALL NO. 254**

YEA - Bagley, Baker CL, Belanger IG, Berry DP, Bigl, Bodwell, Bragdon, Bruno, Buck, Bumps, Bunker, Cameron, Campbell, Carleton, Chartrand, Cianchette, Clukey, Colwell, Dunlap, Fisher, Fisk, Foster, Gooley, Honey, Jabar, Jones KW, Jones SA, Joy, Joyce, Kasprzak, Kneeland, Lane, Layton, Lemke, Lemont, Lindahl, MacDougall, Mack, Marvin, McElroy, McKee, Morgan, Murphy, Nass, Nickerson, O'Neil, Ott, Peavey, Perry, Pinkham RG, Poulin, Povich, Powers, Quint, Saxl JW, Saxl MV, Shannon, Shiah, Snowe-Mello, Stanley, Stedman, Taylor, Tobin, Treadwell, Underwood, Vedral, Waterhouse, Winglass, Winsor.

NAY - Ahearn, Baker JL, Belanger DJ, Berry RL, Bouffard, Bull, Chick, Chizmar, Clark, Cowger, Davidson, Desmond, Donnelly, Driscoll, Dutremble, Etnier, Frechette, Fuller, Gagne, Gagnon, Gerry, Gieringer, Goodwin, Green, Hatch, Jones SL, Kane, Kerr, Kontos, Labrecque, LaVerdiere, Lemaire, Lovett, Madore, Mailhot, Mayo, McAlevey, Meres, Mitchell JE, Muse, O'Brien, O'Neal, Paul, Pendleton, Perkins, Pieh, Pinkham WD, Plowman, Richard, Rines, Rowe, Samson, Sanborn, Savage, Sirois, Skoglund, Spear, Thompson, Townsend, Tripp, True, Tuttle, Vigue, Volenik, Watson, Wheeler EM, Wheeler GJ, Wright.

ABSENT - Barth, Bolduc, Brennan, Brooks, Cross, Dexter, Farnsworth, Gamache, Joyner, Stevens, Tessier, Usher, Winn, Madam Speaker.

Yes, 69; No, 68; Absent, 14; Excused, 0.

69 having voted in the affirmative and 68 voted in the negative, with 14 being absent, the Majority "Ought Not to Pass" Report was accepted in non-concurrence and sent up for concurrence.

**Divided Report**

Majority Report of the Committee on **Agriculture, Conservation and Forestry** reporting "Ought to Pass" as amended by Committee Amendment "A" (S-272) on Resolve, to Reduce Reliance on Pesticides (S.P. 569) (L.D. 1726)

Signed:

Senators: KILKELLY of Lincoln  
PARADIS of Aroostook  
CASSIDY of Washington

Representatives: BUNKER of Kossuth Township  
LANE of Enfield  
GOOLEY of Farmington  
BAKER of Dixfield  
CROSS of Dover-Foxcroft  
DEXTER of Kingfield

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "B" (S-273) on same Resolve.

Signed:

Representatives: SAMSON of Jay

VOLENIK of Brooklin  
SHIAH of Bowdoinham  
McKEE of Wayne

Came from the Senate with the Majority "Ought to Pass" as amended Report read and accepted and the Bill was passed to be engrossed as amended by Committee Amendment "A" (S-272).

Was read.

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

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

Representative VOLENIK: Madam Speaker, Men and Women of the House. I urge you to vote no on the pending motion. Originally, this bill called for a 33 percent reduction in pesticide use by the year 2002. Neither Committee Report now does this. Rather, the goal of both Committee Reports has become an information gathering apparatus. The Majority Report, asks that the Board of Pesticides Control collect data only on the sales of pesticides. The Minority Report adds to this the collection of data on the use of pesticides. This will add tremendously to our knowledge of what is used and where it is used.

There's a referendum on the horizon that would ban aerial spraying and would make it illegal to introduce pesticides into the water supply. The Majority Report will only speed the rapid development of the spraying referendum by its weaker message and its lack of ability to gather statistical information on the use of pesticides in this state. Let's prove that we are concerned with this issue. I urge you to reject the pending motion and go on the pass the Minority Report. Thank you.

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

Representative BUNKER: Madam Speaker, Men and Women of the House. To keep this debate very short, I hope, and very clear, both Reports are very, very similar. Both Reports are a proactive step to be able to enable Maine to have the data necessary to talk educatedly about our pesticide use in Maine. The only differences other than what was mentioned by the good Representative from Brooklin is that the Majority Report as amended by Committee "A" basically removes all wording, that basically implies that our agricultural businesses in the State of Maine are doing something improper, or they are over using, or they are using excessive pesticides. Extensive testimony in Committee made it very clear to me, at least from the farmers and the orchard growers and the potato growers. It costs money to use pesticides and you don't use any more than you absolutely have to. There's an impressive amount of education going on with the University of Maine and the crop management plan. I was very impressed by that. I wanted to make sure that we work very hard to craft a proactive proposal that removed any language that made the impression that they are out there abusing it. We're trying to encourage the prudent use of pesticides. I'd ask you to support the Majority Report.

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

Representative SPEAR: Madam Speaker, Ladies and Gentlemen of the House. I would encourage you to vote for the Majority "Ought to Pass" Report as amended. The good Representative, Representative Bunker, said it right. The farmers that are using these pesticides would like not to be able to have to rely on them. They are expensive and they are looking for ways to reduce their reliance and through these studies and working with the University, I think is the right



direction to go. I would urge you to support the Majority "Ought to Pass" Report.

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

Representative KNEELAND: Madam Speaker, Men and Women of the House. I stand to ask you to support this Resolve. Just to give you clear information about what we do, and how much it costs. Back 45 years ago, when I started raising potatoes, on about 25 acres, I spent between \$400 and \$500 for pesticides. Last year, my bill was over \$100,000. The price that year on table stock, 45 years ago was \$2.00 higher than table stock was today, so that tells you why we need to cut down the use of pesticides, because we just can't afford them.

What we do keep records, when you go out to spray each morning, you have to record the time that you start, the temperature, the wind speed, the chemicals you're using and the rate you're putting on each acre of potatoes. This is recorded in a log and at night you have to set this into a notebook and it's checked by the Pesticide Control Board, so we do have checks and balances, so this Resolve will just be another step to help us in keeping a better recording of what we do. Thank you.

The SPEAKER: The pending question before the House is Majority "Ought to Pass" Report.

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

A vote of the House was taken. 81 voted in favor of the same and 16 against, the Majority "Ought to Pass" as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (S-272) 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-272) in concurrence.

On motion of Representative SAXL of Portland, the following item was removed from the Tabled and Unassigned matters:

Expression of Legislative Sentiment recognizing Elizabeth Manchester (SLS 202)  
 TABLED - May 14, 1997 by Representative SAXL of Portland.  
 PENDING - Passage.

Subsequently, the Sentiment was read.

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

Representative TRIPP: Madam Speaker, Men and Women of the House. I'm pleased today to introduce to the House, Betty Manchester, Principal of Mount Ararat Middle School. She has recently been named the 1997 Elementary National Distinguished Principal, by the Maine Principal's Association. It is not surprising that she receive such a high honor.

While principal at the elementary school at Bowdoin, that school was recognized as a National School of Excellence. She also taught in the Auburn School Department and was a special education administrator in SAD 16, which included Auburn, Hallowell, and Farmingdale. When at Mount Ararat School in Topsham, which houses grades 7 through 12, became overcrowded, she coordinated the move across the river to Brunswick, so the 7th and 8th grades could have more space, utilizing the former Brunswick High School.

I'm also told that she was the baby-sitter for Representative Townsend, back at some point also. She is truly deserving of this award and is an ardent supporter of learning results.

Was passed 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-287) on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide 4-year Terms for Senators and Members of the House of Representatives (S.P. 89) (L.D. 269)

Signed:

Senators: NUTTING of Androscoggin  
 GOLDTHWAIT of Hancock  
 LIBBY of York

Representatives: BAGLEY of Machias  
 GERRY of Auburn  
 GIERINGER of Portland  
 LEMKE of Westbrook  
 FISK of Falmouth

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

Signed:

Representatives: AHEARNE of Madawaska  
 BUMPS of China  
 KASPRZAK of Newport  
 SANBORN of Alton  
 DUTREMBLE of Biddeford

Came from the Senate with the Majority "Ought to Pass" as amended Report read and accepted and the Resolution passed to be engrossed as amended by Committee Amendment "A" (S-287).

Was read.

On motion of Representative AHEARNE of Madawaska the Minority "Ought Not to Pass" Report was accepted 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 with the exception of matters being held.

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**REPORTS OF COMMITTEES**

**Divided Report**

Majority Report of the Committee on **Labor** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-616) on Bill "An Act to Amend the Maine Workers' Compensation Act of 1992 as It Relates to Compensation for Total Incapacity" (H.P. 257) (L.D. 321)

Signed:

Senators: CATHCART of Penobscot  
 MILLS of Somerset  
 TREAT of Kennebec

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

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

Signed:

Representatives: JOY of Crystal  
 JOYCE of Biddeford  
 PENDLETON of Scarborough

TREADWELL of Carmel

Was read.

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

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

Representative PENDLETON: Madam Speaker, Ladies and Gentlemen of the House. I stand in opposition to the "Ought to Pass" Report. When the law was changed in 1992, there was a change made that pays for an individual's disability on the loss of a limb, and we do have an amendment to this bill that redefines that somewhat, so it's the functional loss not the total loss of the limb.

I'm in opposition to this bill, because there is a retroactive clause in that that if we pass this now, it will go back to Jan. 1, 1993. This also would be a dual payment. The picture of the young man that was circulated this morning that has lost both legs and an arm, due to the severity of his disability and his loss of limbs, he's entitled to 800 weeks of benefits. Currently, he's receiving, I believe, \$441 a week. That translates into 15 years. If this bill should pass, that young man would get his 15 years worth of benefits, but he would also get another lump sum payment, up front, of that same amount of money.

The insurance companies that insured that employer based their charge to that employer on their actuarial cost based on experience. This firm's experience has gone out for, well 2 years now, paying this individual at his weekly rate. They would be required to pay an up front amount of the same amount and therefore the individual firm's experience rate would be severely affected, and the insurance company, because they're now 2 years into this payment on this particular individual. They would have to charge an extra amount of money so this employer would be hurt even further, and it would be the same for any other case that has happened.

Now granted, the numbers of severe injuries such as this man are few in number. The normal injuries have been the loss of a finger, in some cases an arm. The numbers of actual total loss of a limb have been relatively few in regards to the total number of injuries under this. However, in each case, where's there's an obligation to make a fixed payment, this would double that fixed payment and the scale for each one of them is different and I don't have that in front of me right now. They have a table as to what each part is represented. By also changing this bill to a functional loss, you start bringing in the individuals that, let's say, which is unfortunate, a crushed hand, which is no longer available to them, but they still have the hand. So this becomes another problem, you're introducing a totally new definition into this loss of a body part. For that reason, I'm against this bill. It will run up the cost, dramatically, for those that are currently in the system, that have to be paid and paid because of the retroactive clause of this bill. Fact is, when we were discussing this in committee, I argued this quite furtively to the fact that if we were going to have this bill, it should start effectively now rather than going back to Jan. 1, 1993. Thank you.

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

Representative VIGUE: Madam Speaker, Ladies and Gentlemen of the House. I'd like to take you down memory lane. A little bit of history, as to why and how we are at this point.

Back in 1992, ladies and gentlemen, this was exactly the reason that we got into the problems that we acquired in 1992. The legislature, being involved with all these different bills, adding cost to a system, that should be governed and controlled by an independent agency, or an independent group. We have this year, 37, we have 37 different bills which have brought us

back to where we were, or partially back to where we were in 1992.

In 1993, I went to Chicago, Illinois, to study the workers comp problems in the country and the insurance companies that brought me there. The first thing that came up on the chart, at that time, was the State of Maine. I was there with my counterpart from the other body, Senator Ambromson, and we couldn't believe that here we were in Chicago, and they were using Maine as an example, that we were the worst in the country.

To the changes that we made with the Blue Ribbon Commission, in 1995, I spent the summer with my counterpart from the other body and numerous insurance companies, setting up a fund, to remove the residual market, the costs that we had acquired from 1988 to 1992. All of these costs were required and were sitting in the files of lawyers, we finally settled on an amount of \$220 million to take care of the people that hadn't been paid off, \$65 million came from insurance companies, 90 percent from the major carrier, 10 percent from the minor carriers, for the people that don't understand, the ones that sold insurance, workers comp insurance, if they sold one case in the past, from 1980 to 1992, they were considered major carriers, and therefore had to come up with 90 percent of \$65,000. The minor carriers, just having existed in the State of Maine, had to pay 10 percent.

The last time I looked, there were still about 2 or 3 million that had not been paid by the minor carriers. Along with this amount, we put up with the Maine Guarantee, this is a fund that we guarantee insurance will still be there for the people to collect from, and we pay off in many of these every single year. They go belly up and we take money to pay off the people that had insurance with these companies.

We put 45 million dollars, of your money, into that to pay it off, then we turned around and we charged every State of Maine employer, \$110 million. We amortized it over a period of 10 years. So from 1995, for 10 years, your people back home, your constituents, are going to pay this amount for the next 10 years.

Here we are, the people have not as yet, they've paid one year on this \$110 million, and you're going to go back and tell them we are going to open these doors once again and allow all these costs to come back. Now, ladies and gentlemen, the last thing I want to do is go back and tell my people, back home, that I want to charge them more money, because we are the legislature, and we're going to correct this system. We've done so well in the past. Ladies and gentlemen, I say, we collectively have messed it up. If you go down this path again, you're going to mess it up again. Go back and tell your people, say have you paid off that \$110 million, why don't you save up some money and hurry up and pay it, so we can create another place, so that we can open it up again and have another problem that we had from 1988 to 1992.

Ladies and gentlemen, I don't want to be a party to this, and I would hope that when you stop and think that you charge your people \$110 million and your insurance companies, \$65 million, and the Maine Guarantee, \$45 million, totaling \$220 million and you're going to go back and you're going to open this up and say, all right let's go, let's do it again. That's exactly what you're going to do if you open the flood gates with these 37 different bills. I can't believe that we're going back down this path. I went down this path, once when I first got here, you wouldn't believe what was going on. I'll save that for the next time a bill comes up.

Ladies and gentlemen, I hope you'll indefinitely postpone this amendment. I'll tell you, if we don't we are going to have to cope with lesser jobs, fewer businesses, and more problems in the State of Maine and then you can tell your kids, that show up 10

years from now, and end up having to study the problem and correct it again, and we'll set up another Blue Ribbon Commission and we can do it all over again. I thank you for your attention.

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

Representative GOODWIN: Madam Speaker, Men and Women of the House. I sponsored this legislation to correct changes made from the 1992 session, this is in the worker's compensation system. The changes that were made in haste, in the midst of a state shutdown. We now have an obligation to return to a common sense approach, to correct a section of the law, that addresses amputations of limbs from an industrial accident. The changes in the law deleted the lump sum, one time payment, called the scheduled payment to employees for loss of limbs.

If the self insurer or the insurance company made weekly payments for a specified time frame, the maximum weekly payment, at the present time, is \$441 a week. That also dropped from a maximum of \$536 per week prior to January 1st of 1993.

Again, I'll go back to the one time lump sum, some people are of the opinion that these injured people who lose triple amputations receive \$441 and will receive an enormous lump sum every week, it doesn't happen, they're going to get a lump sum that's provided by the schedule within law, right now, for each limb that they lose. It's a one time payment for the loss of the limb.

Madam Speaker, men and women of the House, two gentlemen have appeared before the Labor Committee on March 21st, 1997, both had been injured by high tension electricity that caused near fatal burns, they both lost limbs. One of which lost 2 legs and an arm at the shoulder. Both had high paying jobs in the woods industry in Washington County. Both gentlemen had their incomes cut in half, or more, as a result of their accidents. Both men will never, I repeat, never return to their former jobs and never get earning capacities anywhere near what they had earned prior to the accident. All amputees since January 1, 1993, fell through the cracks, provided by a previous legislature.

The hearing on March 21st, generated insurance actuary's who indicated to the Committee that to pay these benefits, it would amount to 20 to 40 million dollars, no one at the hearing could produce the actual numbers of incidents and limbs lost. Just a flat statement of millions of dollars in payments. After this hearing, the Department of Labor supplied the first set of solid numbers for me and the Labor Committee. The numbers produced cash values far below the insurance carrier's numbers. Remember they had suggested 20 to 40 million dollars. In the year 1993, there were 42 reported amputations to the Department of Labor and the Worker's Comp Board. Of those 42 amputations, 29 were fingertips, or fingernails, now in the recording process, under Worker's Comp and the Department of Labor, a loss of fingertip is an amputation. Loss of a fingernail is an amputation, but there is no charge to the system. You do not get paid for the loss of a fingertip, you must go beyond a joint. Again, in 1993, 42 such amputation, there were 8 fingers, which included more than one joint. The total cost, if we used the \$441 per week, which is in the statutes, the total cost for 1993 to these individuals would be \$519,000. In 1994, Department of Labor numbers, there were 44 such amputations. Again, 27 were fingertips, 15 were fingers, there was one arm, and toes, and toenails, and a foot, and feet, the total cost for all 44, using the highest number, the \$441, would be \$563,000. A very small number for amputations. 1995, we had 2 1/2 thumbs. Why half a thumb? It's because they figured it was beyond the joint. Index fingers, 8 1/2, middle ring finger, 5, we had an instep, and for the purposes of the dollar numbers, we used the entire foot.

We had another amputation of a foot, and another one of a hand. The total cost of all amputations in 1995 would be \$428,000. Not the \$20 to \$40 million that was projected by insurance carriers.

Madam Speaker, men and women of this House, the fiscal note is from the State Employees Workers Compensation Program, they may incur some minimal additional costs related to the lump sum provisions, these costs are not expected to affect the amounts budgeted by the State Departments and agencies for Worker's Compensation. The summary of the bill with the Amendment "A" limits the benefits payable, under the bill, to amputations only. Amputations only, the functional lost portion of this bill has been struck, we're only talking about workers in the State of Maine who deserve protection, who deserve to be reimbursed when they loose a limb and that's what this legislation says. I urge this body to support L.D. 321, the Majority Report, and do what is right for our injured workers.

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

Representative TREADWELL: Madam Speaker, Ladies and Gentlemen of the House. I don't think that there's any way that we can fairly compensate for the loss of a limb, or any loss of a body part. The question is how much can we afford, or how much can our system afford to pay? In my former profession, at the time I left, the loss of a life was worth \$20,000. Now that's not a lot of money either. If a person happened to have dependents and there was a small survivor benefit associated with that. The fiscal note attached to this bill, I believe it is \$13.5 million. You're going to be hearing a whole series of bills with a price tag attached to them, relating to Workman's Compensation. When you add those all up, back when those 38 bills, that Representative Vigue referred to, when they first came into the Labor Committee, the total cost of all those was 150 million dollars, which is probably enough to break the bank and put us back where we were in 1992.

The Chief Executive has been out beating the bush, all over the State of Maine, in other states throughout the United States, as a matter of fact in Europe, trying to get economic development on track in the State of Maine. This bill and the others coming along on the same subject are going to compound those efforts. Businesses are not going to look at the State of Maine favorably, if we have laws that are going to cost them all of the profits that they can possibly generate through workman's comp premiums. The companies that appeared before the Labor Committee, the people who appeared before the Labor Committee, every one of them, other than the workers that were brought in, all of the companies, I can honestly say, not one of them said they would like to see any changes made to the Comp system.

I don't think that we can afford these bills. Experts who are a lot smarter than I am on the economy of the State of Maine have said that we can't afford these bills. I have a whole brief case full of letters from companies that plead with us to leave things as they are, so I would encourage you to vote against passage of this L.D.

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

Representative HATCH: Madam Speaker, Ladies and Gentlemen of the House. I rise today to ask you to support the "Ought to Pass" Report.

I want to tell you a little bit about this particular bill. When we heard this in Committee, the room, I believe was in Appropriations that day, was filled with insurance agents, with some people from the Worker's Comp Board, and a few injured workers. There were two gentlemen who had lost limbs. They weren't brought in, they drove themselves to Augusta. They

thought it was that important. They were from Washington County. They stood, gave their testimony, in support of this legislation, and as the young gentleman was turning to leave, you had to admire him. Two legs and an arm were gone, but he was still maneuvering on his own power with artificial legs. The second gentleman who lost a foot came forward, and he couldn't speak. He was overwhelmed at being before the Labor Committee. Being Chair that day, as the Senator had to leave for Education, I talked him through his testimony. I've heard people get up and say we can't afford something, two men have lost their livelihood. The young gentleman, the triple amputee, lost three limbs, he has a young family and he'll probably never return to the job that he had.

At the work sessions a week or so later, we were charged that it was our fault that the triple amputee had lost his legs. It seems from legislation a few years back, had been put through, that said that log companies had to tie their loads on. We put that through this legislature. The insurance industry tries to blame us for that legislation, I was a little bit at odds over that, thinking about how many hundreds or thousands of lives were saved in this state, or maybe not hundreds or thousands but at least hundreds from logs not coming off log trucks. I nearly lost my life in one of those accidents in the middle of Skowhegan, Maine. About 5 seconds before I'd made a turn, I was directly behind a log truck when it lost its load. I had two kids in the car and it was a small compact. But I want to tell you, I stood up to that man and I said, do you know how many lives have been saved because of this, and he backed off. Everything seems to be about costs. What it's going to cost. Well I don't want to cause the business any more cost than anybody else, but we have to have a level playing field here and there isn't. It seems that we seem to put cost and control over everything else.

We had 30 some bills in that committee, I want you to know they were boiled down, there were 47 originally, but a lot of them were the same things. As a committee we voted out over 22, "Ought Not to Pass." I think we did our job. So you can rail against us for having 30 bills, I'm telling you there's some inequities. We all looked at those bills and in the final analysis you will see, that there are some inequities in this system. You'll get the big report later in the day and you'll find two "Ought to Pass" on that big report so don't tell us we didn't learn something. I wish that you would support this bill, these two men will never regain their income, even a lump sum settlement won't be anything of major importance but it might put their kids through school. They've lost some of their livelihood. Think about it. Thank you.

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

Representative TREADWELL: Madam Speaker, Ladies and Gentlemen of the House. We did talk about costs when we talk about this legislation and the others that it will follow. The cost if we follow the money trail all the way to the end, we're going to find that it's going to come out of the employees pockets probably, because since the reform of 1992, the companies have all said that they have been able to provide better benefits for their employees, better fringe packages for their employees, higher wages, and it's all been put right back into their business in most cases. If we pass all of these expensive changes to the workman comp system, we are going to see the costs go up and those costs eventually are going to go right back to that employee that we think we are trying to help.

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

Representative SAMSON: Madam Speaker, Men and Women of the House. I support L.D. 321. Decades ago, at the turn of the century, there was a social contract between labor

and management and that social contract basically said that injured workers would not sue their employer for their injuries and in return it would be guaranteed benefits for those injuries. This bill is really a basic decency. It's to give something in return for loss of limbs incurred while on a job. Is that asking too much? Part of the opposite side's argument is that the money being saved to give 401K plans and etc. Well to me that's like leaving the wounded on the battlefield. I urge you to vote for this bill.

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

Representative STANLEY: Madam Speaker, Men and Women of the House. I ask you, what is just compensation for a limb? L.D. 321 addresses this issue. You be the judge of what just compensation is. I urge you to support the Majority "Ought to Pass" as amended Report.

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

Representative CAMERON: Madam Speaker, Ladies and Gentlemen of the House. I almost never say anything about labor issues or worker's comp issues, and we're not suppose to use props in this House, but I'm carrying one. This bill strikes home. I'm a bit offended by the bill, quite frankly, you may think I'd stand up and be absolutely in support of this, money has nothing to do with this issue, ladies and gentlemen. You can not give me enough money to make up for what I lost. It has nothing to do with money and I don't care who you charge and I don't care how much money you give, it can not change the loss that I suffered and it can not change the loss that these other people suffered. Because it's little things in life, like being able to walk up to somebody that you meet and shake their hand, or to be able to go to your children's play and be able to applaud for them. Those are the things that you loose when you loose a limb. I don't care how much money you give me, that would not have changed that. I've heard that you can never go back to the same job, that's not true. I lost my arm in a farming accident and I continue to farm. I cut wood with a chain saw, I cut my own firewood. I can do anything that I choose to do. I am offended by this bill, because it says that I am no longer able to be a productive individual, I've got to have somebody give me money. Well somebody doesn't have to give me money. I'll make it on my own. I apologize that I'm a bit emotional about this, but I sat and listened to it and I tried not to say anything, and I can't help it, because the underlying message in this bill bothers me more than the money. It's the little things in life that you loose, that nothing, no amount of money, no do-gooder, nothing can replace. I would urge you not to support this bill and it may come as a surprise, but that's the way I feel.

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

Representative VIGUE: Madam Speaker, Ladies and Gentlemen of the House. In 1992, we had two remaining insurance companies in the State of Maine, and they both were begging to get out. I remember well. We now have 90 companies that are serving the people in the State of Maine. Maine is still ranked in the top third as far a cost, actually we were 17th. The Blue Ribbon Commission of 1992 gave us the stability, gave us a competitive insurance market. It decreased the number of injuries on the job. It increased worker's safety, lowered costs and what this lowered cost did is to translate into more jobs, higher wages, increased benefits for employees, and a greater opportunity of Maine people. Ladies and gentlemen, let's not go back. Let's continue and allow the 1992 reform to continue bringing us down in costs, so that once we can be in the lower third and in so being we would have more jobs for our people. Ladies and gentlemen I would urge that you not vote for

the pending motion, but vote against the pending motion. Thank you.

Representative JOY of Crystal moved that the Bill and all accompanying papers be indefinitely postponed.

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

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

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

Representative MACDOUGALL: Madam Speaker, Ladies and Gentlemen of the House. I rise to support my colleague, Representative Joy's motion. I have in possession here, one of the myriad of letters, I'm sure, you also received, but this particular letter strikes home, because it's from a company in my district Hussy Seeding. I just want to quote just one of the paragraphs, because I think it touches on several of the issues that we have been discussing. We employ around 440 people at our plants in North Berwick and Sanford. The number of people working for us has increased over 10 percent in the last year and we expect further increases during the next year as we take advantage of strong market and competitive costs. Our safety record during the last five years has continually improved. We have been able to reduce our worker's comp annual costs by over one million dollars. We are recognized as a quality company. This has come about as a result of the dedication of everyone in our organization to make our company a safer and better place to work, through teamwork and training. Ladies and gentlemen, the fact of the matter is it's a better place to work since the 1992 law. With those savings and with a teamwork approach, it a safer place to work, a more competitive place to work. If we dismantle what we have accomplished, it isn't like it will hurt business only, it's employees, our neighbors and our friends in that their wages will remain stagnant and the job opportunities will be hampered because the growth of the businesses will not be there.

Another thing he mentioned later in the letter was he could easily move to New Hampshire and not lose his workforce. Thank you for listening.

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

#### ROLL CALL NO. 255

YEA - Barth, Belanger DJ, Belanger IG, Berry DP, Bigl, Bodwell, Bouffard, Bragdon, Bruno, Buck, Bumps, Cameron, Campbell, Carleton, Chick, Cianchette, Clukey, Dexter, Donnelly, Dutremble, Etnier, Fisk, Foster, Fuller, Gieringer, Gooley, Honey, Jones SA, Joy, Joyce, Kasprzak, Kerr, Kneeland, Labrecque, Lane, Layton, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, Mailhot, Marvin, Mayo, McAlevey, McElroy, McKee, Meres, Morgan, Murphy, Nass, Nickerson, O'Brien, O'Neal, Ott, Peavey, Pendleton, Perkins, Perry, Pieh, Pinkham RG, Pinkham WD, Plowman, Poulin, Sanborn, Savage, Snowe-Mello, Spear, Stedman, Taylor, Tessier, Tobin, Treadwell, Tripp, True, Underwood, Vedral, Vigue, Waterhouse, Wheeler EM, Winglass, Winsor.

NAY - Ahearne, Bagley, Baker CL, Baker JL, Berry RL, Bolduc, Brennan, Bull, Bunker, Chartrand, Chizmar, Clark, Colwell, Cowger, Davidson, Desmond, Driscoll, Dunlap, Fisher, Frechette, Gagne, Gagnon, Gerry, Goodwin, Green, Hatch, Jabar, Jones SL, Kane, Kontos, LaVerdiere, Lemaire, Lemke, Mitchell JE, Muse, O'Neil, Paul, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Saxl JW, Saxl MV, Shanon, Shiah, Sirois, Skoglund, Stanley, Stevens, Thompson, Townsend,

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

ABSENT - Brooks, Cross, Farnsworth, Gamache, Jones KW, Joyner, Usher.

Yes, 83; No, 61; Absent, 7; Excused, 0.

83 having voted in the affirmative and 61 voted in the negative, with 7 being absent, the Bill and all accompanying papers were indefinitely postponed and sent up for concurrence. Ordered sent forthwith.

#### Divided Report

Majority Report of the Committee on Labor reporting "**Ought Not to Pass**" on Bill "An Act to Further Define Disqualification for Unemployment Benefits" (H.P. 291) (L.D. 355)

Signed:

Senator: MILLS of Somerset

Representatives: HATCH of Skowhegan

SAMSON of Jay

BOLDUC of Auburn

CLARK of Millinocket

RINES of Wiscasset

STANLEY of Medway

PENDLETON of Scarborough

Minority Report of the same Committee reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-617) on same Bill.

Signed:

Representatives: JOY of Crystal

JOYCE of Biddeford

TREADWELL of Carmel

Was read.

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

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

Representative JOY: Madam Speaker, Men and Women of the House. In the summer of 1996, the Chief Executive held a conference on small businesses at the Blaine House, and from that conference came a similar complaint right down the line, and that complaint involved the hiring of people for short time periods. Specifically, in this case, was mentioned the problem involved with hiring college students, who realize that they are only going to be working for the summer, short periods of time, then they are going to be going back to school. What has happened in many cases, as they have returned to school, they, maybe for one reason or another, decided they wouldn't continue their education and have immediately gone to sign up for unemployment benefits.

The "Ought to Pass" portion of this bill has an amendment, which changes the threshold, or eligibility, for benefits. Under current law, if you are unemployed, go back to work, or go to work, than you must work a minimum of five weeks before you're eligible for benefits, and before the employers experience rating is charged. This amendment would change that from a five week period, to a twelve week period. In the interest in trying to assist the small businesses in the State of Maine, and those businesses which are seasonal, I urge you to defeat the pending motion and accept the Minority "Ought to Pass."

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

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

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

Representative PENDLETON: Madam Speaker, Ladies and Gentlemen of the House. I'm rising to ask you to support the "Ought Not to Pass" motion. This is an interesting case. This bill came before the Labor Committee, initially, asking that those individuals that were working in summer jobs be completely denied the ability to collect unemployment benefits. When I advised my members of the Labor Committee that this was against all standards, they would have to try another approach, they came up with the charging approach. Now charges to an employers experience rating is how the system builds its money and carries on, and this is one of these areas where you have to be very careful what you do. In states where they have an extended period of time for charges to an individual's account, you look at how they do it and it's prorated to the experience rating account of the employers that that individual worked for within their base period. Much the same as we do with our direct reimbursement employer. The charging to accounts is a very important feature. One of the things that they seem to be worried about, is college students, summer jobs. Very few of those people actually file a claim afterwards, and this is something I don't think we should be overly alarmed about. Five weeks is a good test period of time for an employer to determine whether or not the employee is suitable for that job and I've seen hundreds of them laid off after four weeks, because they weren't suited to the profession that they were trying to be in. To extend this to twelve weeks, I think we are setting up something that is not valid and is going to cause more problems than if we leave it as it is. I would recommend that we support the "Ought Not to Pass." Thank you very much.

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

**ROLL CALL NO. 256**

YEA - Ahearne, Bagley, Baker CL, Baker JL, Belanger IG, Berry DP, Berry RL, Bigl, Bolduc, Bouffard, Brennan, Brooks, Bruno, Bull, Bunker, Chartrand, Chick, Chizmar, Clark, Colwell, Cowger, Davidson, Desmond, Donnelly, Driscoll, Dunlap, Dutremble, Etnier, Fisher, Fisk, Foster, Frechette, Fuller, Gagne, Gagnon, Gerry, Gieringer, Goodwin, Gooley, Green, Hatch, Jabar, Jones SL, Kane, Kerr, Kontos, Labrecque, LaVerdiere, Lemaire, Lemke, Lemont, Lindahl, Lovett, MacDougall, Mailhot, Mayo, McAlevey, McKee, Meres, Mitchell JE, Morgan, Muse, Nickerson, O'Neal, O'Neil, Ott, Paul, Peavey, Pendleton, Perkins, Perry, Pieh, Pinkham RG, Poulin, Povich, Powers, Richard, Rines, Rowe, Samson, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Snowe-Mello, Spear, Stanley, Stevens, Taylor, Tessier, Thompson, Townsend, Tripp, Tuttle, Vigue, Volenik, Watson, Wheeler EM, Wheeler GJ, Winglass, Winn, Wright, Madam Speaker.

NAY - Belanger DJ, Bodwell, Bragdon, Buck, Bumps, Campbell, Carleton, Cianchette, Clukey, Dexter, Honey, Jones SA, Joy, Joyce, Kasprzak, Kneeland, Lane, Layton, Mack, Madore, Marvin, McElroy, Murphy, Nass, O'Brien, Pinkham WD, Plowman, Sanborn, Savage, Stedman, Tobin, Treadwell, True, Underwood, Vedral, Waterhouse, Winsor.

ABSENT - Barth, Cameron, Cross, Farnsworth, Gamache, Jones KW, Joyner, Quint, Usher.

Yes, 105; No, 37; Absent, 9; Excused, 0.

105 having voted in the affirmative and 37 voted in the negative, with 9 being absent, the Majority "Ought Not to Pass" Report was accepted and sent up for concurrence. Ordered sent forthwith.

**Divided Report**

Majority Report of the Committee on **Judiciary** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-604) on Bill "An Act to Amend the Laws of Murder and Manslaughter to Include the Death of a Fetus" (H.P. 541) (L.D. 732)

Signed:

Senators: LONGLEY of Waldo  
LaFOUNTAIN of York  
BENOIT of Franklin

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

Minority Report of the same Committee reporting "**Ought to Pass**" as amended by Committee Amendment "B" (H-605) on same Bill.

Signed:

Representatives: PLOWMAN of Hampden  
MADORE of Augusta  
WATERHOUSE of Bridgton

Was read.

Representative THOMPSON of Naples 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 later today assigned.

**Divided Report**

Majority Report of the Committee on **Criminal Justice** reporting "**Ought Not to Pass**" on Bill "An Act to Make It a Crime to Solicit a Child by Means of Computer to Commit an Unlawful Sex Act" (H.P. 808) (L.D. 1096)

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  
BUNKER of Kossuth Township  
FRECHETTE of Biddeford  
WHEELER of Bridgewater

Minority Report of the same Committee reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-620) on same Bill.

Signed:

Representatives: McALEVEY of Waterboro  
TOBIN of Dexter

Was read.

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

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

Representative POVICH: Madam Speaker, Men and Women of the House. L.D. 1096, "An Act to Make It a Crime to Solicit a Child by Means of Computer to Commit an Unlawful Sex Act" was reported out by an 11 to 2 margin. Early on in our meetings, the Criminal Justice Committee determined to avoid the trap to create new crimes, when the offense was already covered by the

criminal code, or the juvenile code. All the awful things imagined in this title can be prosecuted in current Maine law and I will explain in a moment.

From time to time, the press sensationalizes an issue. Why don't we have laws to cover this or that, what's wrong with our system? Well, that's the press. L.D. 1096 is such an issue. The majority was opposed to this bill for a number of reasons. It is already a crime to solicit a person to engage in criminal activity, or to take a substantial step toward completing a crime.

2. Representative Peavey's, L.D. 598, creates the crime of sexual misconduct with a child under 14 years of age, which occurs when a person displays sexual explicit materials to a child under 14 with the intent to encourage the child to engage in a sexual act or sexual contact. Many of the communications made by computers take the form of sexual explicit materials, and would therefore be covered by L.D. 598.

3. There's no way to verify that the age a person gives on a computer is that person's age. Under the bill, the person could inadvertently be guilty of a crime if the person believes the party to the communication is an adult, when, in fact, the party is a child pretending to be an adult.

4. It is already a federal crime for a person to use interstate commerce to knowingly persuade, induce, entice, or coerce any individual who has not attained the age of 18 years to engage in prostitution or sexual act, for which the person may be criminally prosecuted, or attempt to do so. The US Attorney's Office in Maine verified that interstate commerce includes computer activities between two individuals who are both in the State of Maine and that they actively prosecute under that section.

Finally, the Committee deliberated long and hard and came to the conclusion, that parents should exercise their parental responsibilities and simply turn the computer off. Then pouf, there's no means to commit a crime. So ladies and gentlemen, I urge you to support the pending motion.

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

Representative MCALEVEY: Madam Speaker, Men and Women of the House. I'm going to keep my comments very brief and I'm also going to keep them guarded today and I would ask that you do the same when you reply.

This bill is geared towards one type of pedophile. This is the stalking type person. This is the person who is the predator. Part of the whole shtick of being a pedophile, is the screening of children, courting them, befriending them and the reason I put this bill in is because the Internet and the computer is a perfect tool for that purpose. I know what I'm speaking about because I spent most of my law enforcement career investigating and prosecuting crimes against children. I've been involved in over 2,000 individual cases, and assisted on another 1,500 cases statewide. Make no mistake, this is not something we read about in the paper from away, this is happening now, today, in this state.

You've heard a number of arguments of why we didn't report out a Majority "Ought to Pass" Report. Question 1. How would a person on one end of the computer know they are talking to a child on the other end? Pedophiles, do, that's their whole livelihood. Pedophiles know more about children than most of our teachers. They know when they are talking to a child or not. The other thing is, you'll find in the predatory pedophile, they have a specific gender bias, and age bias.

2. It's not a problem, it's not happening. Well, read the papers, it is happening. What do you know if you come into a room and find that your child is perhaps engaged in an inappropriate discussion on the computer with a stranger. Yes, you can shut the machine off, but wouldn't you like to have a

policeman go knock on that stranger's door and say, don't do that again?

3. Yes, there are federal laws that cover this, in the 2,000 cases that I handled, only one ended up in a federal case, because there was interstate and it involved hundreds and hundreds of children. The federal government is not going to get involved with individual cases.

While we had the hearing, we had a group of a number of distinguishing students from Kennebunk High in our committee room and a question was asked of them and to the letter, almost everyone stood up and said, oh yes, we knew about this. Boy, we've talked to some real wackos on our computers. Well, they fortunately had the wherewithal to recognize that they were talking with somebody that was a danger and they ended that discussion. Many, many children will never know this. The use of the Internet by a pedophile, a pedophile can literally screen hundreds and hundreds of children until he can find one, or she can find one, that they can befriend, then they compromise and they make arrangements to meet them somewhere. This bill would make that a crime and send a very, very strong message to the pedophiles in our communities to stay off the computers when attempting to find children.

Again, anonymity, afforded a person on the computer because they are a long distance away, over a telephone line lends itself perfectly well to going after and exploiting children and that is the crux of the matter. We need to send a message to say you can not use this tool to do that. Ask yourself one question when you go to vote this morning, and before you vote, do you want a stranger communicating with your child or grandchild over the Internet compromising them, befriending them, for one purpose and one purpose only, and that is to have sex with that child? Thank you.

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

Representative TOBIN: Madam Speaker, Ladies and Gentlemen of the House. I'll also keep my remarks brief, but I was also in the Minority Report and I urge you to vote against the pending motion.

On Mother's Day, I visited my son and spent several hours with my grandson, who is 18 months old and believe it or not, for about an hour, off and on, he sat in front of the Hewlett Packard Computer and played Old MacDonald's Farm game. I was amazed how a computer could captivate a young child, only of 18 months of age for that long a period of time.

Unfortunately, ladies and gentlemen, there are a lot of things on the computer that aren't Old MacDonald's Farm. We are entering, or we are now in the age of information, the age of information, a new technology, even though computers have been around for 30 or 40 years, to many of us, and to many people in the State of Maine, computers are relatively still new. I remember when my dad said to me, "Jim, I've done it all, there's nothing you can do that I haven't done." He also said, "Jim, the back wheels never catch up to the front wheels." Ladies and gentlemen, today, this is a new age and I profess that the children in Maine know a lot more about computers than their parents do. This gives me a little fear. What is Johnny and Mary doing, oh they are doing their homework. They've been doing their homework for the last three or four hours. They're working on the computer. They are on the Internet. Recently, this week, yesterday's paper, a man from Bangor was found loading child pornographic material on the Internet. We listen to high school students who are in the chat room, chat. First question that is asked when you are in the chat room is, how old are you and what is your sex? I urge you to vote against the pending motion and vote the Minority Report.

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

Representative O'BRIEN: Madam Speaker, Ladies and Gentlemen of the House. You may be surprised to find me on the "Ought Not to Pass" Report. Many of you know that I have children's issues, specifically child abuse issues are very high on my priority list. I also have to say, with all due respect to my colleagues, Representative Tobin and Representative McAlevey. Representative McAlevey is an expert in this field, I'm amazed constantly how much he knows about this. He's investigated this for years and I very much respect and rely on his expertise. But I am convinced, after much discussion in the committee, that this is already taken care of. Absolutely, it is a problem, and we hear it every day. There's no question it's a problem, but I am convinced that it is taken care of already in existing law. That's why I am on the Majority "Ought Not to Pass" Report.

In regards to the issue, and I think it is a very real concern, on how are we going to prove, as law is written, an adult may solicit a child not realizing that he, or she, is a child. I will just close by telling you that my 13 year old, kind of scrawny son, when he's on the Internet, he's 20, he's 6'3", he's massive, and he goes to Duke University, so it's a very difficult thing to prove. I would ask that you support the Majority "Ought Not to Pass" Report.

Representative McALEVEY of Waterboro 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 Standish, Representative Mack.

Representative MACK: Madam Speaker, Men and Women of the House. These people are out there. This is happening on the computers in Maine and through other states. Let's stop these people from going after our children, or from doing it a second time. Let's give the police an extra thing they can use to put these people away. Please vote against the pending motion and do something to help our children. Thank you.

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

Representative PEAVEY: Madam Speaker, Men and Women of the House. I urge you to vote "Ought Not to Pass" on this bill. Originally, this bill was entitled, "An Act to Make it a Crime to Solicit a Child by Means of Computer to Commit an Unlawful Sexual Act." That's the bill that we had our hearing on and the hearing was geared to the use of the computer to solicit a child for an unlawful sexual act. We debated, we discussed, our analyst actually looked up the federal law and as Representative Povich said, this is covered under federal law. He read it. I'll read it again. It is a federal crime for a person to use interstate commerce, which includes computers, to knowingly persuade, induce, entice, or coerce any individual who has not attained the age of 18 years to engage in prostitution or any sexual act, which that person may be prosecuted for. We then had a question of, how would that affect two people who were in Maine, it was not interstate, it was in state. Our analyst called the US Attorney's Office and two people in the state would be covered by this federal law, and we were told they actively prosecute under this section.

I will also mention that the amendment, which is entitled "An Act to Make it a Crime to Lure a Child Under 14 Years of Age, for the Purpose of Unlawful Sexual Conduct," doesn't mention computer. I think it's important that we deal with this. We've dealt with this in a computer related way in our hearings. This is really an entirely different matter. I urge you to trust that this is covered under federal law and vote with the "Ought Not to Pass."

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

Representative WATERHOUSE: Madam Speaker, Ladies and Gentlemen of the House. In the 117th, I served on the Criminal Justice Committee with my seatmate, the good Representative McAlevey. We passed some good legislation to protect children from these type of things.

This may be federal law, but I think we need some language at the state level. If we can add, and I'm not inclined to add laws on top of laws, but in this particular case, I can't think of anything as horrendous as these acts that are committed on our children and if I can add one more word, just one word, to the laws in the State of Maine, that will further the protection of our children from these predators, we should do it. I urge you to vote against the pending motion and go on to the Minority Report. Thank you.

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

Representative POVICH: Madam Speaker, Ladies and Gentlemen of the House. I would like to reiterate just the high points of my initial remarks and then add on two or three paragraphs further.

1. It's already a crime to solicit the person, it's already on Maine books.
2. Representative Peavey's bill covers a lot of the crime of sexual misconduct, with visual material.
3. There is no way to verify the age of a person.
4. You've heard it twice, third time, it's already a federal crime.
5. My point, you can turn the computer off, parents ought to exercise that right.

The Minority "Ought to Pass" Report, the good Representative from Waterboro, Representative McAlevey, and I have a lot of respect for Representative McAlevey, he's a major force on our committee and it's not easy for me to oppose him. In fact, our committee has 8 divided reports, but the good Representative from Waterboro, has put forward an amendment to this issue, which is laudable, it could possibly produce good law, but we don't know this, because the amendment is very different from the original title, it's not germane and it did not have the benefit of public review. Now this is the big "P" that Representative Etnier had talked about previously, the process. The committee process is vital to our big "P," the process. We think the amendment should come forward in the second session for review and would benefit from a public hearing. With that public hearing, we will send a strong message to our judiciary that we think these laws should be vigorously prosecuted. Meanwhile, the Criminal Justice majority was explicit in its report of Representative McAlevey's effort for public review of House Amendment 620, and would join him en mass before the Legislative Council next winter but please, ladies and gentlemen of the House, please feel comfortable that current Maine and current federal law does a very good job. Please defeat the amendment and support the "Ought Not to Pass." Thank you.

The SPEAKER: The Chair recognizes the Representative from Waterboro, Representative McAlevey. 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 McALEVEY: Madam Speaker, Men and Women of the House. I'm going to say something that I have never said before in my professional career here, I wasn't going to speak again.

Representative Peavey's bill is an excellent bill, and it's a needed bill, and that deals with visual material on a computer. The material that I'm talking about is the written language. Yes, we do have a federal law, but in the 15 years that I spent, I only



could take one case federally, because the federal people aren't interested in single cases. They want cases where you've got dozens and dozens of victims. The federal law is there, it should afford us protection, but in reality, the federal district attorney will not bring a case against an individual pedophile.

I appreciate the Committee's effort, we had three work sessions on this and they went the extra yard to accommodate me and I appreciate that, regardless of how rushed it may have been. The other point I wish to make, is that all of the committees take prospective LDs and they rework it, and rework it until they have what they think is a good bill, and it may change what the original bill was, but that does not diminish the fact that you come up with good legislation that way. I hesitate to differ with my colleagues, but the fact that this bill may have come out of committee in a Minority Report, differently than the way it came in does not diminish the fact that it may possibly be good legislation. I promise not to get up again. Thank you.

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

Representative WATERHOUSE: Madam Speaker, Ladies and Gentlemen of the House. I was happy to hear the good Representative Povich say that this amendment looks like a good law, but he thinks it should have a public review. I would dare say that a lot of amendments that hit the floor sometimes, unfortunately, don't even get a legislative review, so I think we should go on and pass this amendment. Thank you.

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

**ROLL CALL NO. 257**

YEA - Bagley, Baker CL, Baker JL, Berry DP, Berry RL, Bigl, Bolduc, Bouffard, Brennan, Brooks, Bruno, Bull, Cameron, Campbell, Carleton, Chartrand, Chick, Cianchette, Clark, Davidson, Driscoll, Dunlap, Dutremble, Etnier, Fisher, Fisk, Foster, Frechette, Fuller, Gagnon, Goodwin, Gooley, Green, Hatch, Jabar, Jones SL, Kane, Kontos, LaVerdiere, Layton, Lemaire, Lemont, Lindahl, Madore, Mailhot, Marvin, McKee, Meres, Mitchell JE, Morgan, Muse, Nass, O'Brien, O'Neal, O'Neil, Ott, Paul, Peavey, Pendleton, Perkins, Perry, Pih, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Saxl JW, Saxl MV, Shannon, Shiah, Skoglund, Spear, Stanley, Stevens, Taylor, Tessier, Townsend, Tripp, Usher, Vigue, Volenik, Wheeler EM, Wheeler GJ, Winglass, Winsor, Wright, Madam Speaker.

NAY - Ahearne, Barth, Belanger DJ, Belanger IG, Bodwell, Bragdon, Buck, Bumps, Bunker, Chizmar, Clukey, Colwell, Cowger, Desmond, Dexter, Donnelly, Gagne, Gerry, Gieringer, Honey, Jones SA, Joy, Joyce, Kasprzak, Kneeland, Labrecque, Lane, Lemke, Lovett, MacDougall, Mack, Mayo, McAlevy, McElroy, Murphy, Nickerson, Pinkham RG, Pinkham WD, Plowman, Savage, Snowe-Mello, Stedman, Thompson, Tobin, Treadwell, True, Tuttle, Underwood, Vedral, Waterhouse, Winn.

ABSENT - Cross, Farnsworth, Gamache, Jones KW, Joyner, Kerr, Sirois, Watson.

Yes, 92; No, 51; Absent, 8; Excused, 0.

92 having voted in the affirmative and 51 voted in the negative, with 8 being absent, the Majority "Ought Not to Pass" Report was accepted and sent up for concurrence.

**Divided Report**

Majority Report of the Committee on Labor reporting "Ought to Pass" as amended by Committee Amendment "A" (H-615) on Bill "An Act to Amend the Workers' Compensation Law as It

Pertains to Employer-selected Health Care Providers" (H.P. 863) (L.D. 1180)

Signed:

Senators: CATHCART of Penobscot  
MILLS of Somerset  
TREAT of Kennebec

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

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

Signed:

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

Was read.

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

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

Representative HATCH: Madam Speaker, Men and Women of the House. This particular bill, when it came to us, was sponsored by myself. I had several calls from constituents in my area who couldn't understand why they couldn't go to their own physician for the first 10 days after an accident. I looked into it and according to law, for the first 10 days, if you're injured, you go to your employer's selected physician. I thought to myself, that can't be right. I put the bill in and the note came back as very, very, very expensive and after much discussion and the hearing and so forth, we looked at the issues, had the actuary there and the committee amended the Majority Report so that people could visit their physicians only once during that period. We questioned the actuary of MCCI, what the note on this would be and they said it would be negligible. It should be able to be picked up by the system. I think it's only a common courtesy, to people when they are injured to be able to go to their own physician only once. The first 10 days of an injury, sometimes, are very serious, and they just would like to go to their own physician and make sure that their care is proper.

It was not my intention to have dueling doctors in the system. I don't think we need to use that terminology, but it seems to me that taking your own physician out of some type of an injury, it seems the cost to control is far outweighed by that. I couldn't imagine that people couldn't because I didn't know that many people who had not always gone to their own physicians and some businesses even now allow people to go to their own physicians right after an accident and they use those family physicians.

So I just request that you would, the actuary said it would be negligible, and I think it would be a comfort to the injured workers out there to be able to use their own doctors once in that 10 day period.

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

Representative VIGUE: Madam Speaker, Ladies and Gentlemen of the House. This again is a continuation of exactly what I referred to, previously. This is changing a system that has been working for a very, very short while. It is just coming into it's own, why toy with it? It has not created problems, it has only reduced our costs. Ladies and gentlemen, I would urge you to oppose the pending motion. Thank you.

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

Representative CLARK: Madam Speaker, Men and Women of the House. During the testimony of this legislation, we heard a lot of business people saying control, control, control. That is what business people want is control over the employees. I see that as fair for an employee to see his personal physician, at least once during the 10 days. Like the good Representative from Winslow pointed out, this program has been effect for 5 years, since 1992, and it hasn't done anything to help the employees, so I wish that you would help me and support the Majority "Ought to Pass" as amended. Thank you.

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

Representative JOYCE: Madam Speaker, Men and Women of the House. The previous speaker said the employers want to control the employees, that's not true. I can say they want to control the situation and all circumstances surrounding it. The fact is, by sending the injured worker to a provider who is familiar with the workplace, who is familiar with the light duty programs which are available is advantageous to the employee. Fact is, over the couple of years, injured workers have been getting back to work quicker. There's not a lot of evidence to say that this is the specific reason why, but as Representative Vigue said, we should not be turning back the reforms from 1992.

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

Representative PENDLETON: Madam Speaker, Ladies and Gentlemen of the House. One of the employers, that was a speaker at our hearing, testified that his business was located in two different locations, one in Rumford, which has a very limited number of doctors and one in Portland that has a multitude of doctors. The company just recently bought the Portland firm. It was a situation that he found, that in his own case, at his home plant, with the limited number of doctors who had knowledge of his business and had a working relationship with the mill, that all doctors in the town could be considered the company doctor and they were perfectly happy with people going to those doctors in their community. On the other hand, the plant that they bought in Portland that had 100 employees, suddenly he found that they were going to doctors all over town. The doctors had no idea what they were doing for work and was giving them slips saying this individual should take two weeks off and the people were calling up and saying, my doctor told me to take two weeks off, I'm taking two weeks off, and he had no control. The individuals that spoke were only stressing, if there was an opportunity, after the individual visited the doctor, to come back in a light work or a different type work situation where they could bring them back into work quicker, their results on dealing with the worker's comp claim was much higher and the people were treated better and there was less lost time for the individual.

One of the biggest problems they said, if an individual stays out for too long and lost time it's hard to bring them back into the situation again and that's why they want to use their own doctors as the first step in this process in resolving a worker's comp claim. Thank you very much

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

Representative VIGUE: Madam Speaker, Ladies and Gentlemen of the House. Again, I would ask you, please do not toy with the system that is starting to work. If you look at the dollars that have come into the state for this previous month, we have an increase of \$38 million in the state income tax. Ladies and gentlemen, five years ago it was going the other way, we are getting additional moneys and the reason being our people are working. Do not reverse the trend. This has been working, it is

getting better, it doesn't mean that we should not in time correct it, but now is not the time to do it. This is a brand new program and we've just paid part of our debt for one year. We've got 10 years to pay off. Ladies and gentlemen, I would ask you, please oppose the pending motion.

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

Representative SAMSON: Madam Speaker, Men and Women of the House. I rise in support of L.D 1180, and as Representative Clark said a few moments ago, it is about control. All this bill asks, is that the employee that was injured at work go to a physician that he or she feels comfortable with, one time, in the first 10 days. There is really no cost to this, that injured worker is going to go see a doctor, one way or another. Why can't that injured worker go to a doctor he or she feels comfortable with.

I've got a friend that was injured a couple of years ago in a paper mill in Jay, he was injured, somehow, in one of his ears. He went to the company doctor, that's on a company payroll, and the doctor said he was all right, after a night where he couldn't sleep, he decided he'd better go see a specialist, on his own and he did. He paid for it out of his own pocket. Subsequently, he had to have a couple of operations on his ear. I just can't imagine anybody voting against this bill. I can't imagine anybody saying, no, you can't go see your doctor for the first 10 days, we want to control the situation, here.

I had a call a couple of weeks ago from another injured worker in my home town. The company doctor told him that he needed an MRI, but the administrator of the plant said no. The guy still has a problem. The worker's comp system is not working for him. Thank you.

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

Representative JOY: Madam Speaker, Ladies and Gentlemen of the House. There is not one single thing in the law that prevents the individual from going to his, or her, own doctor in the first 10 days after they are injured. The problem is, who pays for it? The companies have contracts with a lot of physicians to see these people and they're already paying for one visit to the doctor.

This Madam Speaker, and ladies and gentlemen of the House, is just one more instance which is going to try to label a cost back up onto an already overburdened system.

Representative JOY of Crystal moved that the Bill and all accompanying papers be indefinitely postponed.

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

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

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

#### ROLL CALL NO. 258

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

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

ABSENT - Brennan, Cross, Farnsworth, Gamache, Jones KW, Joyner, Townsend.

Yes, 66; No, 78; Absent, 7; Excused, 0.

66 having voted in the affirmative and 78 voted in the negative, with 7 being absent, the motion to indefinitely postpone the Bill and all accompanying papers did not prevail.

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

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

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

**ROLL CALL NO. 259**

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

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

ABSENT - Cross, Farnsworth, Gamache, Jones KW, Joyner, Townsend.

Yes, 81; No, 64; Absent, 6; Excused, 0.

81 having voted in the affirmative and 64 voted in the negative, with 6 being absent, the Majority "Ought to Pass" as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (H-615) 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-615) and sent up for concurrence.

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

**CONSENT CALENDAR**

**First Day**

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

(S.P. 518) (L.D. 1602) Bill "An Act Regarding the Division of Safety and Environmental Services in the Bureau of General Services" Committee on **State and Local Government** reporting "Ought to Pass" as amended by Committee Amendment "A" (S-288)

(S.P. 597) (L.D. 1776) Bill "An Act to Establish Guidelines for Putting Certain Social Service Contracts out to Bid" Committee on **Health and Human Services** reporting "Ought to Pass" as amended by Committee Amendment "A" (S-282)

(H.P. 880) (L.D. 1197) Bill "An Act to Provide Equity for Recreational Vehicle Dealers in Reimbursement for Parts and Labor Required under a Warranty" Committee on **Business and Economic Development** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-625)

(H.P. 938) (L.D. 1285) Bill "An Act to Define the Permissible Duties of Part-time and Full-time Law Enforcement Officers" Committee on **Criminal Justice** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-623)

(H.P. 1090) (L.D. 1533) Bill "An Act to Make Certain Changes to Post-conviction Review" Committee on **Criminal Justice** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-621)

(H.P. 1134) (L.D. 1590) Bill "An Act to Give Fire Marshals the Same Retirement Provisions as Other State Law Enforcement Officers" Committee on **Labor** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-618)

(H.P. 1150) (L.D. 1615) Bill "An Act to Modernize Maine's Cigarette Tax Laws" Committee on **Taxation** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-599)

(H.P. 1211) (L.D. 1711) Bill "An Act Addressing Sexual Exploitation of an Abuse Victim by a Law Enforcement Officer" Committee on **Criminal Justice** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-624)

(H.P. 1214) (L.D. 1714) Bill "An Act to Implement the Recommendations of the Department of Human Services Study Group on Prosecution of Crimes against the Elderly" Committee on **Criminal Justice** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-622)

(H.P. 1282) (L.D. 1819) Bill "An Act to Modernize Maine's Financial Institution Franchise Tax" (Governor's Bill) Committee on **Taxation** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-601)

(H.P. 1315) (L.D. 1866) Bill "An Act to Allow the Maine Harness Racing Commission to Issue Conditional Licenses" (Governor's Bill) Committee on **Legal and Veterans Affairs** reporting "Ought to Pass" as amended by Committee Amendment "A" (H-608)

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

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

(S.P. 520) (L.D. 1604) Bill "An Act to Revise Certain Provisions of Fish and Wildlife Laws" (EMERGENCY) Committee on **Inland Fisheries and Wildlife** reporting "Ought to Pass" as amended by Committee Amendment "A" (S-281)

On motion of Representative POULIN of Oakland, was removed from the First Day Consent Calendar.

The Committee Report was read and accepted. The Bill was read once. Committee Amendment "A" (S-281) was read by the Clerk.

The same Representative presented House Amendment "A" (H-619) to Committee Amendment "A" (S-281), which was read by the Clerk and adopted.

Committee Amendment "A" (S-281) as amended by House Amendment "A" (H-619) thereto was adopted.

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

Under further suspension of the rules, the Bill was passed to be engrossed as amended by Committee Amendment "A" (S-281) as amended by House Amendment "A" (H-619) thereto in non-concurrence and sent up for concurrence.

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**ENACTORS**

**Emergency Measure**

An Act to Preserve Public Access to Governmental Information through Libraries Regardless of Format or Medium (S.P. 354) (L.D. 1173) (C. "A" S-253)

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

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**Emergency Measure**

An Act to Ensure Proper Training for Conducting Forensic Examinations of Victims of Sexual Assault (H.P. 1181) (L.D. 1672) (C. "A" H-505)

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

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

Representative LINDAHL: Madam Speaker, Men and Women of the House. Just a few brief moments, I would like to thank the Business and Economic Development Committee on this, it was my Bill. It was called by the Maine Women's Lobby the most important Bill to come before this body in a long time toward victims of sexual assault. The Committee took this basic idea and made it into a great Bill, they did excellent work on it and actually put the emergency on it, so I would like to thank them. Thank you.

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

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An Act to Allow Field Testing of Unregistered Snowmobiles Repaired by Licensed Snowmobile Repair Shops (H.P. 57) (L.D. 82) (C. "A" H-99; S. "A" S-255)

An Act to Include Possession of a Dangerous Weapon as Grounds for Expulsion of a Student (S.P. 524) (L.D. 1629) (C. "A" S-251)

An Act Regarding Errors and Inconsistencies in the Maine Employment Security Law (H.P. 1209) (L.D. 1709) (C. "A" H-482; S. "A" S-254)

An Act to Amend the Licensure Act for Speech Pathologists and Audiologists (H.P. 1234) (L.D. 1751) (C. "A" H-506)

An Act to Amend the Finance Authority of Maine Act and the Adaptive Equipment Loan Program (S.P. 602) (L.D. 1780) (C. "A" S-247)

An Act to Amend the Laws Regarding Proposed Unaccepted Streets (S.P. 634) (L.D. 1851)

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 (S.P. 469) (L.D. 1471) (C. "A" S-248)

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.

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

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

**Divided Report**

Majority Report of the Committee on **Natural Resources** reporting "**Ought Not to Pass**" on Bill "An Act to Eliminate Paper Mill Dioxin and Restore Maine's Rivers" (H.P. 1121) (L.D. 1577)

Signed:

Senators: NUTTING of Androscoggin  
BUTLAND of Cumberland

Representatives: ROWE of Portland  
COWGER of Hallowell  
JONES of Greenville  
DEXTER of Kingfield  
NICKERSON of Turner  
MERES of Norridgewock  
FOSTER of Gray

Minority Report of the same Committee reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-614) on same Bill.

Signed:

Senator: TREAT of Kennebec  
Representatives: SHIAH of Bowdoinham  
BULL of Freeport  
McKEE of Wayne

Was read.

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

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

Representative ROWE: Madam Speaker, Men and Women of the House. This is one of the two dioxin related bills that we'll have and I just wanted to talk to you for a couple of minutes about procedure. I've talked with the Speaker and she has given some latitude in discussing this, because I know some people had asked for more information. The Bill before us today is L.D. 1577, this is the Bill that is sponsored by Representative Tom Bull, and the other Bill is L.D. 1633, which is the Bill that is sponsored by Senator John Nutting. That Bill will start in the Senate, and of course, this Bill in the House. That Bill has not come out yet, the Committee Amendment, it's expected that it'll probably hit the Senate tomorrow at the earliest.

What I wanted to do, was just to give you, in an objective manner, and explain information about the Bills, before we start the debate. I'll try to be as objective as I can. These Bills both deal with the reduction of dioxin from the mills into the rivers of Maine. There are 12 mills in Maine that make paper, or pulp. I think 10 make pulp, but seven of them are known as what's called craft bleached mills, or they use craft bleach pulping process, and these two bills deal with those mills. The other mills may be pulp mills, but they use a ground wood process, which is a mechanical process and just to let you know, those mills that we're talking about that would be affected by these bills are: Lincoln Pulp and Paper, Lincoln James River in Old Town, Georgia Pacific in Woodland, S.D. Warren in Westbrook, S.D. Warren in Hinckley, International Paper in Jay, and the Mead Mill in Rumford.

The process in a craft bleached pulp mill, is as you know, I just want to give you a little primer, because I needed one when I started, although, I had visited mills before. You take water and wood chips and you cook the wood chips as part of the pulping process. In the wood there's lignin which is the substance that holds the fibers together and the idea is to get the lignin out of the wood chips to make the pulp. So you cook it to reduce the lignin and then you move to a bleaching process, the bleaching process is to lighten the color of the pulp, so you can produce bright paper. In Maine, currently, in the bleaching process in these seven mills, with the exception of the International Paper Mill in Jay, the others use a chlorine water.

The Bill that Senator Nutting has, doesn't address how you do it, but the idea would be to move to a chlorine dioxide substitute for the chlorine. The Bill that we have before us today, would prohibit the use of a chlorine based compound in the bleaching process. Representative Bull will talk more about that in a minute.

I just want to say that we're going to have two bills today, you have a bill with two reports, an "Ought Not to Pass" and an "Ought to Pass" and you will hear about the "Ought to Pass" Report in a minute. The other Bill will have, I think, three reports, you'll have, I believe it's six people on the "Ought to Pass" Report "A", six people on the "Ought to Pass" Report "B", and one person "Ought Not to Pass." The other Bill, which is Senator Nutting's Bill, the difference in the two bills, there's one major difference in the bills and you'll hear about that when they come over, but that's the reduction of the effluent from the bleach plant. That is the major difference in the two bills. It is a major difference and you'll hear more about that. The idea is to reduce the effluent from the bleach plant and release of dioxins and other harmful compounds or chemicals into the river.

I just want to explain 1577 and 1633, the Bill that Representative Bull has, the testing is that the mills must demonstrate that the use of all chlorine bleaching chemicals, in the bleaching process, have been eliminated and that must be done by the last day of December 2002. The other bill that will be coming over, doesn't address how you do it, but what it does it sets maximum testing limits for the most dangerous fermion and the most dangerous dioxin and you'll hear more about this later, but 10 pictograms per liter, so basically there's a test done in the bleach plant that has maximum limits on dioxin and fermions in the bleach plant. There is also another test, and this is the one you've heard about, which is the fish test, in the Governor's Bill, and what happens is, you test a fish, both above and below the mill and there is a limit on the difference. Actually, you test for more of the fermions and more of the dioxins in the fish test. The difference in the two bills, the bill that would be coming over from the Senate, basically relies on testing. It doesn't say what you have to use, or can't use. The bill you

have today is a chlorine free bill and again, you will hear more about the bill coming over.

I may have confused you. The last thing I wanted to say before I sit down, I just wanted to thank the Committee for all their hard work. We've spent hours and hours and hours on these bills, it would have been nice if we could have come out with a 13 and 0 report and saved you a lot of time, but it just wasn't going to happen on these bills. There's strong feelings on both bills. You will hear more also about the Environmental Protection Agency cluster rules, some of you have asked me about that. These are not final yet, there are some draft rules, basically, the Environmental Protection Agency is setting forth some standards and some timelines to meet the standards and they're not prescribing, but they are listing the best available technology to meet those standards. You'll also hear more about that later.

My reason for getting up and explaining this was to let you know that there are two bills. You'll be dealing with one today and we'll probably keep the debate confined to the one, but I did want to let you know about the other. I will sit down and let the debate begin. Thank you.

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

Representative BULL: Madam Speaker, Men and Women of the House. There's been a lot of discussion on this issue, a lot of people have been eluding to it for many weeks, and the day is finally here to be talking about dioxin.

This is a very serious issue and as the Representative from Portland, Representative Rowe, discussed we have spent an exhaustive amount of time in Committee dealing with this issue. We had a public hearing back on April 8th. We had eight hours worth of testimony and our stack of information is about a foot high at this point.

The reason I introduced this bill, and I want to emphasize this is a Bill that I introduced myself, because I was going door to door last fall, I was talking to people in the district about my concerns and issues that I wanted to work on. This is an issue that I identified as something that is important to me, way last fall, running in the primary. I put this bill in and then very generously some very well respected environmental organizations here in the state came forth to help me in the drafting of this bill and to write it in the best way to address the issue.

It's important to understand what we are talking about here with dioxin and why it is such an important issue. Dioxin, as the Representative from Portland, Representative Rowe, has stated, is a byproduct from the paper making process here in the state right now. The reason that's happening is that when you use chlorine or chlorine based compounds, you are creating dioxin and you're creating discharges going into Maine's rivers. The International Agency for Research on Cancer, which is part of the World Health Organization, which is part of the United Nations, has named dioxin a known, known, carcinogen. Not a presumed, not a suspected, but a known carcinogen. Just very quickly, for those who might be a bit fuzzy on that, a carcinogen is any agent that causes or incites cancer. That comes directly out of the dictionary. So this is a very, very serious, nasty substance. You're going to hear a lot of debate about this and a lot of discussion. There are already high levels of dioxin in Maine's environment. That is why it is so critically important that we address, when we can, known sources of dioxin and eliminate those sources of dioxin entirely. This is not a question of just reducing the dioxin to levels where they are non-detached and, quote, unquote, safe. Because, ladies and gentlemen, there are no safe levels of dioxin. Again, we are talking about a known carcinogen. I don't know about you, but we already had a

discussion earlier today talking about prostate cancer, it is a serious disease and I feel that it's incredibly important that we do everything we can within our power to eliminate all sources of pollutants in Maine's environment that may lead to cancer.

The Bill that I have proposed here, L.D. 1577, takes a pollution prevention approach to the issue. They made mention earlier, anytime you use chlorine or chlorine based compounds, you are creating dioxins. By not using the chlorine or the chlorine based compounds you are not creating the dioxins. This is an issue that a number of respected scientists came forward before our committee to discuss with us. So instead of trying to deal with the pollution after it has been created, let's not create it in the first place. Let's take steps to eliminate the chemicals that produce this cancer causing byproduct in the first place.

I really wish that you all could have been there for the public hearing back on April 8th. It was eight hours worth of testimony, but it was an incredibly riveting, moving, powerful, emotional and often times disturbing testimony. In particular, we had a number of people coming to speak before the Committee, who are members of the Penobscot Nation here in Maine. You will hear much more about this issue from the good Representative from the Penobscot Nation, Representative Biscula, on this. It is important to understand that the Penobscot River is part of the basis of the very existence of the Penobscot people. They're not just talking about something for recreational use, or something to help feed them, they are talking about something that is the basis of their very society. Something that is such an integral part woven into their society, that by poisoning the Penobscot River, we are, in fact, poisoning the Penobscot People. We can not separate those two. It was an incredible, emotional hearing. Some of the people from the Penobscot Tribe coming down and discussing what this means to them. Why this is so important and pleading with us to please stop once and for all these discharges of dioxin into their river.

Many Native American people have a very forward looking philosophy on a lot of very important issues. It's a seven generation approach. When they make a decision or consider an issue, they do not look at this issue just in regards as to what it is going to do to them, but they look seven generations into the future. What is the impact of that decision going to be seven generations into the future. Ladies and gentlemen, I would very strongly say, the impact of this bill today, seven generations into the future would be a guarantee, a big step towards stopping, once and for all, pollution to Maine's rivers and cleaning up these rivers and getting them back to the state where they are clean and you can eat the fish out of them and not be running the risks of ingesting dangerous amounts of chemicals.

The other part of this bill is that because of the pollution reduction, pollution prevention bill, this is not addressing just dioxins, there are a number of other pollutants being discharged into Maine's rivers by the paper mills here in Maine and so by taking out this dioxin and pushing the mills towards the low effluence, as the good Representative from Portland, Representative Rowe, addressed. The low effluent mill. You are taking out many more pollutants going into Maine's rivers. Part of the bill, an amendment, talks about going towards the low flow, low effluent approach on this. It says by the year 2002, all craft paper mills have to be dramatically reducing their effluent discharges. By doing that, you are getting the mills to the point where they are more closed loops. They are not putting any, or very few, chemicals into Maine's rivers. It is truly a purely recycled system that is not putting any dangerous chemicals into Maine's rivers. So ladies and gentlemen, I think it is very important here today to look into your heart, because we have an opportunity here to take a fundamental step against pollution in this state. We have the opportunity here today to give a gift to

our children to our grandchildren and so on, seven generations into the future. A commitment to cleaning up our rivers and understanding how important this is. This is not just about paper mills, this is about human health, human safety. I implore of you, please, let's have an affirmative vote today, a dedication to cleaning up Maine's rivers, to start the process. This is not the end all, this is the beginning of cleaning up these rivers so that one day we do not have to have fish warnings and pregnant women do not need to be told, no you should not be eating fish from that river. And to a point, where mothers with babies can once again breast feed their children, their infants, without worrying about sending large amounts of dioxin into their baby's systems. Ladies and gentlemen, I urge you please to vote no against the pending motion and go on to accept the "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Hallowell, Representative Cowger.

Representative COWGER: Madam Speaker, Colleagues of the House. I first want to give great credit to my colleague from Freeport for bringing a very strong vision for our rivers to the forefront. As a life long environmentalist myself, I fully concur with my colleague, that the rivers of the state belong to all of us, and we have a duty as a legislature, to assure that our waters are clean, and that our fish are safe to eat.

I was originally quite tentative when I signed on to the legislation which competes with this measure, but after sifting through the piles of information on our committee and listening to many informational sessions, I felt increasing comfortable and confident that I made the right decision. I urge you to vote in support of the pending motion and continue to support efforts to clean up our rivers by supporting L.D. 1633, which we will be considering later today or perhaps tomorrow. The important point, that I would like to make is the major difference between Representative Bull's bill, and the other measure, is the ability of Maine's seven bleached craft paper mills to select the specific technology appropriate, to meet rigorous pollution discharge standards, which we will set. While the measure before you does not mandate a specific technology, it does exclude a host of measures, including those which are considered the best available technology by the Federal Environmental Protection Agency. The other measure, L.D. 1633, does not exclude total chlorine free technology from being chosen. A mill could select this, if they choose, but the bill before you today would limit the technological choices available.

We have as a body, recently discussed performance based versus instruction based environmental standards. This body made a wise decision in defeating a measure, which mandated performance based standards. In part, by the assurance that the Department of Environmental Protection is implementing performance base standards whenever practical. The bill before you today is an instruction based bill. It is not appropriate to apply these standards to existing facilities. I have a fundamental belief that goes throughout many areas of our role here. That our role as a government is to develop the standards that we feel are necessary to protect our public resources and our public health. We have a role to provide individuals and businesses the flexibility to meet these standards. Likewise, we also have a role of government to hold industry responsible for meeting these standards.

I agree with General George Patton who once said, "Never tell people how to do things, tell them what to do and they will surprise you with their ingenuity." You've received this morning copies of editorial endorsements of the competing measure from news sources throughout the state and also from many different viewpoints. I hope that you have had a chance to look at these. They include the *Lewiston Sun Journal*, the *Bangor Daily News*,

*Kennebec Journal*, the *Maine Broadcasting System*, the *Brunswick Times Record*, the *Morning Sentinel* and the *Maine Times*, all of these sources have endorsed the competing measure, which we will discuss later today. These news sources are also joined by many groups, as well as the Maine Department of Environmental Protection and the Maine Bureau of Health.

Two other points, I would like to go on for hours about this. There are some plants with total chlorine free technology, which is what this bill is about, that have had dioxin levels detected in their waste stream. This is according to Environmental Protection Agency Federal reports, so I don't believe there is any such thing as no dioxin, I believe it is prevalent in any sort of paper making process, but certainly a very, very small degree. Secondly, total chlorine free has been claimed to be the only route, this so called closed loop technology, and I agree with the good Representative from Freeport, that the ultimate goal of all our paper mills in this state should be achieving closed loop technology. However, we did hear from a plant, an existing paper mill in this country, in North Carolina, who stated very clearly that there were problems, mineral buildup problems with closed looping using total chlorine free technology. In fact, they have chosen an alternate technology to close loop their facility, using elemental chlorine free technology and they are, in fact, on the verge of a complete closed looping of their plant using a technology that is not allowed under this legislation. I ask you to join me in supporting the competing measure later today and support a pragmatic solution to the problem of dioxin from our paper mills and support the pending motion. Thank you.

The SPEAKER: The Chair recognizes the Representative from Penobscot Nation, Representative Bisucla.

Representative BISUCLA: Madam Speaker, Men and Women of the House. Since we are quoting military quotes, let me also quote a military person, General Eisenhower, after World War II, in returning to the United States, he did a couple of things, he said first, "We need to get out of Europe, real quick, we don't want to get stuck over there," and you see we're still there. He also warned the American people to beware of the military industrial complex, they're very dangerous, they're very strong. I think in our case you can look at this also as a political industrial complex. It's also very big and very strong. In 1987, the Penobscot Indian Nation got involved in water quality, we got involved in water quality, because we learned of something called dioxin. I'd like to read for you the advisory which exists on the river, right now, today.

Fish caught in the Penobscot River below Lincoln, may contain traces of dioxin or chemicals suspected of causing cancer in humans. For your health and safety, when eating fish taken from these waters the following advisory should be observed.

1. No more than two meals, eight ounces per meal of fish taken from this section should be eaten each month.
2. Pregnant women and nursing mothers should avoid eating any fish taken from this stretch of the river. Dioxin may affect the pregnancy or be passed to infants through breast milk.
3. When preparing fish, areas of the highest potential dioxin contents should be trimmed away, and it goes on to describe what those areas are. Don't fry the fish.

This is 1987, it is now 1997, Penobscot Indian Nation has a fishing right, just as you have a right to vote in this the same way and I do not. I have a right to fish for fish on the reservation, namely the Penobscot River above Indian Island, where you do not. That's just the way things sort out, but since 1987, we have not been able to exercise our fishing rights. In having come from a pseudo engineering school, we approached the problem in a similar fashion as the Representative that proceeded me pointed

out, set standards. I grew up in a military system. I'm familiar with training, where you describe the task, the conditions and the standard. That's the way things were and that's the way I approach this. What I learned from sorting through years of documents on this subject, is that it really boils down to two scenarios, however, it may be described to you as whether technology is being dictated or not being dictated, two scenarios that it boils down to are these. Chlorine dioxide as a bleaching agent, or an oxygen based bleaching agent, those are the two options.

I'd like to go back to the fish advisory. In the preceding two months that we have been working on this in the committee, there's been a lot of red herrings in the debate. We have tested them and they do suggest high levels of dioxin, by the way. There are those who will say that the paper industry only contributes one percent nationally to the dioxin problem. To that I usually reply, you're not in Kansas any more, Toto. This is a paper producing state and one percent of the national dioxin contribution, just doesn't fly up here. We are also not talking about total distribution, because anyone who is familiar with waste knows about dilution, whether it's in the water, or whether it's in the air, what we are talking about is the fact that our waterways do not meet state or federal standards. Every year that the State of Maine submits its 305B Report to Congress, as they are required to do, in which they identify all water bodies that do not meet state standards. The water bodies that are at issue today in this debate are listed to include 30 miles of our reservation. I've also heard that there's a law, and we're talking about red herrings, I've heard that hamburgers are yummy and they have a lot of dioxin. But we're not talking about hamburgers, and fish are also yummy but we can't eat them. The way that the accumulation of dioxin works in the waters, it's sort of like, I compared it to picking blueberries, they're small and it takes a long time to fill up the basket, but when you've got a fish sitting in the water and those little dioxin molecules are just coming into your system, it doesn't take very long for it to build up to where it's a very big basket, a very big problem.

When we looked at the problem in setting standards, we first said, well, just eliminate the problem in the water and we were looking in terms of closed looping. Just eliminate the problems in the water, what happens to us after that it shouldn't matter. But as we learned more about this, we realized that once you begin using a chlorine based agent to do two things, 1. To delignify the wood chips, to take the lignin out of the chips, and secondly to bleach it, it then produces an oregano chlorine, when you use elemental chlorine to do that, it produces a lot. When you use chlorine dioxide it produces less, but it still produces the oregano chlorine. Your options are these, you can then take the 40 percent of that stick of wood, that is waste, and you can put it into a special waste dump. It's going to fill them up. You can burn that organic material in your recovery boiler, generate heat for the system, save money, the problem is, that the organic chorines that are there go up the stack and go out and contaminate the hamburger. We thought that was irresponsible to do that, so after having all of this background on performance oriented training, task condition standard, having somewhat of an engineering background, we finally came to the conclusion, you just can't use the stuff, for us and for everybody else.

Things like non-detected come up, and when we created quite a bit of political pressure with the administration over this problem and federal agencies started to get involved, the Department of the Interior, on another issue, but somewhat related to this Department of Justice, again because of the Indian fishing rights. The Chief Executive of this state, decided that he should do something, but first what he said to me in a meeting that I had with him, is that that the Indians instead of

eating one fish a week, should eat one fish a month. That we all have to do our part for the economy, well that just didn't sit very well with me. I felt that a right is a right, whether it be to vote, or to eat fish. It was more important than the way it was being cast, but finally he met with the companies and they reached a compact and they agreed to eliminate dioxin. This was in April of last year. Now being of the infantry persuasion, I sometimes don't get things very quickly, so I met with the Chief Executive two days after that, and specifically asked him what he meant by eliminate, because I sometimes get confused. He explained to me that eliminate was zero, nothing, absolutely zero, and based on that I brought the Penobscot Indian Nation in the state COLA's meetings. It then became clear to me that what the industry was talking about was virtually eliminate, not eliminate. We thought we were going to be on a pathway, a long term pathway, provide time but eliminate the problem. That was not the case. So when people say eliminate, when the industry says eliminate, they do not mean eliminate, because chlorine dioxide produces dioxin. The Canton, North Carolina mill, which was cited prior to me standing up, the Canton, North Carolina mill was a bit of a surprise because Canadians had tried to closed loop their system but chlorine dioxide is extremely caustic and the Canadians couldn't do it. The trade journals that we were reading saying, it can't be done, or Champion said, about to do it.

Now there are several things I've learned from them are these, one, they admitted, Champion admitted, that they could not do what they were doing with oxygen delignification, and oxygen based, a TCF technology, which first greatly reduced the amount of bleaching required with chlorine dioxide, and I suspect that some of our initial concerns about how to handle large volumes of chlorine dioxide pulsing through the mill system was being experienced by Champion. They had to put in an oxygen based technology, oxygen delignification, to remove the lignin first before they could even get into the bleaching phase. They also use ozone to assist in the bleaching, again reducing the amount of chlorine dioxide, and they are experiencing scaling problems, one of the problems which had surfaced before and it continues to surface. SODRA Cell, a Swedish company, which is also close looping their systems with TCF oxygen based systems, experienced no scaling problems. So whether the engineers of the future can overcome the problems, they may very well do that, but at the moment, it's an extremely difficult and expensive thing to do and they can not do it without employing oxygen based systems. Then with the waste, which Champion is burning, it is producing dioxin going out the stack and the State of North Carolina is keeping an eye on that. What the State of North Carolina will find acceptable, I do not know, but that's something that you have got to understand when you vote, that is you burn a chlorine dioxide sludge, it will produce dioxin going out the stacks. If it is acceptable that that occur, then you will know how to vote. If it's not acceptable, then we need to look at another option.

Well, again, after years of studying and negotiating, and fighting over this problem, I came to the conclusion that for the tribe's benefit, we needed to close up the mill, we needed to close loop, just like the kids on TV say, recycle, reuse. Just like you do, when you go to the town dump, which they don't call town dumps anymore, and you recycle. Mills have got to do that. We could not in good conscience permit them or take the position which would permit them to simply fill up the special waste sites, or burn the organic materials producing dioxin going into other communities, and for that reason, we decided that we just simply had to take the position that you had to get rid of the chlorine. As George Patton said, "Tell them what to do and they will surprise you." Well, I would suggest that we tell industry that

they need to get on the pathway to eliminate chlorine and I'll bet they will surprise us all and I don't think you'll find them moving. They didn't move in 1992, when the state was considering adopting federal standards for dioxin and the same argument was employed, the mills will move out. I suppose that explains why so many mills are now closed down, of course I am saying that facetiously, they didn't move anywhere, there's high quality fiber in Maine, there's a lot of it, this is the most heavily forested state in the nation. I don't think they are going to move anywhere. What we have to consider is whether or not we want to eliminate this problem, the health problem, and we want to restore our rivers so that we draw in the tourist revenue, which is something we shouldn't think too lightly of and do what George Patton said, "Tell them what to do and they will surprise you."

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

Representative MCKEE: Madam Speaker, Men and Women of the House. I've learned a lot as a freshman in the last five months, about how things work around here. It's been an eye opener. I guess I really shouldn't have been surprised, I'm talking about compromise here, in a large family or in crowded classroom it works just about the same way, you've got to work things out, compromise. Quite frankly, around here, most of the issues aren't too tough, some common sense, respect for home rules, recognition of fairness for Northern and Southern Maine, a tight pocketbook, hard work, keep your mouth shut, goes a long way towards solving most of our state's problems. But others, as we all well know, are exceedingly difficult to solve and many times you and I stand in polarized positions, and many times we're awed by the responsibility we have to accept in order to determine the best answer to a problem. That's been the situation that we folks on the Natural Resources Committee have had to deal with in the last few months. We've studied, we've questioned, we've deliberated this problem of dioxin, and I hope based on the attendance today, that this is like some of those sleeper movies that we see sometimes, I hope this is a great audience that we have here and I hope you are enjoying what you are hearing. It's a very important issue.

Our experience has been an interesting experience, and I want to share with you briefly my reasons for standing here today to support what's not only the right thing to do, but the right thing to vote for as well. Like my good colleague, the Representative Bisulca, from the Penobscot Nation, said, when the Chief Executive announced that he was going to eliminate, totally, chlorine from the paper making process in Maine's seven bleach craft mills, I was astounded. I knew that we still didn't have the risk assessment from EPA from dioxin, we've know about this for well over 12 years, and even in today's paper when the Chief of EPA was announcing the minimum cluster rule for Maine's paper mills, we still do not have in hand that risk assessment. But his news was the best environmental news I've heard since the announcement of the banning of DDT, and I told everybody wherever I went about this courageous effort. Not having eaten fresh water fish in a long time, and forgoing the tomalley of the lobster for some time as well, I was optimistic and encouraged. However, as I gradually learned that total didn't total, I was dismayed. But as our Committee made plans for studying this issue in depth, I decided to learn as much as possible and, well, maybe the virtual elimination of dioxin would be good enough, compromise. First came the paper sewer, then the science of dioxin, and the scientist from the Environmental Defense Fund, Jackson Lab, Boston U, the paper companies, and then came the science and technology of paper making processes themselves, then reports from toxicologists, health officials, environmentalists. Just acquiring a basic understanding of this subject required extensive reading and discussions. Ultimately,



it became very clear to me, however, that if we want to restore Maine's rivers, I mean really restore them, and rid them of dioxin, we'd have to ban the use of chlorine in the paper making process altogether. We're not dictating the technology, we're saying ban the use of chlorine in the paper making process. The move toward total chlorine free technology would not only be the best investment and economic vision for the future, but it would also save millions in chemical costs, worker's safety, and monitoring costs. To support ECF, or elemental chlorine free technology, would mean minimum investment, a myopic vision for the next century, and continued production and release of dioxin and effluence into our waters, our air, and the paper process sludge. If change was to be made, Maine would have to say unequivocally to the paper mills, no more poison, and as the legislature, which is charged to protect our citizens health and welfare, we can do no less. No amount of dioxin is safe, even at the most minute levels, according to health experts, and you know from the handout you received today that the long list of health indicators are here.

There is a human cost here on this gray page and it's a cost which we must acknowledge. Maine has one of the highest incidences of an immunological disorder in the country, multiple sclerosis, and in fact this area is a hot spot in the world. This area in Central Maine as a matter of fact. Someone near and dear to me has multiple sclerosis and I'm very interested in this topic. That same person nursed her baby, knowing what the World Health Organization had said about breast feeding. Breast feed your baby only for one year and remember that every time your baby breast feeds, he's getting more dioxin in one day than an 150 lb. man who eats an American diet of those yummy hamburgers and other such fat laden products, including pork, chicken, dairy cheese. In fact the World Health Organization goes on to say, we know how hard it is to breast feed, but if you breast feed at nine o'clock in the morning, and you know when you first start breast feeding, I know I have four children, so I know how difficult it was and how important it was, you breast feed at nine o'clock in the morning, a one to two month old infant, you know you are going to breast feed again at eleven o'clock, you're on a two hour schedule. They're telling us now, if you breast feed at nine o'clock, pump at ten, and throw the milk away, because in the first two months of breast feeding, that baby is going to receive 80 percent of the total amount of dioxin that you have been carrying around in your body over the past lifetime. That is a chilling announcement. Children under eight should not eat fish. I used to take my children out fishing a lot. We ate a lot of fish during the 70's and 80's. Perhaps the lobsters should carry a warning, no one has one yet, no one suggested that it should have, we know that if we're pregnant in the State of Maine, or we're in our childbearing years, we should not eat that tomalley, but does someone in Virginia know that? Does someone in California know that? Should the claw of that lobster say the State of Maine toxicologist has announced that the eating of the tomalley of this lobster could be dangerous to the health of a mother in childbearing years or a mother who is pregnant. That's a chilling thought, too.

Now what do we do with this knowledge? What do we do with it? There's two responses, one's personal, and certainly breast feeding mothers have to make that kind of decision. You and I have to make it too, those yummy hamburgers, not too much milk with fat content, and certainly no fish. We can also try not using bleached paper, bleached paper towels. I can remember I used to, if I didn't have an unbleached coffee filter for my coffee pot, if I had white paper towels, they were beautiful white pristine, I might cut one up and put it into the coffee filter. I now know dioxin comes to you that way also, as well as through

the paper cups as opposed to the Styrofoam cups, that we use for drinking juice or drinking coffee.

I'm glad that Representative Bisulca referred to the red herring. It's just like in my classroom. If a child is caught cheating and he says to me, "But, Mrs. McKee, Tom cheated yesterday." I have to look him in the face and say, it's today and I'm looking at you. We're not talking about hamburger today. Next session we're going to talk about waste incinerators, I can guarantee you. We're talking about paper mills today. I'm weighed by what I know about dioxin. There are no safe levels of this chemical. No amount of additional exposure to dioxin is safe or acceptable. Our bodies are burdened with a lifetime of dioxin, when the scientist from Bar Harbor, Beverly Pagen, showed the chart and showed us, in the State of Maine with our body burden of dioxin here and the dangerous level here, the bottom being there, do we know when we will reach that dangerous level. Will it be five years, ten years, twenty years, do we have time to wait and try to dictate a total chlorine free technology? Even our turtles carry the toxicity of dioxin as they wade through the ooze of our waters. I always try to remember to tell my son, whose a kayaker, don't stir up the mud. Our eagles suffer it potentially. Our famed Maine lobsters are affected. The choice is we must eliminate dioxin at its source and stop trying to control it once it's produced. Stop endangering our precious Maine resources, stop wasting time trying to design difficult monitoring tests, which are consistent, regular, meaningful, expensive, stop risking workers lives daily with tanks and tanks and tanks of chlorine or chlorine dioxide. Stop the production of chloralkali, which leads to our permitting the dumping of high levels of mercury into the Penobscot river today. Stop worrying about those who will profit from the production of dioxin. Instead, let's take a stand, and let us as a legislature, regain control of policy making and decision making regarding two extremely important natural resources, our water and our people. As a teacher and a mother of four children, I've participated in and observed numerous environmental activities and I've had the opportunity to help raise awareness about our environment and to listen to our youth discuss their frustrations with the adult world. It's not easy to be an adult, I tell them. I try to share our dilemmas with difficult decisions and the difference between idealism and pragmatism. I try to explain how, well, some environmental disasters didn't start out to harm anybody. But they say how, how can we make sure that there's going to be anything left here for us? I tell them, men and women of the House, study hard, learn the democratic process, study logic, study science, be patient. I say, start right where you are, right here this day, to do what you can for a cleaner environment. Well, I say to those kids today, and I say to you sitting here, I'm here today saying what needs to be said and doing what I think is right and I'll not be recorded otherwise. Sometimes, here in these halls, I can't compromise on this issue, I can't. My dad used to always say, "Linda, do the right thing. We'll make out." Well let's join the youthful Representative Tom Bull, all those environmental organizations of the state that have gotten in touch with us, the public health organizations, the doctors, the fishermen, the retired folks, the young kids we know, and the babies who are breast feeding, the young families, our great native people, the Penobscot and the Passamaquoddy, and even the birds of the air, and the fish of the water, join all of those people and me and support this. Do the right thing, we'll make out.

On motion of Representative KONTOS of Windham, tabled pending the motion of Representative ROWE of Portland to accept the Majority "Ought Not to Pass" Report and later today assigned.

The House recessed until 2:00 p.m.

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(After Recess)

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The House was called to order by the Speaker.

HOUSE DIVIDED REPORT - Majority (9) "**Ought Not to Pass**" - Minority (4) "**Ought to Pass**" as amended by Committee Amendment "A" (H-614) - Committee on **Natural Resources** on Bill "An Act to Eliminate Paper Mill Dioxin and Restore Maine's Rivers" (H.P. 1121) (L.D. 1577) which was tabled by Representative KONTOS of Windham pending the motion of Representative ROWE of Portland to accept the Majority "**Ought Not to Pass**" Report.

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

Representative BULL: Madam Speaker, Men and Women of the House. I just want to review this morning's activities. What we are talking about here is the first of two bills dealing with dioxin in Maine's rivers. This is the only bill that guarantees the absolute elimination of dioxin from the paper making process. The way it does this is being a pollution prevention program that is not using chlorine or chlorine based compounds in the first place. When you use chlorine or chlorine based compounds you are creating dioxins. Therefore, by not using those compounds, we are not creating dioxin. So we have here the true pollution prevention measure that will get this dangerous carcinogen, cancer causing carcinogen, out of Maine's environment and move us along a path to cleaning up our rivers for future generations.

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

Representative CAMERON: Madam Speaker, Ladies and Gentlemen of the House. First, let me say that even if I agreed with this bill, which I don't, it does not guarantee that dioxin goes away. If you recall this morning, the good Representative Cowger, made reference to a EPA Report that clearly states, dioxins have been found in the rivers below a TCF mill. This bill does not guarantee that dioxin will go away. Some of the other things that we heard this morning was that dioxin is the byproduct of the paper mill bleaching process and that's true. Nobody disputes that, but I want to emphasize that is far, far, from the only source. Some of the other sources, you hear made reference to this morning, primary sources, I might add, are incineration of medical waste, municipal incinerators, wood stoves, to name a few, but that's not the issue that we are here to talk about. What we're here to talk about is what this bill will do. This bill dictates that the paper industry in Maine must fix the problem through, one, a predetermined type of technology. There is no flexibility. We believe there's a better way to do it. We believe there's a way to do it that doesn't have the potential of financial hardships. We believe there's a way to do it, we know there's a way to do it, that we, in the industry, have negotiated with the Chief Executive and come to an agreement on. You've heard that it isn't good enough. I would like to be able to stand here and absolutely guarantee you beyond a shadow of a doubt that it's good enough and it's perfect and life will be wonderful after that. Life has shown me that it doesn't make sense to do that. But in light of that, the other bill, that we will talk about later, and I know we can't talk about it now so I won't get into it very deeply, there is a provision in there to deal with that, if we are wrong. The bill that is presently before us

demands that the industry go to what is called a totally chlorine free process. The Environmental Protection Agency, an agency which I believe most everybody in the room has a lot of respect, this agency has played an integral role in making all of our lives better, cleaning the water, cleaning the air, throughout the country. I believe they have a high level of credibility with most all of us. It doesn't mean we always agree. The Environmental Protection and their proposed cluster rules, that have been some four or five years in the making, I hope are finally near fruition. In those rules, they have said ECF, or elemental chlorine free process, is the best available technology. The best available technology. Now I for one don't believe, and some of you may say it's because I'm in the industry, but I don't believe that the Environment Protection Agency is controlled by the paper industry. I believe that they try to do for us what is best for us and our families, so when EPA says that that's the best available technology, I give that some credibility.

We've heard about a closed loop system. I don't think there's any of us that live and work in the industry that would disagree that that would be ultimately the best thing to do, and I believe that it will happen. But as of today, we don't have the ability to do that. It has little to do with money. It has something to do with money, but little. The technology has not been perfected. You heard about a mill, I believe it was in the Carolina's that's working on this. They've got a \$90 million subsidy to help develop the technology which they have not yet been able to develop. They're working on developing this technology, and hopefully, some day it will be available. As yet it is not available. I go back to what the EPA said, elemental chlorine free is the best available technology. It's a technology that will provide security in the future of the industry, which means a lot to me and I know it means a lot to some other people in this room. It is a technology that will help secure the working Maine people jobs, and I know that's important to most everybody in this room. It's a technology that will further rid our rivers of dioxin. I have to tell you that I don't accept some of the things I hear about how bad dioxin is. But let's assume that I did, and I agreed with all the horrible things that I heard this morning. We need to get rid of it. But don't vote on this bill believing that dioxin is going to go away, because dioxin is not going to go away. Dioxin forms in our environment by many natural processes, that we need to reduce the sources that we can, yes we do, absolutely. We don't need to destroy an industry and jobs in the process and we can argue all night long, all afternoon as to whether or not that will happen. I believe it will, others believe it won't. I'm not prepared to take that risk. Dioxin needs to be taken out of our society as much as possible, but I ask you again, don't make a vote on this bill, supporting the bill, believing that dioxin is going to go away. Dioxin, most likely, wouldn't go away even from that source, the paper industry, if we did pass a TCF bill, because we're getting some of it in the wood that we're bringing in, even if we don't use the chlorine. It's in the trees. It's in our environment. It's been found in Egyptian Mummies, and I don't think they had any chlorine processes in Egypt. Does that say we shouldn't get rid of it, no it doesn't. What it says to me is that we need to do it in the most economical, viable and judicious way that we can. It has not been proven to me that the level of toxicity is there, I do agree that it is a serious problem that we need to address. I have not seen any evidence, quite frankly of one person, one person in this country, while we've heard a lot about Times Beach and we've heard about Love Canal and all the other places, still never heard of one person that has been conclusively proven that that person is sick because of dioxin. We again can argue it all day, and it is fruitless to argue that because none of our minds are going to be changed. My mom always told me that a man convinced against

his will is of the same opinion still. She is absolutely right, so there is no point in arguing that issue. I don't want to draw this debate out all afternoon. I believe that most of us know how we are going to vote, but I ask you to consider what the economic impact will potentially be and what the potential is of jobs and weigh that on what the real improvement will be.

There are two issues that don't exist in this bill that I think that are very important.

This bill doesn't take effect for at least four years, and there is no follow up provision because there is an assumption that this bill will make a perfect world. There is no testing to prove whether or not this works. I wish we could discuss the other bill, but we can't and I only ask you to give us that opportunity when the other bill comes, so we can talk about how the other bill will achieve what we believe is a benefit to society in an economic manner that we can deal with, and has provisions to assure that in the long run, there'll be continued improvement. Thank you very much.

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

Representative FOSTER: Madam Speaker, Ladies and Gentlemen of the House. I doubt there is anyone in this body that would not like to get dioxin out of the rivers. What we have to keep in mind is that there are many sources of dioxin, and many of them are natural, among those volcanoes and forest fires, which sprays it into the air and eventually, of course, it gets on the ground, it gets in the water and it goes all over the place. There are also other sources in the river other than pulp mills. There are sewage plants, and there are other businesses, who dump effluence into the river. We're talking about one industry and we have two bills here to see if we can correct that problem. Both of them are aimed in the same direction. Both of them will achieve the same results. The question is, what's the most efficient way to do it? The technology of both of these systems will get us to the point when our testing system can no longer detect it, and so the question comes down to which one is the least expensive. That's probably the largest part of this issue, because of them will do something to get rid of dioxin. There will still be dioxin in the river from other sources, but certainly we can do something about effluence coming from the paper mills and the pulp mills.

One system is going to dictate a single technology as to how to do it. The other one sets the standard and it lets the people, who are causing the problem, solve the problem. That system probably will prove to be the best one, because it's going to allow people to do some investigation into how to do that and how to do it in the cheapest way. The other system, the bill which we are debating right now, is a single system. It's a dictated system. It really doesn't allow for anybody to do any experimentation. It takes away the incentive to do that, and in the long run will not be the best way to solve this problem.

Sometime before the end of this session, we're going to be asked to give another large industry a fairly sizable tax break. The industry we are talking about right now, which is the paper and pulp industry have essentially agreed to clean up their act in the rivers and they are going to do it at their expense. They have agreed to do this by the method of the other bill which we will see maybe tomorrow, or maybe later. It seems reasonable that we should take that course, and take that approach and get this problem solved. Thank you.

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

Representative VIGUE: Madam Speaker, Ladies and Gentlemen of the House. When areas of an economy are affected more by regulations than others, these are the other states and we put our businesses at a disadvantage. Presently, the federal government is nearing completion on a cluster of

regulations that is expected to impact the paper making industry that will cut dioxin levels in every state. If it affects every state, we don't have a problem, but when it affects the State of Maine, then we do have a problem. We would put our businesses at a definite disadvantage. Ladies and gentlemen, I don't think we want to do that. We're looking at jobs once again, and I don't think anybody, even people that support the more restrictive areas, these people do not want to jeopardize the jobs and this is what we'd be doing by going along with the other side. I would urge you to accept to 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. For me, this issue is very simple. In my district there is a health advisory on eating lobster because it contains high levels of dioxin. Lobstering is absolutely critical to my district. Dioxin is accumulative in the environment, in life forms and in the human body. It is not enough to simply slow the growth of that accumulation. Rather, we must stop introducing dioxin into the water, into the air and into the earth from all sources. Don't forget to weigh the economic impact or cleaning up dioxin, once it exceeds safe standards, and don't forget to weigh the economic impact of caring for those whose health has suffered from dioxin exposure. If we fail to stop producing dioxin now, then we must impose stiff pollution taxes and health care taxes on any and all producers of dioxin. I urge you to reject the pending motion.

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

Representative TRUE: Madam Speaker, Ladies and Gentlemen of the House. I'm reminded of a Proverb that I would like to have you remember as I'm speaking. And it goes, and old error is always remembered more than a new truth.

Let us remember that this problem did not begin today and I would like to remind you that we didn't just begin to do something about the problems with the paper mills. Ladies and gentlemen, that began years ago. I am a member of a family, whereby that my father, was an administrator in a paper mill that is no longer. Evidently, it doesn't do any harm, so it isn't on one of the maps showing the different mills, but it was located on the Piscataqua River. I left that area at age 17, because of World War II, but for those 17 years as soon as I learned to swim, I did that every day of the summer from about age six and I remember that vividly because my brothers thought the way to learn to swim was toss you in the river, see you on the other side, and as you can see I did make it. Back in those days, in the 30's, I can't tell you how many fish that I have eaten and my family ate, catching it out of this river. Back in those days, you could hunt bull frogs and get 23 cents a pound for their legs and they lived in the river. Raw sewage and so forth was in the river. In the 40's, they decided to clean up the water in the rivers and I believe at that time, they thought that the chemists and people that had all the know how, that if you put lime in, that would do away with some of the impurities, which even at that time, they thought that was causing some ill health effects.

As I sat here listening, I was amazed that a member of our body would champion the words and wisdom of our great native American people, on this subject only. When their words of wisdom on many things that they felt have been very important to them have been ignored by this body continuously since 1992. I am amazed that many of the people who support L.D. 1577, also supported banning clearcuts, and yet if I read correctly, that if we are to enter into all the things that L.D. 1577 promotes, it is going to mean that we are going to need more wood to produce the

paper that we're producing today, If we can produce the paper that we can market.

As you know, I have traveled all over the United States and all over the world, and when I knew this was coming, I wrote to a friend and asked him, in Europe, how he felt the paper companies were doing and he said, fine. But, then he sent me some pictures of the forest land, and ladies and gentlemen, if you think that we have some clearcutting, you want to visit some of those countries. Then I'm amazed when I read SODRA Cell Sell, Europe's largest market craft pulp producer and I quote, "We are firmly convinced that TCF bleaching will continue to revolutionize pulp production. In the future all pulp will be TCF pulp." Now think about what is being said, and think they are Europe's largest market, do you suppose they'd like to be also, and include most of the markets in the United States? I maintain they would and what better publicity to criticize what's going on in Maine to perhaps curb some of that market. A philosopher once said, the game of life is not so much in holding a good hand, as playing a poor hand well. Well, you know, I think many times we've been handed poor hands and this may be one of them, but ladies and gentlemen, to change a poor hand takes time. How many years did it take us to get to this point, where we are now, and what we are talking about? We can not do it immediately and still serve economically in the position we are in the pulp and paper market today.

Marie Curie, the Polish Noble Prize winner, said, "Nothing in life is to be feared, it is only to be understood." I ask you, in the last 20 years, has life expectancy increased during that time? I think that if you look it up, you'll find that it has. We must be doing something right with our health. We must be taking more precautions and we must be more healthy. Now this is not saying, and I am not saying that I approve, certainly, of dioxin. What I am trying, in my own way to say, and I do know and have studied a little science, that's it's everywhere, as many of you have said. I've heard many speak to say, we must get rid of it all, and I believe I would be accurate in saying, you can try if you want, but I don't think you'll ever get rid of it all. Certainly, we should try to get it to a point whereby that it is much more healthful than it is today, but I do not believe that this particular L.D. will do that. I would ask you to think about that and follow my light in voting "Ought Not to Pass."

The SPEAKER: The Chair recognizes the Representative from Penobscot Nation, Representative Bisulca.

Representative BISULCA: Madam Speaker, Men and Women of the House. I have great respect for the Representative from Fryeburg, but I do feel that I need to, as he pointed out, nothing, as Madame Curie said, nothing in life is to be feared, it's to be understood. So I hope I can make him understand a few things.

I talked about the red herrings this morning. The use of TCF does not require additional reduce. I've seen the numbers, I've seen the graphs. I've talked to Roland Lovebloc from SODRA Cell, he showed me the figures. I learned that wood from our tree farm is less dense than naturally occurring wood. I learned a lot of things about trees I'm sure, not to be an expert, but it doesn't require more wood.

Apparently, there are a number of experiments done by one of the companies, one of the paper companies, and they produced a number of results. I also saw the raw data, which was done to prove that burning chlorinated organics in the recovery boiler destroyed all the dioxin. I saw the raw data. I saw the data points and just eyeballing the data points, not doing a regression analysis, but simply eyeballing the data points, it was clear that burning the organic materials in the recovery boiler did not eliminate dioxin, but yet they began a process of eliminating data points and they ended up with two remarkable,

that if jointed together demonstrated that it did destroy the dioxin. We've seen the paper, we've seen all kinds of paper from all kinds of places. TCF paper, it is no different, it is just as bright, it is just as strong. If the New York phone directory was done in TCF paper, I still could not rip it. There are background levels of dioxin. It exists naturally. One of the outcomes of our concerns back in 1987 over the presence of dioxin was not only that we couldn't eat the fish, but that we had elevated cancer, reproductive and learning problems on Indian Island. We contacted the center for disease control, Indian Health Services Harvard School of Public Health was also involved. They explained to us that conducting the type of epidemiological study, which would be necessary to prove some linkage between dioxin and health affects would be virtually impossible to do and would be quite expensive. What we did ask them to do is to look at other things that may be causing the problems that we were having. Now I understand that this report has gotten out to other people and they are misusing it. That's unfortunate, but if you do have occasion to see it, look at the very back page, where Harvard School of Public Health, at least took the time to compare the Penobscot Indian population with non-Indians of European ancestry, with other Indians in New Mexico, who had a high fiber, low alcohol, low tobacco use, and they also compared us to Alaska natives, who have a similar high fat, low fiber, high tobacco, high alcohol use. In all comparisons with all these groups, in all categories of cancer, which they evaluated, the Penobscot Indian Nation was the highest.

We have a recurring problem, we have always had a problem with the inability of our kids in school to learn. It is extremely frustrating. We have reproductive problems, which we can't explain. Is this attributable to dioxin? We don't know. So that when people say, I do not know one person who has conclusively died or conclusively gotten ill from dioxin, I agree, I don't either. Yet I've got so many relatives to include a 37 year old cousin, who didn't smoke, who died of cancer. We have eagles living below the mill that have the lowest reproductive rate in the State of Maine. And we are told we can't eat the fish.

Remember how long it took to establish a link between tobacco and lung cancer? It's not an easy thing to do it, conclusively. The background levels of dioxin, yes, volcanoes, forest fires, yes they produce it, but in 1987, we began a program to build up our water monitoring program. Ladies and gentlemen, the Penobscot Indian Nation does the water quality work for the State of Maine, from Indian Island northward. We collect the data. Not only do we do it for suckers and bass, which the state looks at, we also do it for muskrat, turtle, fiddleheads, which the state doesn't do. We also do sediment work, which the state doesn't do. We know what the background levels are. We've gone up into the pristine waters and measured both the sediment and the fish and we've measured it below the mill. The difference is startling. This dioxin in the sediment, this dioxin in the fish, in the muskrat, in the turtle, in the eels, is not caused by volcanoes, it's not caused by incinerators. It's not caused by forest fires. It's caused by the craft production of pulp.

Representative Cameron, has substantiated the point that I made this morning, the closed loop with chlorine dioxide is expensive and problematic. That's exactly why we need TCF, because we're not sure that they can do it and the mill that was cited is the same one that I cited this morning. The Champion Mill in Canton, North Carolina, which is having tremendous problems with the State of Tennessee, because of their discharge. The only way they could close loop what they were able to do was by using oxygen delignification, and some ozone bleaching. That's the only way they can do it. They told us that, and that's exactly my point. It's a very difficult thing from an

engineering point of view and it's very expensive. We're not sure they can do it.

It was also pointed out that the most effective way to get rid of dioxin was through the competing bill. The most effective way to get rid of dioxin is to eliminate it. This is not about whether we should eliminate the use of lead naturally, or dioxin naturally, it does occur, both of them do. It is about eliminating man made production of very lethal compounds. We take the lead out of the gas. We take the lead out of the paint. We take the dioxin out of the bleaching operation in our pulp mills. Does it cost money? Yes, it cost money and I respect Representative Vigue's concerns, I know where he is coming from and that's the big question. How important is eliminating lead, asbestos, dioxin, things like that. How important is that to us as a society. It will cost money.

As far as TCF being a dictated technology, it's not. There are other technologies that haven't even been mentioned, which industry academia and the government are personally exploring. Simply removing electron, electron from the lignin molecule allows it to be flushed away. There's a process called Polyoxamedilates which uses a transition metals for the hemisphere, to do exactly that. They are also using biological agents to eat away the lignin, prior to moving it through the bleaching process. What's interesting about these two new technologies is that they both employ closed loop. I think fundamentally, there's an understanding that we need to reduce, eliminate, the amount of man made chemicals and pollutants going into our waterways and into our airways. And, yes, the problem didn't begin today and we didn't just begin to deal with the problem, we have been. The worrisome part of all of this is where you're going to end up. If you end up, and remember what I said this morning, regardless of how people characterize it, this is a chlorine dioxide versus an oxygen based technology system. What you have to concern yourself with is where you're going to end up, if chlorine dioxide does not permit itself to easily go into a closed loop system, if it still generates dioxin, is that in the end where you want to be? Do you want to struggle with this in another crisis mode in another 10 or 20 years, or do you want to recognize the engineering difficulties with using chlorine dioxide? Do you want to recognize the health hazards, which we now are familiar with? That may explain some of our health problems, or maybe the Maine Supreme Court in 1842 had a right when they said that imbecility on their part, in talking about us, and the dictates of humanity require that certain basic human rights should be removed from us. Maybe we just don't learn very well, I don't think that's it. I think there are other environmental factors that contribute to that. I urge you to consider, where do you want to end up in 10 or 20 years? Do you want to be fighting the battle again, or would you rather have learned from what's been going on in the last several years in the State of Maine over dioxin. Is it better to learn from that and develop a strategy which takes you to an environmentally friendly way of producing pulp and paper? A product which is competitive. A product which has gone from 1991 to 1996, has moved from nine percent of the European market to over 25 percent of the European market. With US companies actively seeking European pulp because they can't get it here. I've met Fred Garth, the producer of *Scuba Times*, he uses chlorine free paper. I've met Jerry, from Ben & Jerry's, not Jerry from Lewiston, as he's looking at me now. I've met Jerry from Ben & Jerry's, they're looking for chlorine free paper products to use and they're looking overseas. The list goes on and on. Harcourt Brace, the children's books, just converted to chlorine free paper. At what point are people going to finally understand that things are changing. If we don't get with the program, we'll be left behind with old unwanted technologies. I don't think that's what

we want for the state. I ask you to consider where you want to be in 20 years and let that guide how you vote on this.

The SPEAKER: The Chair recognizes the Representative from Enfield, Representative Lane.

Representative LANE: Madam Speaker, Ladies and Gentlemen of the House. I've got to stand up here and really confess that I am confused. It seems to me that we are now debating another bill that we really don't have the expertise to debate, but then that's our preview. We have to make our decisions based on what we read. We have to make choices based on who we want to believe and what we perceive as the agenda of those people. So we can believe that dioxin creates a whole host of problems, or we can believe the EPA's own science advisory board, which concluded that the only human disease known to be associated with dioxin is chloracne, which is a skin disease found only in people who have been exposed to very high concentrations of dioxin, or related chemicals. No chloracne cases would be expected, to people exposed to the tiny concentrations of dioxin found, for example, Love Canal, Times Beach and Escambia, and none of them seen. It goes on to say, the absence of dioxin related diseases in human population can not prove their harm has not, or will not occur, because it's impossible to prove a negative. But absence is a strong indicator and scientists depend on such evidence all the time and that's an article by a Dr. Michael Kluff, Director of Science and Risk Studies, Kado Institute, Washington DC. I'm also confused, because you see in my community we have Lincoln Pulp and Paper, a beleaguered small independently owned, family owned paper mill. Beleaguered, ladies and gentlemen, by environmental demand, also the recipient of environmental awards. I have heard, coming from Lincoln Pulp and Paper, and reading reams of material, like we all must to try to absorb what's going on here, that the eagles referred to, have, in fact, increased in population along the Penobscot River. The river eagles produce at a different rate than other species of eagles, so I'm confused.

I'm confused because I've heard that the discharge from Lincoln Pulp and Paper has greatly decreased. Again, they've received an environmental award. I'm confused because we've been waiting for a long time for the cluster rules to be released. So we're moving forward and we're moving forward at a rate that is more than adequate to try to meet the environmental problems we're facing.

I really think that we have been listening to this debate for a long, long time and I'm sure there is a lot more to be said, but when I come to make my decision based on what I have read on both sides of the issue, I have to look at who's behind some of these issues. Do I go with my paper company? Do I go with the Science Advisory Board of the Environmental Protection Agency of the United States Government, or do I go with a bill that was put forward by such organizations as the Sierra Club and other non-governmental organizations whose agenda seems to be to ban clearcutting and destroy the paper industry in the State of Maine. I urge you to accept the Majority "Ought Not to Pass" Report. Thank you.

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

Representative USHER: Madam Speaker, Men and Women of the House. You've heard both sides of this issue and it can be complicated and we know we have another piece of legislation coming before us. I'm well aware of that one and I believe it's the more reasonable approach. Comments have been made in regards to the environment. I believe the industry, the paper industry, has been very involved in the environment. They are very concerned about clean rivers, and if you can recall, probably 15 to 20 years ago, what the condition of the rivers were, and

look at them today. I think there's a great improvement. The employees of these companies, they're the ones that purchase the canoes and use these rivers and they appreciate clean rivers. They're the ones that also buy the fishing licenses and go out there and fish and they appreciate good clean rivers and good fish, too.

The issue before us is dioxin, many of these companies have already resolved just about all of it. They're all different, in a different way. Our mill is probably one of the oldest mills. We've spent over 80 million dollars since 1989 in new pumping systems, but the bank is not in Maine. We have to go to another state to ask for money to improve, just like the rest of the mills. They don't have the bank in Maine, they have to go out of state, request money for all these capital programs. They're all improving on their own, and I think that is the best method to use.

Representative USHER of Westbrook moved that the Bill and all accompanying papers be indefinitely postponed.

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

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

The SPEAKER: The Chair recognizes the Representative from Bowdoinham, Representative Shiah.

Representative SHIAH: Madam Speaker, Ladies and Gentlemen of the House. I know we've had a long debate here, but as a member of the Natural Resources Committee, who did not cosponsor either bill, I spent the last several weeks looking at a lot of information. We have stacks of it on our desks up in the Committee room, and I want to tell you, I came down supporting this bill, because of that information. You know our knowledge of toxins and the chemical effects on us as humans and other species, we're learning more all the time. As some have mentioned, it's difficult to prove what causes cancer, what the exact causal effect is, so we test these things on other species, rats, mice and others and we try to extrapolate from that and I think that the research has shown that there is enough question about dioxin that we really have to do our best to eliminate it. Especially in our waters. That's where it bio-accumulates in the fish, lobster, tomalley, and other organisms.

Part of my district is Merrymeeting Bay, it's a wonderful natural resource. It drains six rivers, two of those rivers are the Androscoggin and the Kennebec. Those two rivers, there's a combined four of the craft mills drain into my district, so I have a lot of people in my area that are deeply concerned about the receiving end of the effluent that comes from the mills. I've had a lot of contact on this bill, a lot of constituents are working for this bill, they're the ones that put together this one handout I passed out with the map and some of the effects of dioxin on the other side.

I know it's a tough bill, but that's all right, because dioxin is an even tougher toxin, and that's what we are talking about here. The costs have been mentioned, but what about the cost of decreased cancer, the cost of other associated health problems. The decrease in costs that this bill will lead us toward. What about our fish advisory, lobster and tomalley advisories? If those continue to increase, our tourist industry is not going to be very happy, and nor will a lot of the tourists be coming here. I think it's in this day and age we can do a lot better. That's again, one of the reasons I'm supporting this bill. I know you've heard a lot, but I see the young pages here this afternoon, in front of the chamber, listening, I don't know if they understand it all, but one of the most important things we can do for them, they're looking at us as stewards of this state, and as the stewards of the land, the air, and the water, I think it's imperative upon us to do the best we can to give them an environment they'll be able to safely

live in, so I would urge you to vote against this indefinite postponement and vote to pass the bill. Thank you.

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

Representative GOOLEY: Madam Speaker, Men and Women of the House. To any complex problem there are multiple solutions. The art of good policy making involves balancing competing interests and finding ways to achieve your goals without disrupting other important policies outcomes. In this instance, environmental protection must be balanced with the economics of making paper and sustaining the state's principle manufacturing sector.

Going on to L.D. 1633, as was what I would recommend, and by doing so would allow paper mills to invest in ECF technology at the cost of \$20 to \$50 million per mill. By any measure, this is a substantial investment for individual companies to make, but is necessary to meet state and federal environmental requirements and to ensure the health and safety for the people of Maine. In short, the balance of interest works if L.D. 1633 becomes law.

The other parts that I would like to add is something that I received, a table put out by EPA science advisory board, and this survived professional review by 39 scientists in May of 1995. What it says here, it shows the dioxin sources in the United States environment, 5.6 percent comes from motor vehicles, 5.2 percent comes from metal productions, 2 percent from electrical power generation, 1.3 percent from wood burning, 1.1 percent from pulp and paper, and natural sources is 82 percent. I found those to be very interesting statistics, and because of what I have been reading and trying to understand about this problem that I move indefinite postponement on this bill.

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

Representative BULL: Madam Speaker, Men and Women of the House. It's critically important to me to stand back up and I apologize for prolonging this debate, but there are a lot statements that have been made, which are not entirely accurate.

The statement was made, and it's been repeated a few times, that the TCF process, total chlorine free paper making process, can create dioxin. Ladies and gentlemen, this is simply not true. The chemistry of the process does not support that. Now when they're saying that there are traces of dioxin in the effluence, or from the waste water, from TCF mills, what they are detecting are background levels of dioxin. As we have heard before, from other speakers, there are naturally occurring sources of dioxin and there are background levels of dioxin, and so when they are measuring that water coming out of the totally chlorine free mills and are finding traces of dioxin, it is not from the chemicals being used in that bleaching process. It is remnants that are already in the water, or in the wood before the bleaching was done. The reason I can say this so definitively is that the simple chemistry says that you can not get dioxin by using oxygen, ozone, or hydrogen peroxide, which are the three most common methods of bleaching paper right now, without using chlorine. So it's really important that you understand that those are preexisting levels there.

This has been said, that we have no testing on L.D. 1577, and that is very true. Why do you need testing of water if you are not creating dioxins in the first place? If you are not creating dioxin, if you're not using the chemicals to create those dioxins, you simply do not need to be testing. So that is why it is not there. It is an unnecessary expenditure, that we simply do not need in this bill, because it is a pollution prevention program.

Again, and again, and again, we've heard that this bill is mandating technology. This is nothing about mandating technology. This green sheet was handed out saying this is a

one size fits all, that is simply not true. All we are saying is that we are setting some parameters that the mills must abide by, the can not use any chlorine, or chlorine based compounds, and they must get there by the year 2002. As the good Representative from Penobscot Nation mentioned earlier, such restrictions have been used in the past. We can not use lead in paint, or gasoline, and we can not use DDT to make pesticides. How does this differ from those two past efforts, to get dangerous chemicals and pollutants out of our environment?

Just very quickly, the committee amendment to this is (H-614) and there are some changes that have been done to that. One of them that has been done is that a lot of mention has been made here about the possible economic impact. I'll say to you here, ladies and gentlemen, what I said at the opening of my statement, back on April 8th. If I believe that L.D. 1577 would eliminate one paper mill job, I never would have introduced this bill, and I say that with utmost sincerity, because I have seen, in the past, incidences where efforts have been made to get companies to stop polluting their environments so much, and one of the first arguments they make is, "oh, no, we can't do this, it will cost us jobs."

Back in 1990, there was a bill before this body, which passed, called the color, odor, foam bill, some of you may be familiar with that bill. This statement was made back then, by the manager of environmental affairs at Georgia Pacific in Baileyville, said, in relation to that bill, back in 1990, "This legislation threatens the ability of my company to maintain a competitive business." I don't see that happening. They are using the same arguments here today, saying this is going to put the mills here in Maine in a competitive disadvantage. The sponsor of that bill, back in 1990, the good Senator from Androscoggin, Senator Nutting, who was then, Representative Nutting, who sponsored the color, odor, foam bill, said in response to those remarks, "Next, they'll threaten the jobs will be lost." There has not been a job lost at a paper mill in the United States due to an environmental law. Environmental laws make mills more efficient. This is the sponsor of the competing bill, so ladies and gentlemen, these arguments are not new, we've heard them before, and it simply does not pan out. It is a scare tactic. It is because of these past statements, and we've heard these statements used, back when they did the logging drives, banning the log drives, when the National Clean Air Act went into effect. They keep on using those arguments that this will cost us jobs and it simply has not happened.

I would, in fact, propose to you that this is an effort, as the good Representative from the Penobscot Nation, Representative Bisulca, eluded to, that this is to bring them into the modern times. Many of the mills, here in Maine, are severely lacking in modernization, compared to some of their southern brothers and sisters, in the paper making process. What we are doing here is offering them a golden opportunity to get on board of this burgeoning market for totally chlorine free paper. And yes, ladies and gentlemen, I believe it is a burgeoning market. During the testimonies, at the public hearing, we had a number of people come before our committee saying, we want totally chlorine free paper. Ben & Jerry's from Vermont, Johnny's Apples from Albion, the good Representative from China, Representative Bumps' district, has said that they would be interested in using totally chlorine free paper produced here in Maine. Jane Karker, a printer from Western Maine Graphics, in Oxford, from the good Representative from Oxford, Representative Underwood's district, has said that she would be interested in totally chlorine free paper if it was being produced. You have Borealis Press Company from Surry, Maine, saying that they would be interested in totally chlorine free paper. Ben & Jerry's, Tom's of Maine, from Kennebunk, the good

Representative from Kennebunk, Representative Murphy's district, has said, that they would be interested in chlorine free paper, totally chlorine free paper. The biggest one was Patagonia, we all know, of course, what the best mail order catalog in the country is, but the second best catalog company possibly, Patagonia, has said that they would be interested in printing, they already do print their catalog on totally chlorine free paper, but they would love to be able to use Maine paper, instead of having to go to Europe. So why are we not taking advantage of this market? It happened to us in the computer and the car industry. We sort of kept back and did not aggressively go after modern technology, and we seem to be making the same mistake here, ladies and gentlemen, I say that we are giving them a golden opportunity, to be able to go forward and capture this market.

Additionally, an amendment to the bill, that I've put in, again filing number (H-614) has a section in there dealing with financial incentives, it calls on the Commissioner of Environment Protection, and the Commissioner of Economic and Community Development, to report to the Joint Standing Committee on Natural Resources about establishing assistance programs in the financing of capital investments to assist mills to moving to this technology.

This is not an effort on my part, to shut down the mills in Maine. I am very much aware, as is the good Representative from Enfield, Representative Lane, how important the mill jobs are to Lincoln, and I understand the important role they play in your economy. I understand the role they play in Westbrook's economy. I understand the role they play in Skowhegan. I understand the role they play in Woodland, in Rumford, and in Livermore, I understand that. I am not trying to shut them down. I'm simply trying to get them to conduct their business in a way that is safest for everybody, and it is not polluting our rivers.

There's a comment that the technology, totally chlorine free technology, is in it's infancy, but in fact, there are mills in Sweden, SODRA Cell, that have been using this technology for many years and have gotten it down to a very good science. The paper they use, and I unfortunately can not use visual effects here, but I do have some catalogs here with totally chlorine free paper. You can not tell the difference between them, they are perfectly bright, high quality paper. The argument that totally chlorine free uses extra wood, again, is simply not true. We as a committee wrote a letter to SODRA Cell, the mill in Sweden, asking them about this very issue. We asked them as a Committee, the Natural Resources Committee, wrote a letter to them, says, "Has there been any increase in wood consumption, either soft wood, or hard wood as a result of converting from ECF to TCF technology." Their answer, "No, we have not seen any measurable difference in wood consumption when converting from ECF to TCF technology." And contrary to what the Representative from Fryeburg, Representative True, seemed to be saying, I do not see how SODRA Cell has anything to gain from Maine going to totally chlorine free paper, the mills. Because, they, were in fact competing with SODRA Cell. SODRA Cell would not necessarily want to have competition. It would be to their benefit to not have them going, but they see the benefits of TCF technology for the environment.

There's also been the reference made, that paper mills are just one small part of a dioxin problems here in this state. I agree wholeheartedly, it has never been my argument or anybody else's argument, who support L.D. 1577, that this is going to eliminate entirely the dioxin problem in the State of Maine. What this is, it's a start. I like using the analogy of an apple. You can not eat an apple in one big bite. You have to start with small bite, small bite, and small bites until eventually the apple is gone. Well that's what this dioxin problem is here,

ladies and gentlemen. We have to start with one piece at a time. We start with the paper companies this year and next year we start with another source. So to say that we shouldn't be doing this because it's not going to solve the problem, I simply don't follow that logic. Do we just throw up our hands in disgust, and say that we are not going to solve it with this one bill, let's not do anything? That seems very defeatist. I think we need to be pushing forward, and doing what we can, when we can, to solve this problem. We get rid of the discharges from the paper mills, then we can go on to other sources, such as incinerators.

Once again, though, the argument may be made that going non-detect is good enough, but it's simply not good enough when we're dealing with a cancer causing compound. Non-detect does not equal elimination. So ladies and gentlemen, please let's take the bold step today in stopping this source of dioxin into Maine's rivers. Let's start the process of eliminating all sources of dioxin. This is not the end. This is simply the beginning. It's going to be a long rocky road, but let's start today and make a bold statement for a cleaner, healthier tomorrow. Please vote against the pending motion to indefinitely postpone. Thank you.

The SPEAKER: The Chair recognizes the Representative from Hallowell, Representative Cowger.

Representative COWGER: Madam Speaker, Men and Women of the House. I apologize for prolonging the debate, so I'll be very brief. I just feel compelled to respond to one point, although I tend to agree with much of what the good Representative has just said.

That's regarding lead. You've heard a couple of times today, that removal of lead in gasoline is often been pointed out as model for the removal of dioxin in the processing of paper. In addition, a survey conducted by the Natural Resources Council pointed out that a majority of respondents agreed with the principle that dioxin be removed from paper mills, "in the same fashion that lead was eliminated from gasoline." I just want to point out that my whole approach to this issue is maybe different from many people who testified today, and that is of putting in place rigorous discharge standards. In fact, the standard for lead in gasoline is not elimination, as we are talking about with the TCF process, but we allow .05 percent lead in gasoline, and that's about 500 parts per million. In fact, this is five billion times greater than the detection level of dioxin, that we are proposing in the legislation you will see before you, later on. In other words, we allow five billion times more lead in gasoline than we would allow as a maximum level of dioxin from the bleach plant. To me that is not a really fair example and I urge you to support the pending motion.

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

Representative BERRY: Madam Speaker, Men and Women of the House. First of all, a bit of identity, I've taught chemistry for 34 years. Now let's continue. First of all, there are 210 different dioxin molecules. These structures, and the shapes of these structures, depend upon the orientation, the chlorination, and the location of the chlorine on these two connected oxide benzene rings. The most common of these, of course, is the infamous PCDD, the 2, 3, 7, 8 combination of the tetrachloride, which is probably by far, the most toxic of the group. I will agree with that. Let's talk a bit about proximity, because some of the things that have been talked about here today discuss the area of how toxic is the material. Our measurements that we use to do our measurements of these substances, pictograms per gram in sediment materials, that's parts per trillion. And pictograms per liter in our water materials, that's parts per quadrillion. I have to pick on my seatmate here for a moment. I gave her two numbers the other day and I said, which of these is larger? One

part per million, or 256 parts per quadrillion. She picked the 256. It's a big number. Yes, it's a lot larger until you connect one thing to it, and that is the units of measurement. The quadrillion and the use of the term quadrillion, if we were to measure that, we're talking about something that most of us can not even conceive. And as instrumentation gets better and better, that measurement system is going to get more and more finite. If we had one quadrillion of a millimeter, those little tiny guys, that would be enough distance to travel approximately, 1,350 times to the moon. That amount. So when we're talking about measurements of units here, we're talking about systems and dioxide levels that are extremely low. We have two terms that are used in science, one of those terms is virtual zero the other is absolute zero, and I'm not talking about gas laws. Virtual zero, keeps changing, and it changes because of our extent of how we have instrumentation to measure that system, and the better we get in our technology, virtual zero keeps changing. Absolute zero is absolute zero, it always stays there. We have our backgrounds and we have all of these other pieces that come into it, we talked about here, the carcinogenic effects to humans.

In a study that actually came out in February, 25 scientists working together and these people from 11 countries in a working group in Lyon, France, determined that the significant factor of 1.4 was a sign and would be a reasonable factor for a cancer causing effect of dioxin. The level, people, for tobacco is 20. So if that's the case, and we have so much of a concern, I would suggest we don't need any smoking areas, because this is becoming a major happening in your life.

Science has walked through so many pieces we support here, the cranberry industry and some of you remember, cranberries cause cancer. That industry almost went under because of that, and now we look at it as part of our industrial base and growing in this state, not just Massachusetts and Minnesota. I would suggest to you, that when we look at these issues, that we do keep in mind the terms absolute zero and virtual zero, and I'd also like simply to make reference to the fact that in the 1980s the rivers of this state were carrying large amounts of dioxin. Those measurements at times were up and around 100 parts per quadrillion. We're now at levels that are around 10 parts per quadrillion. I would encourage you to indefinitely postpone this bill and all of its papers and to work towards a proposal which is much more efficient and much better for the industry of the State of Maine. Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative BARTH: To anyone who can answer, if totally chlorine free bleaching process used in making paper means zero, zippo, no dioxin, does that then mean that there are absolutely no, zero, none, no chlorine atoms in a tree, and if there are chlorine atoms in a tree, can not dioxin be formed?

The SPEAKER: The Chair recognizes the Representative from Penobscot Nation, Representative Bisulca.

Representative BISULCA: Madam Speaker, Men and Women of the House. In response to the question, we've talked about background levels, we've agreed that there are background levels and if there are chlorine atoms in a tree, which there are, there will be the production of some dioxin because of natural occurring reasons. The result is going to be almost zero.

I do want to make one other point, while I'm standing, I'll just take a second, you know we talked about numbers, and be wary of numbers. We talked about 10 pictograms, if we want to start breaking this down into the molecule levels, 10 pictograms



contain about, and I may be off, give or take one or two, 20 million molecules of dioxin, so be careful when you start talking about numbers, and on the battlefield, there are millions of fragments of metal flying about, it only takes one to do you in. Thank you.

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

Representative BAKER: Madam Speaker, Ladies and Gentlemen of the House. Recently, I attended a breakfast for legislators at the invitation of one of the paper companies. I went to learn. I listened to their concerns. They spoke about costs. It would cost a \$100 million, they said, to change to a totally chlorine free process. I asked what their profits were last year. They said \$180 million. They expressed concerns about a lower quality of the paper, but we've heard testimonies to the opposite today. Most of all, I was concerned after asking them about direction, if they used the ECF method, would it be a stage on the way to totally chlorine free, the answer they gave me was no. I ask, why not do it right the first time. If it cost \$20 to \$50 million to do the elemental method, why not go the \$33 to \$70 million to do the totally chlorine free method.

Maine has a proud motto, "The Way Life Should Be." Let Maine join Europe, where the TCF market share has grown from about 5 percent to about 25 percent in the past six years. Our people want a clean environment. The indigenous peoples of Maine have been robbed of many of the natural resources they enjoyed for centuries before Europeans came. Let us restore edible fish, and water to them and leave that same legacy to our decedents. Thank you.

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

**ROLL CALL NO. 260**

YEA - Ahearn, Bagley, Baker JL, Barth, Belanger DJ, Belanger IG, Berry DP, Berry RL, Bigl, Bodwell, Bouffard, Bragdon, Brooks, Buck, Bumps, Bunker, Cameron, Campbell, Carleton, Chick, Chizmar, Cianchette, Clark, Clukey, Cowger, Davidson, Dexter, Donnelly, Driscoll, Dunlap, Dutremble, Etnier, Fisher, Fisk, Foster, Frechette, Gagne, Gagnon, Gieringer, Goodwin, Gooley, Honey, Jabar, Jones SL, Jones SA, Joy, Joyce, Joyner, Kane, Kasprzak, Kerr, Kneeland, Kontos, Labrecque, Lane, LaVerdiere, Layton, Lemaire, Lemke, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, Mailhot, Marvin, Mayo, McAlevey, McElroy, Meres, Murphy, Nass, Nickerson, O'Brien, O'Neal, Ott, Paul, Peavey, Pendleton, Perkins, Perry, Pinkham RG, Pinkham WD, Plowman, Povich, Richard, Rowe, Samson, Savage, Saxl JW, Saxl MV, Shannon, Snowe-Mello, Spear, Stanley, Stedman, Taylor, Tessier, Thompson, Tobin, Treadwell, Tripp, True, Underwood, Usher, Vedral, Vigue, Waterhouse, Wheeler EM, Wheeler GJ, Winglass, Winn, Winsor, Madam Speaker.

NAY - Baker CL, Bolduc, Brennan, Bruno, Bull, Chartrand, Colwell, Desmond, Fuller, Gerry, Green, Hatch, McKee, Mitchell JE, Morgan, Muse, O'Neil, Pieh, Powers, Quint, Rines, Shiah, Sirois, Skoglund, Stevens, Townsend, Tuttle, Volenik, Watson, Wright.

ABSENT - Cross, Farnsworth, Gamache, Jones KW, Poulin, Sanborn.

Yes, 115; No, 30; Absent, 6; Excused, 0.

115 having voted in the affirmative and 30 voted in the negative, with 6 being absent, the Bill and all accompanying papers were indefinitely postponed and sent up for concurrence. Ordered sent forthwith.

**Divided Report**

Majority Report of the Committee on **State and Local Government** reporting "**Ought Not to Pass**" on Bill "An Act to Allow the Separation of Frye Island from the Town of Standish" (H.P. 899) (L.D. 1216)

Signed:

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

Minority Report of the same Committee reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-602) on same Bill.

Signed:

Senators: NUTTING of Androscoggin  
LIBBY of York  
Representative: KASPRZAK of Newport

Was read.

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

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

Representative LABRECQUE: Madam Speaker, Ladies and Gentlemen of the House. I rise and ask that you defeat the present motion and that you give your vote to allow Frye Island to secede. In the 107th Legislature, Frye Island was granted municipal services corporations. This allows the island to assess fees from the residents of the island to pay for the services Standish does not provide. At about that same time, Standish also discontinued giving Frye Island their tax rebates. In 1995, the Legislature passed a new law establishing standards to govern secessions. A key part of this law is the requirement that the parties attempt to work together and negotiate a resolution to all matters and disagreements. Frye Island followed these standards step by step, resulting in the Town of Standish at their May 13th Council Meeting on a vote 5 to 2, in supporting the Island's secession.

Frye Island should be allowed to secede, because they followed the rules of secession set by the Legislature. Standish does not now provide monetary support, nor anything but the very basic of standard services. Taxes will not increase because of this secession, and this is something that I'm concerned about, since I am a Standish property tax payer. This probably was the one issue that was the most concern of all Standish tax payers. It has been shown that the revenues and expenses of this secession will wipe each other out.

Frye Island property tax will still continue to pay for education in MSAD #6, the regional school district in which Standish resides. Finally, Frye Island has been managing itself for over 15 years, in all areas but land use regulations and ordinance enactment. Ladies and gentlemen, I ask you to support the "Ought to Pass" motion once we defeat this. Thank you.

The SPEAKER: The Chair recognizes the Representative from Madawaska, Representative Ahearn.

Representative AHEARNE: Madam Speaker, Ladies and Gentlemen of the House. There are no year round residents on Frye Island. If this were approved, there would be zero inhabitants on the Town of Frye Island during the winter months. In effect, the Town of Frye Island, if this bill were to pass, would be the first ever in the history of Maine to become a part time

town. Approximately, and during the summer months is when there's a peak month, in terms of the number of residents on the Island. Currently, there are 20 citizens who declare Frye Island as their official residence, if this bill were passed it would climb to 35 people. Now this is out of 630 property lot owners on the Island. Regards to the vote that was taken, at first they weren't sure if they were for or against secession on the Town of Frye Island and Frye Island leaving the Town of Standish. Then, they subsequently were trying to see what we could work out with the Committee, at that time felt that under a straw vote that we were not going to support this piece of legislation. But subsequently, we've seen on our desks, there have been votes not to provide them a tax rebate, in fact, the vote was to let them become their own town. That vote was not a unanimous vote. There's concern on part of the committee that because this will not be a year round community, that there will not be enough people who will be on that Island to fulfill the necessary offices to run an effective municipality. Now sure, there are other small communities, but this is kind of unique in its own way, since there would no central office year round. Where can people obtain a marriage license, for example, or register their vehicles, or obtain copies of vital records? This was a serious concern to a majority of the Committee members and this is also a concern, and from what, either from what I consider to be a gut instinct for me personally, the fact that the vote merely was allow them to leave, but that was it, and there seemed to be nothing more than that, just allow them to go. No, I wouldn't say, real thought into it, on the part of the Town Officials of Standish, but I'm sure they gave this an enormous amount of thought, but the fact that they voted, just let them go and there was no real strong foundation for the people of Frye Island to become their own town. So I ask you for those brief reasons to accept the Majority "Ought Not to Pass" Report and Madam Speaker I request a roll call.

The same Representative requested a roll call on his 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 Rockport, Representative Powers.

Representative POWERS: Madam Speaker, Men and Women of the House. This is an unusual situation, indeed. Frye Island is unique in that it is the only fresh water island with substantial development in the state. Since there's no bridge, the residents are dependent on a ferry and obviously, not using Coast Guard services or any such, they can't get through the ice during the winter. That is the only reason there aren't people on Frye Island year around at this time. As the Representative from Madawaska, has said, there are about 35 legal residents of Frye at this time. These folks now vote in Standish and have Frye Island addresses. They spend the winter on the mainland in neighboring towns, but Frye Island is their legal address. This is not an unfamiliar situation in some ways, as far as our coastal towns are concerned, there are many people who are voting residents of such places as North Haven, or Monhegan, or the Cranberry Isles, who own or rent apartments on the mainland so they will not be isolated during bad weather. The principle for Frye should be exactly the same. I need to point out to you also about the situation of a center of the municipality, or its offices being located not within that particular town. The existing Maine law allows a municipal government to conduct business at any suitable location out of town within 25 miles of the town boundary. The Town of Frye winter offices will be located in Raymond and Windham areas and it will be open five days a week throughout the year. Any municipal business will be able to be conducted without difficulty.

So there seems like there's nothing improper in the least about Frye Island conducting business on the mainland in the winter, the situation has been anticipated in the law for four years. It is different. It's worth considering though. It's already provided for in the Maine law. I hope you will defeat this "Ought Not to Pass" motion and support the "Ought to Pass" Report, as both Standish and Frye Island asked us to do. Thank you.

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

Representative SAVAGE: Madam Speaker, Men and Women of the House. I did serve on the State and Local Government Committee last session, in the 117th, and we were inundated with requests for secessions from various parts of communities, and so forth. We did work extensively on these guidelines for secession, to set up standards, to identify and resolve critical issues, before a municipality, or a portion of the municipality, would secede.

I feel that this community of Frye Island has followed the guidelines that we set up. I don't think that I remember there being anything in those standards that said they had to have a specific population to secede, so I don't think that's a fair issue to be addressing. I do understand that they have a full time manager who is on the Island during the summer and has an office full time off the Island in the winter months and that would resolve all of those issues that people need to address at those times. Thank you.

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

Representative LEMKE: Madam Speaker, Men and Women of the House. I am listed on the Majority "Ought Not to Pass" Report. I had a number of concerns when this particular secession bill came before the State and Local Government Committee and I have voted against secession bills in the past. There is another secession that has been before the Committee and will be before you, which I am very strongly opposed to. I have to say that in the final analysis, when we voted there were several good reasons to vote for secession, but one outstanding reason not to. One major reason to accept secession in this particular case, as opposed to the other, which came before us, was total disagreement. Total disagreement between the city and those who wished to secede and after tremendous labor, we could not work out any kind of mechanism to move in any kind of direction. Unlike that, the Frye Island City Council, did vote 5 to 2, to allow it. So we didn't have that problem, it wasn't something we had to deal with or mediate or arbitrate, or whatever else in Committee, they had in effect been given the green light by their town. That's one factor strongly in favor of this secession bill.

Second major concern I had is what kind of a precedent do you establish if you allow this secession, and I've said before in previous legislatures, we do not want to balkanize the State of Maine on the basis of income, disparities or whatever else, but also that's another issue that in my mind, at least, was resolved, because as other speakers have said, unlike coastal situations, this is a precedence, which basically is a precedent for Frye Island. There is no comparable fresh water island, where this is likely to occur, so that was also resolved in my mind.

A third major question, I had is size, yes, 35 people. Sounds like the kind of towns you hear about on grade B westerns on TV, or what have you, but then as you see in one of the handouts, and it's limited, you have places like Centerville, in Washington County with 30 people, Lakeville in Penobscot, with 45, so, you know, the different sizes, we're not uniform, we're not mandated, the size that applies to a town. So I could live with that also, so it came down to the fourth question. And that was the one that I had the biggest problem with.

How can you, in effect, create a seasonal town? A town that exists for most of the months of the year, but during the winter for all intensive purposes, would not seem to. That was my major concern, and that is why I voted on the Majority "Ought Not to Pass," but Madam Speaker, I have to say, that I was in error. Now I have committed errors on the floor a lot, but I'm admitting that I was in error, in Committee. Looking over the information that is unique to Frye Island, the folks that winter, don't go, most of them to Florida, or California, they go to neighboring towns, like Raymond, like Windham, my town, they are Maine people, as other people have pointed out, this has been covered. They have experience in running their own affairs over 15 years, through a municipal service corporation, their major problem is a physical one, not a political one, to become a town, because of the winter access issue, which might be addressed, and in fact, there is clear evidence or possibility, that if they were to become a town, they would mushroom from 35 to the astounding number of 100, rather than some more, by most calculations. And as has been pointed out, the way they conduct business is not improper, in fact, it is anticipated in law under Title 30A. So, I admit it. I'm capable of error. I was in error here and it brings me back to the compelling point, they voted for it, I have always tried to vote for local control, if this doesn't work, I am sure succeeding State and Local Governments Committees will revisit it. I do not consider this at all comparable to the other bill that will be coming before us, which I intend to vote as I voted in Committee on the floor. I would urge you to give Frye Island a chance and vote against the pending motion.

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

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

The SPEAKER: The Representative may pose his question.

Representative STEDMAN: Is there anything in State law that says that a town has to be inhabited year round in order to be considered a town?

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

Representative BRUNO: As a matter of fact, there's a provision in State law that allows towns to exist just in these types of situations, that they can actually be off the Island, to run some of the things they need to run. There is provision in Maine law to allow this type of situation.

The SPEAKER: The Chair recognizes the Representative from Falmouth, Representative Fisk.

Representative FISK: Madam Speaker, Ladies and Gentlemen of the House. I think there is just one point that I'd like to make that hasn't been made by Representative Lemke. You got four pieces of information that came to your desk this morning, and I didn't see an answer to it on either of those. I think the most compelling reason why we had a 10 to 3 Report was the fact we felt the responsibility to the State to determine whether or not a municipality could function. We have a number of people in State and Local Government who have a lot of experience as municipal officials, and when you figure, we figured that you need at least 20 or 30 people to handle the typical municipal responsibilities. An entire island only has 20 or 30 voting residents so we didn't think there would be that many civic minded people that actually could handle all these responsibilities. So whether you call it a population problem or a functioning gap, I felt that was the major reason the majority felt their responsibility, that the State had a responsibility to make sure if you're going to create a municipality, that they can function properly. I thought I would bring that one point up and I

still believe that the issues support the 10 to 3 "Ought Not to Pass." Thank you.

The SPEAKER: The Chair recognizes the Representative from Cumberland, Representative Taylor.

Representative TAYLOR: Madam Speaker, Men and Women of the House. I speak only because I have a little different perspective than some of you have here, having worked with the people on Frye Island for 17 years, while I was manager of the Portland Water District.

Their Island is located right in Sebago Lake, and is the only access to the Island. There is no geographic connection between Standish and Frye Island. They are a very well organized group. They have a capable manager. I'm not sure it was the same one for the whole 17 years, but somebody that you could always get a hold of, we had a court order situation with them regarding the number of lots that they could develop and we were very concerned about the sanitation on the Island. They took care of that very responsibly. I've found them good people to work with, and if I had any doubts about speaking to you today, I did get a letter from a constituent in Cumberland who happens to have a summer place on Frye Island, so they aren't just people from away. I think this is a different situation, I've never been for secession, because I don't think it fits in most areas, but Frye Island is really an orphan. Raymond doesn't want them, which would be a natural town for them to go to. You have to go through two other towns to get from Standish to Frye Island. I think they should be given an opportunity and would like to support an "Ought Not to Pass" on the Majority Report. Thank you.

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

Representative BRUNO: Madam Speaker, Men and Women of the House. It's hard for me to sit here, coming from Raymond, and not support Frye Island in their secession movement. Raymond is about 500 yards away from Frye Island in Sebago Lake. If you're a good swimmer, you could probably swim across there and have a pizza there, and go play golf there. I don't know how you would carry your golf clubs if you're swimming, but if anybody wants to try it, it's not that far. Standish is 15 miles away. Fifteen miles, you have to travel through a lot of traffic, through Windham, and go up 302, and go all the way down the Outer Cape Road in Raymond and get to the end and take a ferry across.

The 117th Legislature set rules. In order for this Legislature to allow secession, you must meet every one of these demands that we set up for you. And you know what? Frye Island went out and did every single one of them. There was an agreement between Standish and Frye Island that we will allow you to go on your own, and what Frye Island did, in order to get this agreement, what they said is, we will pay the Standish share of the school taxes. This isn't a tax revolt secession. This is a town that wants to be on their own. They've been on their own for 17 years. They provide their own municipal services. They get nothing from Standish, absolutely nothing. The Town of Raymond provides rescue, fire, and we don't charge them for it, but yet the taxes are going to Standish. This is not a tax revolt. The people on Frye Island have said, we will continue paying the school share to Standish, and for that reason there will be no increase in the tax rate in Standish, because Frye Island is leaving. So how can this Legislative body set up rules, and say these are the rules that you need to follow, and then you come back to us and we'll give you approval. But now that they come back to us, after they followed all the rules that we outlined, and saying, now we changed our mind. We can not do that and have credibility as a body. When this body sets up rules, it needs to

stick by them, and that is why I am supporting the secession of Frye Island.

There's another secession movement going on, down in Biddeford, it's not the same thing. It's not even close. Frye Island and Standish worked together in order to do this. I don't think it's up to this body to say no after they followed all those rules that we set up. I hope you will defeat the pending motion and allow the people on Frye Island to become a town and just because they don't live there year round, doesn't mean they don't belong to Frye Island. Thank you.

The SPEAKER: The Chair recognizes the Representative from Windham, Representative Kontos.

Representative KONTOS: Madam Speaker, Men and Women of the House. I'm one of the cosponsors of this legislation in large part, because Frye Island did exactly as the Representative from Raymond described to you. They went through the process that the State and Local Government has presented to this Legislature two sessions ago, and for that reason I felt they had a legitimate reason to bring their case before this body. I'm very familiar with Frye Island, our own home is not too, too, far across the lake from Frye Island and in a conversation I just had with the Speaker, because we were talking about the schedule and she said, what about this, and every person I know that has property on Frye Island is a Mainer. They care as much about it as they do the home that they have in the region where I live.

In regards to comments made by the Representative from Cumberland, I too have an association with the municipal services corporation in this way. Several years ago, during the huge debate, that some of you may recall, over the water levels of Sebago Lake, I was a cofounder with someone from the Water District, actually, to look at the water quality issues on Sebago Lake. That group is an active nonprofit organization now looking at that issue despite the fact that the water level debate has subsided. We have as one of our board members, a representative from Frye Island, who has the same sort of standing on that board as do municipal representatives from the other communities that border the lake. For that reason, many of us who have worked on those activities surrounding water quality issues on Sebago Lake already begin to think of Frye Island and their representatives as equal partners in the kinds of municipal discussions concerning Sebago Lake issues. So for that reason I will be voting against the Majority Report, because I think Frye Island and the Town of Standish have demonstrated their mutual efforts to negotiate this issue and it has been to their credit. I believe we as a Legislature should be comfortable supporting the resolution that they have reached. I thank you.

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

Representative BUMPS: Madam Speaker, Men and Women of the House. One of the most difficult issues that the Committee on State and Local Government has faced in this session, has been a series of requests from a number of Maine citizens who would like to secede, or annex, organize, or deorganize, or some other form of modification of their municipal boundaries or governmental structure. I'd like to begin very briefly by commenting on a few of the statements that have been made in the debate that has just occurred. I would agree with both Representative Bruno and Representative Kontos that the folks from Frye Island have followed as close as anyone could be expected, the provisions set forth in the statute that was enacted by the 117th Legislature. There is one very important part that's missing from those provisions and that part is this last step that some of you seem to have written in to the law since it was enacted. What I've heard is the suggestion that there's some automatic clause that if you follow all the steps when you get to

the legislature, your secession will be granted, and that's simply not the case.

The role of the State and Local Government Committee in this particular case and in every other issue of secession, organization, or deorganization, ought to be to look at how the proposal before them will effect, not only the community that's seeking to take whatever action they are seeking to take, but all of the other municipalities across the state. In this case, I feel comfortable and confident that that is exactly what the State and Local Government Committee did when we issued our 10 to 3 Majority Report, "Ought Not to Pass." The case of Frye Island is a bit unusual in several ways, first and foremost, as you've heard, there are no year round residents on Frye Island. As an island in a freshwater lake, access to the island is severely limited during the winter months and as a result, the summer inhabitants of this community disperse and live in a number of other towns throughout Maine, and in some cases throughout the country. Second, since the Committee began considering this proposal, it has been nearly impossible to determine exactly how many of the current property owners would eventually call Frye Island their home and consequently, making them available for serving in the administrative positions that being an independent municipality demands. I would suggest that the approximately 35 people who consider themselves to be residents of Frye Island now, who are then dispersed during the winter months, do not represent as Senator Goldthwait has said, the critical mass that is necessary to operate a viable and independent municipality. Third, of those 35 residents on Frye Island, and this is something that you haven't heard yet today, there are three property owners who have never become members of the current municipal services corporation and similarly are not advocating for this secession. If Frye Island were to become an independent municipality, those properties would become part of the town, despite the owners objections. Men and women of the House, I would caution you against rejecting the Majority Report and setting a very dangerous precedent of granting municipal status to seasonal communities that may arguably lack all of the human and practical resources necessary to become and remain a viable municipality in this state.

Finally, I want to address just two other things that were stated that I would take issue with. The first is that the town of Standish provides this community with no services. That statement was made with regards to fire and ambulance protection. In fact, the Town of Standish has made an agreement with the Town of Raymond to provide for those services, not unlike those that exist in many of our other communities, where mutual aid agreements have been set across political boundaries. And finally, the argument that the municipal services corporation has, over the last 15 years, represented a government, I think is a bit misleading. There are things that are inherently different about organizing and operating a municipal services corporation than from operating a municipality. They are two entirely different things. A municipal services corporation or something like it, is made to operate within a municipality and so, thereby is inherently different than operating an entire town. I would just ask that you sincerely consider all of these issues and to think carefully about the precedent that you might be setting when you cast your vote and I would urge you to accept the Majority "Ought Not to Pass." Thank you.

The SPEAKER: The Chair recognizes the Representative from Cumberland, Representative Taylor.

Representative TAYLOR: Madam Speaker, Men and Women of the House. My seatmates tell me I misspoke after my eloquent speech, just a few minutes ago and my intention is to

support the efforts of Frye Isle for secession and I would urge you to vote nay on the present motion before us. Thank you.

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

Representative DONNELLY: Madam Speaker, Men and Women of the House. Some of you are looking right now and saying why is someone from Presque Isle, northern Maine, standing up on Frye Island? I was wondering why so many people from Frye Island and Diamond and Cushing and all the other Islands that we have dealt with for the last couple of years have called me and it finally dawned on me after Representative Joy made an observation in caucus that people called him, being from Island Falls, that I'm from Presque Isle, and apparently we've felt the kinship that we needed to debate, so after years of discussing this thing and finally realizing why people have called me on the issue, I thought I'd share a couple of comments with you.

I am in support of Frye Island secession and I am so for a few reasons. In the three terms that I have served so far, we have had numerous times where we tried to do individual cases, step by step on each case's merits of why they ought to do it. Last session, the State and Local Government Committee, made a very wise decision that there needed to be a standard set and a procedure for people to follow before they got to the Legislature. We were taking up issues before anybody had even talked about it, before they had even a vote within their own group and it went from one extreme to the other, a very well prepared, well organized folks, to folks who just got upset one day when they received their tax bill and asked their legislator to put a bill in. State and Local Government Committee came up with a procedure and a methodology and believe me, it's not very often that you get someone to vote to let someone leave their border. As I recall, there's only been a couple of times in the history where that's worked out well and one is the Wells and Ogunquit situation.

I wanted to respond to a couple of the questions that were said. Being from northern Maine, where there are some smaller communities, without what some have deemed critical mass, as I was driving to a funeral, I drove through my wife's hometown of Oakfield, through Dyer Brook, and I looked at the Dyer Brook town office and it's a modest building and I asked Representative Joy, since it's his district, about how many people serve on all those governmental groups that require to officiate a town. He approximated around 40, that number sounds familiar, from how many people claim Frye Island today, 35, but Dyer Brook also happens to be the center for a lot of other communities, it's also where the SAD is located and they are able to operate. There's towns like Blaine, that have a part-time town office, which is less than what this town office is going to be open. We have towns all across our state, that while they are not in the middle of a lake, they are not full time town offices. The Town of Merrill, several other towns, to say because the town office will be operated on the Island part of the year and in Raymond part of the year, doesn't take into account what standards we set for the rest of the state, for those that are not surrounded by bodies of water. To say because we don't know how many people will become full time residents, to me doesn't answer the question on have they abided by the steps that the last Legislature set up and this Legislature had not changed. I believe in fair play, and changing the rules going forward, I do believe in changing the rules, after someone has complied with them. We have a group of people who have met the standards we required and are asking for what we set as the end goal when they met those standards. Changing the goal line is not only unfair, but it seems unreasonable. To me, at this point, the only thing to do, the right thing to do is allow Frye Island to become a town.

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

Representative TOWNSEND: Madam Speaker, Men and Women of the House. I think this has been a valuable and thoughtful debate and I appreciate the words on both sides, from friends with whom I disagree. I come with an admitted bias, regarding secession and I find myself persuaded by Representative Bumps who is a powerful speaker, and I want to outline the reasons why I'm not just being a knee jerk about this.

The one quality which connects Frye Island to all the other communities which have sought secession, both in the past, and in which you will be grappling in the coming weeks, is the issue of valuable shore front property. That was the issue in Long Island, Peaks Island, Cliff, Cushing, Little Diamond, Great Diamond, it's the issue in Biddeford Pool, and it could be the issue in other communities in the future. While I respect the fact that it has been stated that there will be no property tax affect in this case, in those cases, I assure you that the property tax is very much at the heart of the issue. I think that it would be a very dangerous thing for us to make decisions which allow those with very highly prized valuable shorefront property, which in recent years has become increasingly unaffordable, and unavailable to average Mainers. To withdraw from the communities to which they belong, I fear that we may be tugging at the threads which hold together the very fabric of society. I'm afraid that this is a slippery slope and that in future years we will be talking about Prouts Neck, seceding from Scarborough, about Squirrel and Mouth Island, seceding from Southport, about areas of Pemaquid seceding, areas of Harpswell, Mere Point seceding from Brunswick, I think this is a very, very dangerous precedence and I will be voting "Ought Not to Pass."

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

Representative BRUNO: Madam Speaker, Men and Women of the House. Do not worry about setting a precedence, with this secession movement. Frye Island, as you have already heard, is the only fresh water island there is, so you will not be setting a precedence because there is only one Frye Island. I think that's very important. I agree with Representative Bumps from China, that the State and Local Government needs to look at every situation on its own merits. I'm just afraid that they have not looked at this one, based on its merits.

It already is an independent municipality. It's already running itself through the municipal services corporation. You do not have to physically be on the Island year around to be a town and I think that is very important. Like I stated previously, and I disagree with the good Representative from Portland, this is not a tax revolt issue. This is a local control issue. This is a bunch of islanders that want to form their own town, and there are three residents who are not part of the municipal services corporation, as a matter of fact, one of them doesn't even pay taxes to the municipal services corporation, but when Frye Island becomes a town, everybody will pay their fair share of taxes. Once again, I urge you to defeat the pending motion and allow Frye Island to become the Town of Frye Island.

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

Representative JOY: Madam Speaker, Ladies and Gentlemen of the House. When the process, apparently, was in its earliest stages of development, I got lots of calls and the good Representative from Presque Isle indicated that I had shared with him, in fact, I gave him permission to use my line.

As with the other islands that have attempted to withdraw from their ties with the Community, the residents of Frye Island called me and I assume it is because of the Island Falls in my address. The good Representative from Kennebunk, my

seatmate, has pointed out that Frye Island is north of Standish and that the north and the south have worked together for the common good, and I suspect that this might be a model for the rest of the state, not necessarily to secede but to work together for the common good, so we don't have to hear that word secede too many times. I will be supporting the residents of Frye Island and hope you do too. Thank you.

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

Representative GERRY: Madam Speaker, Ladies and Gentlemen of the House. The reason I voted with the Majority "Ought Not to Pass" had a little bit to do with the number of people that wanted secession and how many that wanted to run a town. My major problem with this secession was that when we had the public hearing, it was said, everything is cut and dry, we can secede, Frye Island wants to go, Standish wants us to go, so we went under the exception it will be an easy bill. We didn't devote as much time to the bill as I would have liked. As we progressed in working the bill, different things kept popping up, things weren't all as cut and dry as it was. We didn't hear from a majority of the people from Frye Island, we only heard from a few of the people, we heard from a lobbyist and from the Representative that did the bill. It wasn't until the final workshop on the bill, did we hear from one of the three people that did not join the municipal corp., and does not want to secede from the Town of Standish. He wants to stay a part, and he seems to be one of the bigger land owners on the property. So in good conscience, I could not vote "Ought to Pass" because there were still too many questions left open. As it is now, I'm not too crazy about Frye Island and their seemingly double taxation, they have to pay taxes to the Town of Standish, and to the municipal corp. Their tax rate is a lot higher than most of the towns we have, it was just totally unbelievable, and even if we do let Frye Island secede from Standish, they're going to be paying back money to pay for the education. Their tax rate is not going to go down, by them going away from Standish. I mean, there's too many questions unanswered. I would love to have had this bill carried over so we could work out the details. I don't want to stand in people's way from seceding, or not seceding, it's true they have gone through all the hoops, but the final stage, to me, has not been totally worked out. All the people of Frye Island haven't had their say in working anything out. If there is any way I can recommit this back to Committee, I sure as heck would, and seeing that I'm not sure how to do that, I've got to uphold my decision and ask you to uphold the committee's decision to vote this "Ought Not to Pass." Thank you.

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

**ROLL CALL NO. 261**

YEA - Ahearne, Bagley, Baker CL, Bouffard, Bragdon, Brennan, Bull, Bumps, Clark, Clukey, Colwell, Driscoll, Fisk, Gagne, Gerry, Jones SL, LaVerdiere, Mayo, Mitchell JE, Muse, Nass, O'Brien, Pieh, Povich, Rowe, Saxl JW, Saxl MV, Shiah, Stevens, Townsend, Tuttle, Volenik, Madam Speaker.

NAY - Baker JL, Barth, Belanger DJ, Belanger IG, Berry DP, Berry RL, Bigl, Bodwell, Bolduc, Brooks, Bruno, Buck, Bunker, Cameron, Campbell, Carleton, Chartrand, Chick, Chizmar, Cianchette, Cowger, Davidson, Desmond, Dexter, Donnelly, Dunlap, Dutremble, Etnier, Fisher, Foster, Frechette, Fuller, Gagnon, Gieringer, Goodwin, Gooley, Green, Hatch, Honey, Jones SA, Joy, Joyce, Joyner, Kane, Kasprzak, Kerr, Kneeland, Kontos, Labrecque, Lane, Layton, Lemaire, Lemke, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, Mailhot, Marvin, McAlevey, McElroy, McKee, Meres, Morgan, Murphy, Nickerson,

O'Neal, O'Neil, Ott, Paul, Peavey, Pendleton, Perkins, Perry, Pinkham RG, Pinkham WD, Plowman, Powers, Quint, Richard, Rines, Samson, Savage, Shannon, Sirois, Skoglund, Snowe-Mello, Spear, Stanley, Stedman, Taylor, Tessier, Thompson, Tobin, Treadwell, Tripp, True, Underwood, Usher, Vedral, Vigue, Waterhouse, Watson, Wheeler EM, Wheeler GJ, Winglass, Winsor, Wright.

ABSENT - Cross, Farnsworth, Gamache, Jabar, Jones KW, Poulin, Sanborn, Winn.

Yes, 33; No, 110; Absent, 8; Excused, 0.

33 having voted in the affirmative and 110 voted in the negative, with 8 being absent, the Majority "Ought Not to Pass" Report was not accepted.

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

The Bill was read once. Committee Amendment "A" (H-602) 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-602) and sent up for concurrence. Ordered sent forthwith.

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

**TABLED AND TODAY ASSIGNED**

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

HOUSE DIVIDED REPORT - Majority (11) "Ought to Pass" as amended by Committee Amendment "A" (H-569) - Minority (2) "Ought to Pass" as amended by Committee Amendment "B" (H-570) - Committee on **Education and Cultural Affairs** on Resolve, Regarding Legislative Review of Chapter 131: Rules for Learning Results, a Major Substantive Rule of the Department of Education (EMERGENCY) (H.P. 1093) (L.D. 1536)

TABLED - May 21, 1997 by Representative RICHARD of Madison.

PENDING - Motion of same Representative to accept the Majority "Ought to Pass" as amended by Committee Amendment "A" (H-569) Report.

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

Representative RICHARD: Madam Speaker, Men and Women of the House. In the last few days and weeks, a lot has been printed and many flyers have been left on your desk about learning results. Some of you will stand to debate this issue today, but before the debate begins, let me remind you of some facts. This learning results package contains the rules that go with the statute that was put into effect by the 117th Legislature. These rules were developed here in Maine, by Maine people, for Maine students. The creators of these rules are not bureaucrats, but instead, they are teachers, school administrators, college personnel, business people, fellow legislators and parents of the students who will be affected by these rules.

These rules are guidelines and goals, that have evolved from years, years of study. Each individual local school unit will determine how to meet these goals. An example, on page 3 in learning results under reading for elementary grades. Figure out unknown words using a variety of strategies, including rereading, context clues, and knowledge of word structures and letter sound relationships. Some of you are concerned about phonics, and I share that concern with you, but there it is. It is suggested as a

method for teaching reading. Are these rules a mandate? To teach, what is already being taught, is not a mandate.

Not all districts now have career preparation, extensive foreign language classes, and visual and performing arts. If these subject areas will add additional cost to a district budget, which can not be absorbed, implementation of these subjects may be delayed. Some of you have been concerned about the statute statement that says, failure of the Legislature to annually appropriate a minimum \$2 million for professional development will result in suspension of the system of learning results. When appropriation does not fund as much as is asked for, in a statement such as that, they have a way of taking care of that by saying, notwithstanding the provisions of etc., etc.

An old quote that was repeated by the teacher of the year, when he accepted his award is one that we should all remember. "Do not judge your child's education by your own, for he was born in a different time." I urge your support of the years of study by professional educators and many, many others, for these rules that still do not have to go into total effect until the year 2002, although many districts have already opted for some type of learning standards.

Representative RICHARD of Madison 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 Mapleton, Representative Desmond.

Representative DESMOND: Madam Speaker, Colleagues of the House. I am always reluctant to speak to the obvious, however, there are many aspects of the learning results that bear repeating, so I'll take that risk.

As a teacher, with many years of experience, from kindergarten through college level, I've been involved in and observed many methods of teaching, good, bad and indifferent. In my three years in the Education Department, at the University of Maine, Presque Isle, much of my work was as a student teacher advisor. I have worked with teachers, principals, and student teachers from Fort Kent, to Sherman Mills, and in London, and Toronto, Ontario as well as across the border from Aroostook County. Because of my experiences in the education field, I have become more vigorous in wanting education in Maine to be of the very best quality. I am a cautious person, but do like a challenge. When I say cautious, I mean someone who keeps an open mind, that doesn't mean that I'm skeptical, which means that you are in doubt.

During my career in education, I have witnessed vast changes in family structure in society and in student behavior, especially a big change in student sophistication. Education needs to change with the times. Some of teaching techniques and activities used for fifth grade students in the 50s, are more geared for grades three in the 60s. After television, students were more worldly. After computers, there was another big shift. School could become irrelevant, if we don't keep pace and that would mean a decline in our society, economically and morally.

Learning results isn't a whole new concept. Most teachers have been doing most of these things. Now is the time to coordinate those efforts. We live in a mobile society. Learning results will ensure that the mastery of certain objects will come, regardless of where a student goes to school, or where he or she lives. It will ensure that students entering college will be able to write effectively and will have mastered what they need to know in order to succeed at that level. In dealing with learning results, we have the uninformed and the misinformed. I know why people feel that implementing the learning results is risky. There is a lot of misinformation out there. It's hard to separate fact

from opinion or just pure fiction. There has been ample opportunity to become informed. Commissioner Albanese, and others have been in every county to answer questions of concern. For example, we received several messages on our desk, that say phonics isn't mentioned in learning results. Learning results doesn't eliminate phonics. Phonics is a strategy for teaching in the language arts area. How a teacher arrives at a goal in reading, or spelling, certainly is open to phonics approach, as well as other strategies. These strategies would be part of the curriculum. The learning results guidelines allows for that flexibility.

The first message that went across our desk, I thought was not correct at all, saying that there was no phonics in the learning results. Another that received that spoke about full name awareness, is really very correct and I would consider that a plus for learning results. Work on the learning results began in 1993, when the Legislature created a task force to develop long range education goals and standards for school performance, and student performance, to improve learning results.

In 1996, the Legislature adopted six guiding principles, which describe the characteristics of a well educated student. Learning results is not a statewide imposed curriculum. Learning results defines the purpose of a statewide system. Implementation remains a local function. Learning results should be used as a guide for schools in forming curriculum and designing assessment at the local level. Parents will know at what level their children should be. Parents and teachers can work together to spot problems early. Parents and teachers must share accountability for student learning. We must assure that Maine has high standards for student learning in all the content areas, as are articulated in the guiding principles, content standards, and performance indicators, in English, language arts, science and technology, modern and classical languages, health and physical education, social studies, mathematics, visual and performing arts, and career preparation. A commitment to all students, means a commitment to developing the

necessary opportunities and conditions needed for high levels of learning for every student, in every school in Maine.

We know that all students perform better when they know what is expected of them, and when these expectations are high. Research links economic growth to the quality of education. Maine's education system must prepare our youth for the work force in the years ahead. The Maine business community supports the learning results program as an appropriate way to raise kindergarten through twelve educational outcomes by providing greater accountability. The business community has much to gain when capable and competent people are hired. The level of education of employees drives the level of success of business. Implementation of the learning results will enhance Maine's reputation as a state with a highly skilled and educated pool of employees. This will attract and retain businesses that will create the high skilled, high paying jobs of the future. Learning results is not a mandate. It is not a curriculum, it does not take away from local control. It is not a top down initiative. It is a set guidelines that will help students, parents and teachers. These guidelines will be especially helpful to new teachers. A curriculum based method is more restrictive, it does not allow the latitude for creativity in teaching that the learning results guidelines would allow. The much touted Virginia model is a curriculum that is locked in and will soon be outdated, much like the old teacher's manuals. The learning results provides Maine citizens with the best opportunity we ever had to change the public education system, so that all students have an equal opportunity to achieve high standards of learning. How can we do less. Let's pass this initiative and give parents and teachers

the guidelines to help our children be their best in this restless world we live in. Thank you.

The SPEAKER: The Chair recognizes the Representative from St. George, Representative Skoglund.

Representative SKOGLUND: Madam Speaker, Ladies and Gentlemen of the House. Some of you will recall that in less sophisticated and perhaps happier times, some adults blew smoke rings for the amusement of little tots. I can tell by your expressions that some of you recall. That feeling we got when we were tiny, reaching for something that looked very attractive and than finding it had no substance. I've been trying to find the substance to what is so attractive about learning results. I also taught for over a quarter of a century, and as I am fond of reminding you, the Clerk of the House was one of my students in social studies for grades 6, 7, and 8. I don't know what is so attractive about learning results, but I think I can give you three good concrete reasons why they should be rejected.

First of all, learning results is based upon a principle that is contrary to what we know about child development, and their readiness to learn. Second, I believe that learning results sets up unrealistic expectations that will set children up for failure, many of them, and set teachers up for failure. Third, learning results would enact one educational philosophy into law, thus denying the validity of other educational philosophies. If you'll bear with me, I'll try to expound a little bit about those three reasons, why learning results is not a good idea.

Let's say we have a classroom of 5th graders, most of them would be about 10 years old. You recall being in the 5th grade. Some of you recall taking achievement tests and being happy to know that you were working on 7th, 8th grade level or even higher. Some 5th graders are 3 years ahead of others, in maturity and readiness to learn. Some of your classmates were a year or two behind. It's the same today. In any class of 5th graders, we would have probably a range of 5 years of pupil maturity. They're not all ready to learn the same things at the same time. Teachers do the best they can, as teachers always have. At one time, the solution was to put all the bright kids in one group, all the slower kids in another group, well that didn't work out too well after it was tried and in most places now that system has been abandoned. We prefer to mix children in as they are in real life, but that homogenous grouping was at one time the solution. You remember that, some of you who taught, this was the solution, we consolidate our schools, make classes big enough so that we could have all homogenous groups. State Department recommended it, implemented it, we spent a great deal of money doing it. Now we're undoing it. It was not the right decision to make. It was educationally unsound. A great many people believed in it.

I think one of the mistakes we're making in education is that we are spending far too much time, far too much effort, and far too much energy in attempting to teach young people things they are not ready to learn. I recall myself in the 5th grade, struggling with fractions. In other subject, I was doing pretty well, but I could not comprehend fractions and to this very day, I can not conceive of  $5/8$  divided by  $2/3$ , what does it look like,  $5/8$  divided by  $2/3$ ? A fifth grader is expected to know that, comprehend it, do it. I can perform the operation, but I don't know why it works. There are some things like fractions, some children can learn earlier, some can learn later. When I went to Gorham State Teachers College, we were instructed in what we called scope and sequence of curriculum. We were taught what children were able to learn at a certain age, and what was appropriate for that. When we went into the teaching field, we knew that, and our instructors explained, do the best you can. Not all students are going to get it. That doesn't mean you're a failure, it doesn't mean they are failing. They'll get it later. I remember one

teacher, I can remember her so clearly saying, "They'll blossom out. They'll blossom out. Just don't stifle them."

Learning results is based upon the idea that all children will learn certain things at a certain stage of their educational development. They will be tested on it, if they can't make it, they're going to be held accountable. Now I don't see how that takes into account this educational principle of readiness. I could give examples from the learning results, that I think really demand too much of a child's intellect, but I shall not do it and if these learning results are implemented, I'm sure those things will be changed. It seems to me that learning results are being presented to us as if educators had found the ancient secret scrolls in the temple of learning for the first time. That no one knew this before, we could have a statewide plan of education. I thought we had always had it.

Getting back to readiness, some children are ready to learn chemistry in the freshman year of high school, some aren't. Some may never be. It's not necessary that they all do. There are some philosophical truths, spiritual truths, that one can't conceive all, can't comprehend until their old age. I remember hearing a woman, in her nineties, saying to her friend one time, of another friend, "She's almost 70, so she's beginning to understand." That's what's meant by being a lifelong learner, and if we are lifelong learners, why do we have to worry so much about cramming so much into those first years of school?

Second point, learning results do set unreasonable expectations. Most people believe what they are told, particularly, if they're told so by authority. If parents are told, all children can learn, which is true, the expectation is that all children learn the same and when their child does not perform up to expectations, they think the teacher is failing, the school is failing. One parent wrote to me about learning results, encouraging me to vote for them, and said, "It will be so empowering to parents." As a former teacher, I say, "GOD, save them from empowered parents." The very term empowerment, implies to me, that that parent has an adversarial relationship with the teachers. Good education to many parents means that children learn difficult subjects at a lower and lower grade level. How they divide by four numbers in the 3rd grade, they're learning calculus in the 6th grade. Why not instead of trying to teach things beyond a child's comprehension, teach them a greater variety of things, broaden the curriculum, music, science, outdoor nature study, the names of plants, trees, things that are appropriate for children to learn at that age. The idea that a parent had, that someone is to blame, someone is accountable, people who are touting learning resulting, love the word, accountability. Accountability, to me, simply means someone's to blame. In learning results, accountability is a vague and meaningless term. If a child doesn't learn, who is accountable? Is it the child? Is it the teacher? Is it the superintendent, or is it the Legislature, for not fully funding education. Who is accountable and what are we going to do with these scoundrels? Learning results doesn't tell us. What is accountability. It's a meaningless term.

However, with learning results, there will be scores, schools will be rated, number one in the state, number two in the state, number three, when any test is given, half the schools are going to have to fall in the lower side. It's a fact, they will, you've created an educational crisis in a good many towns, a good many districts. Some will always be behind, and superintendents will put pressure on the teachers, principals will come into the classroom and demand how does this relate to learning results. So the mischief here, really isn't in the intent, it isn't in the content, but it is understanding and implementation of it. Now when I taught, I always taught the ten commandments, as part of the history course, because I figured that's something that



they're not likely to learn somewhere else beyond and the ten commandments are something that everyone has to know, in order to be an educated person. After all, the ten commandments can do no harm, however, one of my friends told me that he was informed by one of his friends, he was in the Near East where the ten commandments are very vigorously enforced, and he saw a woman who was taken in adultery, she was buried up to her neck in sand and then they stoned her head, because of the commandment, thou shall not commit adultery. What to me looked like a very benign good idea, to teach the commandments to them became something very different. The mischief is not in the rules, not in the law, but it's interpretation and application. The same with learning results. We can not agree here, on what they are, or what they should do. Principals, and superintendents and parents will not agree either. You'll get a great variety in enforcement.

Third, learning results enact one particular philosophy into law. The controversy about learning results is philosophical. There is no doubt that everyone here wants first class education for all of our children. You'll remember that you had at least two different types of teachers. I can show you how they operate, better than tell you. One taught this way. The other type, would tend to teach this way. One being very specific, numbering things off in sequence, the others giving the broad scope, the underlying principles. I've noticed the supporters of learning results, here, what do they have in common? Those of you who support learning results, you're methodical, much interest in process and system. I see you get up to give a talk and I love it. You're so methodical, you number the points off, I understand very clearly. People who support learning results are very often leadership types. They like facts. They like numbers. They like statistics. They want a definite plan. They want measurable results and they want them at a specific time. Those of you who are supporting learning results, teachers teach that same way, some teachers, GOD, bless them, they're excellent. I love them. They stress competition. Their language is spiced with the language of business and athletics. They like to say competition. They refer to winners, the challenge, empowerment, raising the goals, team players, scores, uniformity, excellent things, but those things appeal to a particular personality type. Business leaders are frequently of that same personality and philosophically bent, so when these types get together, like the centurion in the Bible, one can say to the other, I, too, am a man of authority, I say to one come and he cometh, and to another go, and he goeth." Those people can't understand that for many children, you can't say, learn and they learneth. You can't tell them what to do, you have to inspire them. School administrators, most frequently, are of that very systematic, realistic personality type. They like the system. They support athletics, because it's organized, orderly. They like to take control. They like numbers. They're necessary, but theirs isn't the only workable educational philosophy.

There are in education, and maybe here in the legislature, too, idealists. A little more easy going. Maybe a little more willing to allow for differences, non-judgmental, or if they do make judgments, it takes them a long, long time to do it. I haven't made up my mind about all of my students yet. Whether I succeeded or failed. Some would say, I could have given them a test at the end of 6 months and known, but I don't know. I don't know what certain aspects of learning are worth. I don't even think they can all be measured, and if they can be measured, perhaps they don't have much value. I think the idealist is a person who maybe doesn't want to compete in the world economy and will make provision for children in school who don't plan to compete in the world economy. Teachers are of a more easy going idealistic nature don't become principals or

superintendents, they don't become policy makers. They don't make waves. They keep their heads down and realize that this too shall pass. I'm asking you now, don't waste the good efforts that have gone into these learning results. I applaud them. They would make an excellent beginning for a, I hesitate to use the word, because no one else dare say it, curriculum. What's wrong with a state curriculum? I dare to say it. There are things that every child should know. We've always known that. I knew it when I taught, and if you taught, you knew it. What's wrong with a state curriculum? What's wrong with using these learning results as a state curriculum guide? Don't waste them. Don't insult the people who worked on these learning results by questioning their motives, or their intelligence. They did an excellent job and their motives are unimpeachable. They're good people. Don't enact into law, goals that are unattainable, and a philosophy that denies the validity of other methods of thought. We can turn down these learning results as law, and they'll still be there, the Commissioner says that 60 percent of the schools are already using them, and more will come on board, but I think we make a terrible mistake when we build an inflexible system. You know what it is when things get into rules, it's very difficult to undo it. All the trial balloons we've sent up in education, even though they failed, taught us something, so it's very, very important to remain flexible, and we can remain flexible and innovative if we turn down learning results, which I'm asking you to do. Thank you for your patience.

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

Representative BRENNAN: Madam Speaker, Men and Women of the House. The previous speakers, Representative Richard and Representative Desmond pointed out that learning standards started in this state in 1993. They first came to this Legislature 1995 for an initial review. We had a lengthy discussion last session about learning results and we passed a significant portion of the legislation that was put before us and then took the step of sending the learning indicators and the content standards out to rule making. The reason that we did that is we wanted to allow people from throughout the state, teachers, educators, citizens, parents and even students to comment on the learning results. I think that the rule making process allowed us to achieve that end and now that we have gone through that rule making process, we stand here with the rules before us.

Essentially, where we stand is we stand at the crossroads. We are today at the crossroads that define the future of education in the State of Maine. One crossroad that's suggested by Representative Skoglund, just before me, was the crossroad that endorses the status quo, that says that what we're doing now is okay and we don't need to do anything differently. Another crossroad, another road map allows us to move into the future and allows us to educate our children in a way that they will be able to meet the challenges of the next century. I hope that's the road and that's the road map that we choose to take today.

You know, over the last several days, that's been any number of different flyers that has come to all of our desks and the challenge before some of us that have sent it out, is what color paper we want to put that information on, so that it will stand out from all the previous information that has been sent out before that. When you cut through all the discussion about learning results, it boils down to two very simple ideas. We want to identify what we think students should know and we want to identify a system for assessing what they know. It's that simple. In the two years that I have been on the Education Committee that we have been looking at learning standards, I haven't found hardly anybody in this body, or anybody in the public, that

disagrees with those two simple ideas of identifying what students should know and determining a way to assess what they know. That again, as we sit here today, is simply what we are voting on, to allow us to move forward.

The other thing that we struggle with greatly, in this chamber, that we struggle with on the Education Committee, is the issue of equity. More often than not, we define equity in terms of dollars and cents. How much money does your community receive, how much money does the state spend. If you receive a lot of money, or if the state spends a lot of money, that's how we define equity. What I would say today, is that the bill before us, the rules before us, in learning standards, allows us to define equity in a different way. It allows us to find equity, not in dollars and cents, but that every student across this state will have the opportunity to achieve standards in reading, writing, math and social studies, so regardless of whether you live in Fort Kent or Kittery, there will be an expectation, and a curriculum, and a certain set of standards, that all children will be asked to achieve and that I think is an equity, that is incredibly important to this state, and it's an equity that is long overdue. Again, I think we have the opportunity to move forward with that today.

The other point that Representative Skoglund raised is that his fear about the learning standards was that students might not be able to achieve those learning standards, they might fail. While he was speaking, it reminded me of a story of earlier in my life when I had just graduated from college, and for those of you that have graduated from college, you have that rare opportunity in your life where you think you know everything, and that was at a time in my life when I graduated, when I thought I knew everything. I went to work in Portland in a low income neighborhood. I thought it was going to be relatively easy to change a lot of things that were going on in that neighborhood. One of the things that I found in that neighborhood, was a very high rate of student dropout. Students dropped out of school at 7th grade, 8th grade, 14 and 15 years old. They dropped out of school because they weren't performing well, because their parents had dropped out of school or they just weren't interested. What we were able to do is create an alternative program at vocational schools for these students that they would be able to go and learn about automobile repair, carpentry, food preparation, whatever. The first day of class that we had, 90 percent of the students that had signed up for the class showed up, 90 percent. These had all been students that had dropped out of school before, but they showed up the first day. The second day of class, I went to the program, we had a 20 percent attendance rate, 70 percent had chosen not to come back the next day. I went to them and I said, what is the problem here. They said, well we got scared about going to school. It was unusual for us to go back to school, and we just didn't want to go the second day, and I said to them, that's not an option. I expect you to go, you have to go. The very next day, one 16 year old didn't show up. I went into his house, he climbed underneath the bed, I climbed in after him, grabbed him by the ankle, pulled him out and said, you're going to school. This is your last chance and this is important. At the end of the program we had 90 percent attendance, 90 percent graduation. I had half the class come up to me and they said, you know what made the difference? You expected us to be here and you believed in us and you believed that we could learn and that we could do this. That's what learning results is all about. That we expect and we believe that students can learn at a higher level. I don't just believe that, because of my experience, but all the research also bears that out. That if we expect people will learn at a higher level, they will do that. While I recognize the concerns of Representative Skoglund, I think he's wrong. I think that if we

set high standards and ask students to learn at that high level, they will.

One other point that I just want to raise, is that people have talked a little bit about the Virginia standards. Last summer, along with Senator Mills, I was on the critical review committee that redrafted the learning standards and Maine is not Virginia. We looked at the Virginia standards, there were some things that are interesting about the Virginia standards, but they are not appropriate for Maine. Virginia is a statewide curriculum, we don't want that in Maine. What we drafted fits for Maine. I feel very confident that what we have drafted for the standards, what we've put before you today, reflects the values of Maine and reflect where we should be going in this state. There have also been indications to the people that drafted that were bureaucrats, business people and educators and I sat with parents and I hope I'm not too much of a bureaucrat, but a number of other people that reflected broad perspectives sat through that process and helped develop those standards.

The very last thing that I want to say is that quite recently I heard a quote, somebody asked a former Secretary of State, he said, how do you recognize leadership and the Secretary of State, in reflecting on the President's that he had served with. He said great leaders focus on opportunities, everybody else focuses on the limitations. Today we have the opportunity to be leaders because we have the opportunity to move this state ahead by adopting these standards, and I hope and I pray, and I beg of you to focus on the opportunity and not be sidetracked by the limitations. Thank you.

The SPEAKER: The Chair recognizes the Representative from Norridgewock, Representative Meres.

Representative MERES: Madam Speaker, Ladies and Gentlemen of the House. I ask your indulgence. I'm going to speak to you now, and I'm going to have to leave, and I want to be on the record as talking before I do, I have to go and do some family business.

As you probably know, I've been one of the people that was outspoken against learning results, during the last session, and I've batted this thing back and forth most of the time since. I've learned a lot, through the debates, and talking to people, and listening to people. One of the things that came to my mind earlier today, when we were talking about dioxin, was the fact that I was listening to a lot of debate and I had spent months and many hours in my committee assembling information and some of the time as I was listening I was thinking, I wish I could sit and talk to these people, because they really don't understand. I find myself in that position now, because people have worked so hard on these learning results, for months and years and I'm sure that they listen to us and say I wish they could really just understand. We've spent so much time on this issue.

I have a lot of questions and I spent a lot of time talking with some people in my district who work with foreign language, and I found that this is very dear to my own heart, because I have children that do this. Three of my children spend a lot of time with language, two of which have been to Japan, and one son that teaches Japanese, right now, at the University of Montana. I realized from listening to the people that worked with that part of the program how many hours they put into this, and how vital it is that young people learn foreign language at a young age, and how many compromises they had to make to make that program work.

We were talking about this, and we were talking about all of the different types of learning that are necessary to help children achieve. We were specifically talking about one area, and that was collaborative learning, which is something that I've always had a problem with. This gentleman, this teacher, this great person was telling me about someone in his own class, who was

a very intelligent young woman in a German class and she absolutely refused to collaboratively work on a project, because she just did not want to do it that way, and he said to me, what would you do in a case like that? I said to him, I'd probably do exactly what I do with my own children, and that is, I'd say, try it, and if you don't like it, then we'll talk about it. I thought to myself, I assume that I should take my own advise. I assume that possibly we ought to try this, and if we don't like this, we can come back and talk about it. I said this wisdom is the wisdom that I use with my own children.

Secondly, we talked about what I have done for the last, well my daughter now, I hate to say this, is 31, but anyway, for all those years, what I have done with my 6 children in education. I have been their advocate from day one. We've moved to many different places, I've interviewed schools, I've interviewed curriculums, my children have been in public school, in private school, I just wheeled and dealt for those kids, to get exactly what they needed, and a lot of what they needed is invested, I'm finding, in some of these things, especially with language and the arts and other things. Now I don't think this is a perfect solution I have problems with some of it, but I have to go back to the general wisdom, which says, maybe we should listen, maybe we should try it. Maybe we should look into what is going on with our children and find out whether or not they will grasp some of the things that we never were able to grasp. I just want to be on record as saying that I am not saying that this is perfect, but I am saying it's something that we ought to try. Thank you.

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

Representative LEMKE: Madam Speaker, Men and Women of the House. Edmund Burke, as you know, is a great writer, but he was a member of Parliament, and apparently he wasn't the most compelling speaker in the world, because they called Edmund Burke the dinner bell, whenever he rose to speak, half of the Parliament went to dinner. Ladies and gentlemen, I want it on the record, apparently half of the House is already left before I rose to speak and I will take care of the other half, I am sure. I will try to brief. I will try to be as effective a speaker as possible.

I remember CarTest. Clean air was a good idea. Clean air was a great concept. We all bought into that. We voted it, but we didn't know the details and we're operating under the rush of competing measures, including the budget, or issues such as we have today. We all know the results, they weren't learning results, but I guess you could say they were political learning results. I believe it is very prudent, in terms of public policy, as well as educational policy, to be very careful that we understand exactly what we are voting upon here today. I'll make reference to handouts instead of going on at length, but there was one handout out and I know that we can't demonstrate, but the color, by the way, that was picked was blue. I don't like to pick blue because blue tends to cover over the words, but nevertheless, blue. One called the Maine PTA response to learning results opposition, who's confusing who? If you sort of read along, and you compare questions that have been asked with this, I think this handout basically makes our case or at least makes the case I will make.

So very briefly, these are some facts they haven't been answered. This doesn't answer it. I have not heard an answer yet and I don't think it would be prudent or wise to vote this without answers. Learning results, if implemented, if we're serious about and implement it is a mandate. The fiscal office has said so and that is not contested. The Department of Education, to this day, to this hour, refuses to say or even project, what the cost of implementation will be in the districts. It says it will know, and maybe it will tell us next year. I've been around here a long time, some would say too long, but I'm very

nervous about voting for any legislation that has money attached to it, but I'm not going to find out until next year. Now I'm not running again in this House, but you're going to be, by then the answer will be in.

This is a learning results bill, it's not a true learning standards bill, it's outcome based education. The outcome is to be determined through professional development consultants. They're about all that's left in the budget, so basically this keeps them alive, or semi-alive, to teach the teachers what possibly it is they mean. It was mentioned earlier, by a previous speaker, that we did significant things in portions of the earlier bill, all we enacted in the earlier bill was the guiding principles, no standards, no indicators. That's what we're dealing with now, that was all we had. The problem with this great goal just like clean air, just like saving the whales, the problem folks, is in the mechanism. It won't run. It'll cost a lot, but it won't run. There is no exit exam, the Chief Executive of this state, when he first committed to learning standards, before it was transmuted into results, said he wanted an exit exam. Now an exit exam might not be the best way, but you have to have some way in any kind of educational bill like this to find out whether it's working, that's what it means. Cut away all the educational leaves, there's nothing in there. I find it very difficult, if you have no system of validation, how this can even be presented with a straight face, as serious educational reform. The Department of Education has failed to answer to this hour, if the guiding principles in over 1,000 content standards and performance indicators are judicially enforceable. You can make reference to the blue sheet. Is the learning results judicially enforceable? You read that and figure out if it's an answer. It isn't an answer. There's words there, there isn't an answer. Is that responsible, that we enact this, and we don't know whether what we are mandating is judicially enforceable, and we don't know what the liability is to the state and the various districts? Remember CarTest, remember liability. The educational soundness of learning results has been criticized by leading Maine educators, scholars. Recent educational summit, it kind of interesting for an education summit, not a single scholar spoke in favor. You had a number of big businessmen and corporate CEO's, but isn't that odd, isn't that strange? No it isn't. This reform that is promoted by corporate big business. This is reform to make us flexible, collaborative workers in the global marketplace. It isn't reform that's in the classroom, where it should be. Recent quote in the paper, Will Calendar, who is the Professor, Emeritus, of Education at USM, said that learning results is a repetition of the absurdity of the 19th century factory system of education. Everybody talks about we're moving into the 21st century, everybody's gotten on to that, we've gotten on to a big thing and we talk about it. Well, okay, if we're moving into the 21st century, why are we enacting a 19th century type of education? The revised document is still often defined as a work in progress, or it's been defined as a framework, and the good Representative from Portland today called it a road map. It's been called everything in the world except a workable piece of legislation, because it isn't. The fact that it contains grammatical and content errors, is not being picky. After four years, after four years, if it still has this, what kind of excellency possibly is going to be promoted by these folks? I'm not criticizing the Education Committee, I want to make that very clear, they have worked very hard, I particularly want to say that Representative Richard has been a leader on that committee and she has been a gentle lady in trying circumstances and I respect her for that. My criticism, I'll say right on the floor, is not with that committee, but for the individual who is driving this, and it isn't that committee, it's the man on the second floor. He's the one that's pushing this, and quite frankly, and I've had discussions with the Chief

Executive, and in all due respect, he has to know now, this is not a standards bill, in any real sense, and I have to conclude that primarily what he would like is a political victory, but we're not talking about political victories, and shouldn't be talking about political victories when we're talking about the education of our children. I just wanted to mention that.

In order to avoid voting a 2/3 mandate vote, the Education Committee has presented us a bill via an amendment that makes implementation of learning results discretionary. You can do it, maybe you can do it, you don't have to do it. After all of this, I would have to be discouraged if I were a member of the Education Committee or I were any of those people who have supported learning results as some sort of standards bill, because today, before us, it is not a standards bill. If we enact this, we are giving a green light in the State of Maine to basically increasing educational disparities and educational inequality in this state. Now this has always been a big problem, and frankly, we should have dealt with that first, before we implement this. But this will be the first time in law we sanction educational inequality between wealthy and poor districts, that is wrong, that is a disgrace. Nobody, nobody and call this reform, at this point. I will conclude, just one other remark and a question that I would like to direct through the Chair.

This will be my last term in the Legislature, in the House of Representatives, and I've fought many issues on the floor, and I've lost quite a few and I've won a few, I take this one very seriously, in fact, it's been said, you're passionate, you're a little bit too passionate about this. Well let me explain why very briefly. For 27 years I've been an educator, not just on a college level, not just on the private or public level, but on other levels as well, and I am the son of educators, one was a mill worker, the other was a clerk, both of which were non-traditional learners before they even invented that word. I am the grandson of a lady who never had a college education, taught in a one room school, and did more things than they could even dream up in these various little sheets that are passed out and she did it all without learning results, but she did it because she was creative, she did it because she was a true teacher, and basically, that's always what education is going to be about. Set the teachers free to teach, set the students free to learn. Don't mandate, don't laundry list and all of the rest, so that's been my life, and that's why I take it seriously, ladies and gentlemen. This is not a political issue to me, I will say that, this is an issue of educational soundness, and this, in my considered opinion, is not only a bad educational bill, the way it has been changed now, it's a travesty of an educational reform bill. Finally, Madam Speaker, and like the South, I might rise once more, but I guarantee that's it. Early Representative Richard made a comment regarding the funding, and this is now the funding as we voted earlier in the budget, for learning results systems, and my understanding was that the key element here went below \$2 million to \$1 million, which it was required by law to be, and Representative Richard said something to the effect, and I definitely don't want to misquote her, but quote, "We have a way of taking care of that, if the Appropriations Committee has not allocated enough money, there was a way that that could be done." And I would ask a question through the Speaker to any member of the Appropriations Committee, who may still be here, can the Appropriations Committee do this, and is it reasonable to say that the Appropriations Committee would do this?

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

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The SPEAKER PRO TEM: The Representative from Westbrook, Representative Lemke has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Old Orchard Beach, Representative Kerr.

Representative KERR: Mr. Speaker, Men and Women of the House. As we all know, needs always exceed revenue. We have sent out letters as Joint Rules say, to Committees of Jurisdiction to let us know what their priorities are. I hope that I'm not trying to deviate from the answer or not respond, it's just that there are many bills on the Appropriations Table, many require a lot more money and the question of needs and priorities will have to take place and they'll be scrutinized by the Appropriations Committee and then they'll go to the Legislative Council, but I am not aware of where the \$2 million that you make reference to will be coming from, because when we passed the budget, there was only a balance of about \$3.2 million, but there are bills that generate revenue and there are many, many more bills that should they be funded, will cost more money than we do have.

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

Representative PIEH: Mr. Speaker, Men and Women of the House. I'm going to support this "Ought to Pass" as amended Report and I just want to tell you briefly why.

I hated school. I went to public school and I hated it, it was all about limits and it was all about conformity. I wasn't fortunate enough to have a teacher like Representative Skoglund in my school, making me feel creative. It did everything it could to destroy my creativity. When I got to grade 11, I was lucky enough to get a scholarship and I got to go to a private school, and there learning was valued. There was something different going on and I found I wanted to be a teacher, so I went off to school and I got to do my practice teaching and I went into a public school and I couldn't do anything. It was conformity. It was going to have it like this. This is the lesson plan. This is what we're doing. This is what you'll do. No, you will not take the kids outside and play in the swamp, where they might learn something. So I have spent my life in non-traditional education. I was a child of the 60's, I was a hippie. I followed all those folks, that are today even becoming current again in their educational talking and teaching and when the learning results came up, I was working in a school system nearby in staff development. I was so excited, because I felt that something was finally coming that would bring openness again into education. I was running staff development in this school district for the last four years and I felt like I was beating my head against the wall, trying to get creativity, idealism, some of the things that people that support learning results aren't about, according to the good Representative from St. George, back into the classroom. I wanted doors opened and I found excellent teachers, wonderful teachers and I applaud those folks. I also found people who said, no, I'll do this, I've always done this, I've done it for 150 million years, or at least 20, and I'm not opening my door and you can't make me. It was the truth, I couldn't. When the learning results came along, there was some idealism there that I felt like was wonderful, and I felt like wow, this legislature is going to back me up. I'm going to have something in statutes that says, education is valued, learning is valued, keeping the light in those kids eyes as they grow up is valuable and, oh boy, I thought that was great. Then I watched it, I don't know what happened exactly here, last year, but what I thought was going to fly through this legislature and be a banner for all of us, just kept getting mooched, and mooched, and mooched, and crushed and about then I decided to run for the Legislature. So this may be

the longest speech I make in my whole time here and I hope I won't make it too long.

I applauded the legislature that you passed the learning standards, in terms of the idealism, with the guiding principles last year and I think what we have here, and the good Representative from Westbrook opened his speech with I believe, and I believe differently. I believe these are standards, standards that can lead to assessments and when you have assessment, you can change your strategy, so when my young 5th grader, Jimmy Skoglund, can't figure out 5/8 and 2/3, I go back and I say what are some strategies I can use to help him understand that, so that he can keep going. To me the learning results are about putting the actual learning back in the hands of the students, it's not about boxes, it's not about conformity, it's about learning to walk and talk. I learned how to walk and talk, that's what I did. I loved it, so did you and there was somebody there saying, you can do it. It had the expectation that every one of us could learn to walk, every one of us could learn to talk. I think that we naturally want to do that and I think public schools and the conformity they've laid down over history and especially through that factory model has created a society of apathy. I think our youth are increasingly apathetic. I want us out of that and I think the learning standards are the only hope that public education has. I really feel like if we don't get something that convinces the folks that are just hanging out there, that aren't changing, that they're in a crisis. We're in a crisis here in education. They won't change, and we won't have public education. We will have voucher systems and I'll support them, 110 percent, if the public system doesn't get it together. I think we have every chance to do that, and I think the learning standards are about that and about equity in our education. Some folks have said that big business is behind this and things, business was brought into it, creating the learning results, partly because they were complaining. Students are coming out of school, they come into my store to work, they can't read or write, they can't even do simple math. What are you doing in those schools? You're not teaching those basics. You're not teaching academic standards. What is happening? That's one reason they support it, when we got a letter from the Maine Chamber and Business Alliance, it's because they feel finally hopeful, that all this money we're spending on education might actually produce a result of people that are going to be successful, in control of their lives and able to move forward. I am so excited about these learning results, and passionate, and I'm actually in the room, still, and I know that people, even that speak on the other side are passionate too. I really encourage you, I've got many years in education, mostly in non-traditional, outward bound kinds of things, and I believe so strongly that these standards will help us achieve a kind of learning that is failing, generally speaking, in our public schools. I urge your support. Thank you.

Representative WATERHOUSE of Bridgton asked the Chair if a quorum was present.

The Chair declared that a quorum was present.

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

Representative STEDMAN: Mr. Speaker, Men and Women of the House. As you probably know, I'm one of those people who signed on the bottom end of the sheet that came out of committee and I wanted to relate a little bit of my thoughts of where I stand on the issue of learning results.

First of all, a response to something that was mentioned by Representative Brennan, in his presentation. If you read the guiding principles, you will see that this anchor for these rules, the learning results are not about what students should know, but what students should be. There is a major difference and that's

a major objection. I would like to give you a parable of the good seed, or greening of Maine. When thinking about learning results, I keep getting a mental image of planting genetically engineered grass seed and hoping it will cover Maine with a plush layer of beautiful grass. The seed is given to us from on high, with the assurance that it will produce the desired results, but we must count on our own fertilizer to nurture it. Extension agents with expertise will be sent out to show us how to nurture the crop and we must be sure to follow their instructions for best results. Of course, as we all know, not all soil is alike. We have deep rich loams, we have shallow, but somewhat rich soil, and we also have shifting sand and rocky soil, but remember this grass will grow anywhere. This thing we have been promised. The nurturing results will be evaluated periodically to prove that the seed is good. If a patch of ground does not produce the desired outcome, the seed will not be blamed, but the fault will be placed on the amount of fertilizer, or the efforts of the local farmer who could be sanctioned for not producing good, rich, green grass after the seed is good.

Another option in dealing with poor results is to forgive the farmer and excuse him from further involvement in the process especially if he runs out of fertilizer and he can get no more from the seed providers. These areas will be set aside as unproductive, and be left to their own devices to grow their own crops. Of course, it might be that these farmers may choose to change seed, but that won't be recognized even if they get good results. Finally if the seeds that fell on shifting sand, or on rocky ground, do not produce good results, that's okay really, because they were not expected to turn out crops anyway, so we won't worry. This, in spite of the fact, that the seed providers advertise that the good results would be universal, and was so sure of that fact, that they wrote them into the law. I think you can see the point that I'm making. You substitute learning results, rules, for the seed, farmers as the local school administrative unit, the fertilizer being state funding, the shifting sands as the transition population and the rocky soil as the special needs population, and you can then understand the fallacy of the thinking behind outcome based education. Thank you.

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

Representative BARTH: Mr. Speaker, Ladies and Gentlemen of the House. Let me start my, I hope brief, testimony with a fact that hasn't come up yet. For those of you who have you have young children, or for those of you who have yet to have children, but will have children, or for those of you who have or will have grandchildren. Most, if not all of those children will be working in jobs when they are of employment age that haven't even been invented yet. They will be telling you, as your grandchildren, about things that will mystify you, again, because their jobs having been invented yet. That is the nature of the global economy, and whether we like it or not, that's what's going to happen, and it order for our children and grandchildren to survive, to succeed, they have to be able to read and understand what they are reading, not just occupy a seat for 12 or 13 years. They have to be able to write logically, clearly, using standard English. They have to be able to problem solve, including math and science and they have to be able to cope in the global workplace. Yes, people have said this is driven by business, well business has complained as was already explained. If our children can't read, write and do arithmetic, they're no good in the workplace. Where are they going to go, onto the welfare roles?

We've had a number of papers come across our desks and there's one that's entitled, Learning Results, What is It, and it has a copy of the dictionary definition of the word result and then below that it's hand written that somehow this and the definition

is there translates to outcome based education. Well I am offended by that interpretation. I'm offended by the misuse of outcome based education. I was a teacher for 28 years, teaching grades 7 through, and including, on the college level elder hostel, I still consider myself a teacher. I always taught outcome based education. Our educational system always taught outcome based education. There was an outcome that was expected, whether it was in New York State and it was the Regencies exam, whether it is the SAT's or when I taught AP Chemistry, my outcome was that my students would get at least a 3, or 4, or 5, on that exam. That's outcome based education. Whether I taught geology, archeology, science, whatever, mathematics, my outcome was that they could pass the course. And most of them did.

Under that definition, on that sheet, it says that results, the outcome of an action, and that's absolutely true. It was my action and my student's actions that enabled them to meet the outcome, passing the course. Getting a good grade. Again, under the definition of result, number 2, which is specific to mathematics, says a quantity, or value ascertained by calculations, 2 plus 2 is 4, etc. Again, outcome based education. You can't solve the algebraic equation correctly unless you get the correct answer. Again, you pass the course. Unfortunately, outcome based education has been corrupted by some, as to mean as long as you feel good about the outcome, any answer will do. That's not what this is about. We already have the Maine Educational Assessment test, the MEA I wonder how many in this body have ever taken that test, whether it's the 4th grade, 8th grade, or 11th grade test? How many know how it's scored, how it's set up, who's the scorer? All you hear is any answer will do. Any answer, all the answers are graded and they're all not the same. It doesn't mean you pass or you don't pass. The MEA has been in effect about 12 years, it is already changed for the better, our schools. It will continue to change as it begins to measure more directly the learning results. It will measure whether or not indeed, our children can read, write, do arithmetic, etc., and not just occupy a seat in a school and learn little or nothing. We want our children to be able to enjoy life to its fullest, to do that, if we can't teach them to read, write and do arithmetic, if we can't expect them to do these things, we've done them a great disservice.

Finally, one other thing that has been mentioned over the years, the debate last year and again this year, is that somehow lifelong learning is indoctrination. Learning begins at birth and as some people believe, even before birth, when a pregnant mother sings or reads stories to the child forming in her womb. All the rest of our lives, until we die, and there are those who believe that learning continues beyond death. We never stop learning. Each one of us learns every day, something new here in this body, every day of our lives. That's what this is all about. We want to give our children the tools to enable them to be lifelong learners. What are those tools? To be able to read, and understand what they're reading, whether it's a technical manual, a computer workbook, a job description, the newspaper, whatever, in order for them to live productive lives. We want them to be able to problem solve. We want them to have the tools, that if they don't know the answer, they know how to find the answer or find someone who does know the answer. This is what learning results is about and I urge your support for this bill. Do not let misinformation, scare tactics, or paranoia sway your vote. Please vote for learning results.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Buckfield, Representative Gagne.

Representative GAGNE: Mr. Speaker, Ladies and Gentlemen of the House. As a legislator, it's hard for me to believe that we haven't done something in accepting learning

results already. I remember last year, as a high school English teacher and department head, talking things over with my teachers, why does the legislature leave out guiding principles, and then they didn't vote any money to back it. Does that mean that all of this is not going to work out? Well, I really believe we've been dragging our feet as a legislature. Now that I'm here, I can see why there were so many differences, but I think we really have to start on this journey for change. I can not say that all the things that we have heard today have been on the mark, because I have been involved in this from the minute it started in our school and for over 3 or 4 years now. This learning results is the beginning for discussion, but it's also a tool to plan the curriculum, and the professional educators need it. The schools in my area are already involved. We as a legislature are late, and even all of the work that has been done by the Committee has been followed by the schools and they're on top of this, right now.

An example of that is even in my department, until I came here in January, I was working with them with the portfolios. Writing was one of the weaknesses we saw in our school, so we decided to do a variety of things. 1. Was to improve our MEA scores, and we did that by using the scoring guide, and the guidelines, that word again, that were set up for good writing. The writing process, another good word, not a bad word, a good word. Thinking process. After we followed those guidelines our MEA scores went up. We also instituted in the department portfolios so that at the end of the year the kids were able to put together a variety of their writings and we kept those on file, we're keeping them now and each year, freshman, sophomore, junior, senior, they have them. By the time they're a senior they can look back over the years and see how they've improved, from novice, to apprentice, to proficient, or to distinguished, outcome based. That's the outcome, the portfolio, they see it, they have it. They know how they have done, they have standards, they saw the writing guideline, and they can learn for themselves what works and what doesn't work, and they judge for themselves. Also, we have formed tests, our school system has, mirrored somewhat to the MEAs and we give them on different years, where the MEAs goes 4th, 8th and 11th, ours goes 3rd, 6th, and 10th. Those have worked, because here's another way to assess what are the standards that you're using in your district. Now I started all of this, in 1964, I went to school with Representative Skoglund, to college and we did come through and thought, hey, we had it all, we knew exactly how to teach, we could do that for the rest of our lives, but things change. You see that yourselves in your life. Philosophy of education has changed. I don't like change, I learned when I came out of school that keeping the kids quiet, sitting at their desks, doing their work, the teacher up front was the thing to do and the principal would come by and that's what he looked for. But would you believe, in my last years here, that the principal was looking for activity in the classroom, and he would criticize if it was too quiet, because they learn in their groups, they learn from each other, they learn from the things that they were doing, we even increase the length of the class period in the high school to 80 minutes, so that I would really believe at that level that they would learn the continents, and the oceans, not in a year, but in one 80 minute class and how they would do it, is because of some of the effects that learning results education would bring them and I can't believe I am saying that, considering I was one of these very narrow minded, and stubborn, as the good Representative from Fryeburg thought I was, in committee, which he is right and it's hard to change. It's hard to do a lot of those things, but my feeling is, as a first term legislator, I take this seriously, I didn't need 3 other terms. I also say there's a green light, but this green light is for greater

aspirations in success, so I'd like us as a legislature to give the schools of the State of Maine this impetus for change and pass this bill. Give support to the schools and approval for the work ahead and they've got a lot of work ahead, so help them out and pass this legislation. Thank you.

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

Representative BELANGER: Mr. Speaker, Men and Women of the House. I think a little background is in order. Learning results did not begin this year, last year, or 5 years ago. I believe it began with a published report that was done under President Reagan, called a *Nation at Risk*. That was followed in the State of Maine by Maine's common core of learning. Following the common core of learning, we had the coalitions for excellence in education and that's some of the background that has gotten us to learning results, because as a former educator, 31 years, I felt that we were being told, pressured, use whatever term you will, that our children were not performing up to the standards that they needed for the next century. Educators, businesses, parents, teachers, administrators, everyone has come together to put together a document to try to answer the needs that our children have. The Representative from Portland was correct, this is very simple. We have made it extremely complex, but it's very simple. These are goals and standards that we wish our children to achieve. If we have no goal, then we have no expectation. I would reaffirm what the good Representative from Buckfield said, my experience has been the MEA testing has made a tremendous difference in our schools. The quality of writing has improved beyond words that I can describe. I can remember when I was a high school principal in the mid 70s, reading compositions written by seniors that I was ashamed of. They were terrible. A couple of months ago, I received a huge manila envelope full of letters from students in our middle school in the 7th grade, those letters were very well written, they were better than the work that the seniors were doing 15 years ago. I attribute a good deal of that to MEA testing, and the work that our teachers have performed.

Are these standards perfect? I don't believe so. I do believe they are a work in progress. I believe they will be refined by Maine's teachers, just as any good lesson plan is refined by Maine's teachers. Are they a good starting point? Absolutely, they define the ends of learning, while giving academic freedom to our teachers regarding how they will achieve the end. I've heard a lot about Virginia standards, I've read some of them. They're excellent, but they are a curriculum, and they leave very little room for creativity on the part of the teacher and on the part of the local school board. What are the opponents of learning results arguing? That it's top down, no local involvement, nothing could be further from the truth. Look around you, the PTA, the teacher's organizations, just about every organization I can think of across this state that's involved with business, schools are supporting learning results because there is a great need.

What about the claim of a reduction in equity, and it's not funded? That's not even a relevant argument, friends. We could say that about today, but it's certainly not a reason to reject these rules. If we want to do something about funding and equity, we can do that in this body, but let's not argue that learning results should not be implemented because of funding and equity. That's another issue. It's part of Goals 2000, is another argument that you hear. Goals 2000 was supported by, it was started by President Bush, now supported by President Clinton, certainly bipartisan, and what are these goals that are so terrible that we should reject them out of hand? That children will be ready for school, that we will remove drugs and violence from our schools, that we will be first in the nation in math. Are these

terrible goals? In fact, yes, we have accepted in Maine, federal dollars, to help fund the efforts to improve children's education in the State of Maine. I don't think anyone should apologize for that. Today we have the opportunity to help our children to prepare for the world that they will live and work in Maine boys and girls deserve and need your support, today I urge you to support the pending motion.

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

Representative TRUE: Mr. Speaker, Ladies and Gentlemen of the House. I really wasn't going to speak today, as many of you know last year for a period of time, I was against the learning results. At the end, and I must be truthful, I wasn't totally for it, but I voted for it, because I felt that education needed a change. I don't happen to be afraid of change. That may be because of my background, not only in education, but in coaching. Change develops in coaching by the second, by the minute, and by those young people that you have, whether they be boys or girls, on a yearly basis. I really wish that we could have changed the title of what we are talking about today. So I'm going to make a few remarks, but my title is going to be coaching for academic success and happiness, and that's really what the learning results are all about.

As an administrator, I rarely went into the classroom, but I wandered the hallways to watch young people coming out of the class, or going into a class, because I expected my teachers to know what he or she should do, and I respected them, that each and every one of them, undoubtedly, were different in their approach. I want you to know that I have listened with great pride for all you educators, either for or against, and there is nothing wrong with that. I shall vote for this and I still have 3 reservations, and my good friend who's the Commissioner, and who's sitting in the balcony, he's probably smiling now, and also another friend who certainly had a lot to do with that and probably both of them are saying that Representative True is never satisfied, and that may well be right.

There are 3 things, which I hope that may be developed as we go along with this. One is the development part of the teachers, and being old-fashioned, that every time that we've had development in the last 20 years, it has meant less time for our young people in the classroom. I firmly believe that we could save some money here, I understand there may be \$2 million for this, but I'd like to know where there's a community that does not already have a basis for development and paid for because of the demands of the union, that you go for so many credits, and you get so much pay for that, and why not inculcate that, together with either course work after school, Saturdays, or in the summer and I think it would work, and if we need to have, certainly, course content to learn to do what teachers are expected under the learning results, then that's where I believe it should come from. I like the idea that a teacher will be able to teacher independently, or elaborately, and I've enjoyed the teachers in explaining that our freshman legislators to hear what they are doing, and what they have experienced, and I want you to know that I would have hired you all.

The third thing is examinations. Now, I believe in examinations, if examinations will test the things that have been taught to our students. We must develop an accurate understanding and a presentation so that important commodity, the parent, understand what we are going to teach, when we're going to teach, and what are the expectations, because I'll tell you that, I had faith in the MEA until everyone under the right to know law started looking at bands, which they didn't understand and were very critical of the schools. Instead of explaining it, we changed the test, in my opinion, they were easier. That is not the way to make sure that our young people understand that it is

necessary sometimes to work a little harder in order to be successful. Colleges for many years have had a great thing about teaching nothing but subject matter, and I was quite fortunate and much to my chagrin, I guess as my good friend Representative Joy said, "Harry, he's been around forever." It certainly was many years ago, but even as an administrator, I never stopped teaching. I think we need methods, and as I look at this learning results, that it does have a degree of methodology, let's face it, families are different, expectations are different, families, it's a rarity now to have the time for the children to jump up into your laps and you teach them to read, or just to see what they're doing and straighten them out if they're not doing it correctly. I have a reservation about the fact that it seems that people think that children are all alike, because they are not. Some can adjust, some can learn at different times and I've seen that happen in the first class that I ever had, in one room, and I taught everything, including music, which I love and handwriting, and I had trouble even drawing stickmen, but we had a good time doing it. They laughed at me and that was a good way to get a little steam off, I guess. I do hope, and I think of the term, again that has to do with music, which I'm so fond of, don't fence me in.

I have 3 young grandsons, from age 5 to 8, and they're as different as day and night, one likes a lot of attention, the other could care less, one doesn't like school because it isn't interesting. I am bothered by that. I'm glad to hear my good friend from Buckfield, even though I did call her stubborn, but she forgot the second term, and that was I like that. That she talked about national exams, and being from the private sector, I believe in them, but not as a separate identity, but to go along with something else that you can have a measuring stick and will make your measuring stick a little wider. I have faith in our teachers, our administrators and I hope that we can get the families a little ingrained in understanding what schools are trying to do. You know we have come such a long way. When I started teaching, if we could get them through the 8th grade they could quit, then it was age 15 with parent's permission, and then it went to graduation, but the diploma was either not signed or you got the certificate of attendance. If we are going to have, and understand that we've got to be tougher and we've got to get them to understand that there is a certain amount of work that they must complete, before we allow them to leave school, so be it. I was fortunate in my last 24 years to be involved with a school who took a number of post graduates, kids who were graduated, but couldn't get into college because they couldn't get a high enough score in the SATs or ACTs, and it was amazing to me what getting a letter saying I'm sorry, but we can not accept you and what a difference another year makes and hopefully, what we are doing and hope to do with education, we will be able to get these young people ready to go at 18 rather than 20 and they will be equipped to certainly fit into wherever they want to go. I remember my father, there were actually 9 of us, I'm the only one that went to college, but he said to each one of us, I don't care what you do in life but what you do you should be happy even if you are digging ditches. But we can't make it today digging ditches. Life has changed, and hopefully, we'll get these young people ready. I will support this, and I that certainly we can get this on the road because, you know, if we turn it down, it's going to be 5 or 6 more years before we even have framework. That's not saying that what we're doing in many respects is wrong because it is my belief, as many people have said, that many people have been doing in the classroom for years. I thank you very much for the attention.

Representative LANE of Enfield asked the Chair if a quorum was present.

The Chair declared that a quorum was present.

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

Representative MURPHY: Mr. Speaker, Men and Women of the House. Over the last two weeks my position on learning results has been all over the place. The Minority Leader has teased me that from day to day I resembled a summer tourist trying to find my way from here to there, and I think it's typical of most of the teachers in this chamber, that we've probably had the most difficulty with this proposal. There's a variety of reasons for it. It involves us directly, most importantly it involves the youngsters that we teach, and I think also there's an implied criticism and as teachers we need to get beyond that, because we do things we're doing and that's one job already. I'm one of five members that served in this House who were currently here at the time that we did the 1984 reform and teachers, at that time, who were serving here had these same kinds of problems of moving to a position, moving to closure on this issue. The prime sponsor, ironically, of that reform bill in 1984 was Speaker Mitchell, and we both shared the same goals, but we differed on some of the steps on the way of getting there. I think the most important thing that came out of the 84 reforms was that the state provided the new direction for education in Maine especially in the area of science, lab courses, math and I think some of the good news that's come in during the last year or two involving especially math and science are a result of those steps that were taken 1984.

Reform tends to move, educational reform, real reform, in 10 to 12 year cycles, and I think Maine education needs to move forward again. I support the learning results because I think they'll move education back on to the front burner again. I do have some real serious concerns. Elsewhere in this country, when there has been education reform, it moves forward as part of a comprehensive reform package, the learning results package so far is traveling alone. Maine public school students will see only a 2 percent state increase in the funding of their education next year. An estimated 25,000 Maine students next year will go to school in trailers. I, for one, am waiting for the rest of this reform wave to reach us.

For background, I teach US History, college prep, AP, economics, and government. Last fall, in our district, we had a K-12 inservice, and we took our standards, our own learning results and we did a side by side comparison, with these proposed results. We found that in a few areas, adjectives, adverbs, they differed. We had reached the same position that the study committee had reached, in a couple cases, we went a little further. We were a little tougher and we decided that we would go with the tougher standard. It was interesting the level of pre-meeting stress, prior to that inservice day. There were smiles on seniors, 9-12 teachers, as we began to move through we saw that we were doing 90 percent of these standards already and our stress level began to dissipate. As you move down into the middle school grades, the stress level began, you could feel it in the room, you could feel it among the teachers. As we got down into K-6 it was interesting to listen to the comments. Those teachers began to say we need to focus more, can we accomplish all that? We need to make that concept or standard a higher priority. We need to spend more time on that particular discipline. The most important question that came out of that K-12 inservice day, and I think the most important thing that will come out of these standards, the questions were asked, what will that do for you, what will it do for the kids? At the next grade level, or the next transition level, if we can achieve our goals?. So at the different grade levels they began talking to each other, they began realizing that education is sequential, and they began realizing that if youngsters are going to reach that, base is laid, starting in kindergarten all the



way up through grade 12. We're at the most important stage right now in the development of those standards, we're not talking about the red and green lights that are on your desk, we're talking about what I think are labeled the field application, or the field trial of those standards. You've got to understand in the teaching world, it may be very cool, but we put our fellow teachers into different slots, or different categories. First of all, luckily, there's a very small group in each school, who like to go to meetings, latch on to every circular that comes down the pike and if the superintendent or principal isn't careful, those teachers will go 75, 80, 85 meetings a year out of 175 days in the school year. There are also teachers who will leave the classroom on a particular day, if it's an extraordinary meeting, something that will be of value to the youngsters within the classroom. Then there is a larger category of teachers, who you would have to physically drag out of the classroom, yelling, screaming and kicking because they don't want to give up a minute of instruction time. I think the most important thing that's going to happen now with these standards is those 2nd and 3rd groups of teachers now will take these standards, we begin to reach and develop those standards and the only analogy I can think of is that in June, if it ever comes with warmer temperatures, and your carrots and your radishes come up, a good gardener will go out and begin to cull those, or thin those. I think what we are going to see, Maine classroom teachers are going to take these standards, and I'll tell you up front, and elementary teachers will tell you, there's too many of them. In all the other states that have looked at its standards, when there's too many of them, at some point you have to begin to reduce them. I think Maine teachers, over the next year or two, will begin to thin those out, separate, remove the warm and fuzzies, they'll go along and refine them and they may even come up with some better standards. I think also, another reason why I want to support these now, and finally there was closure and my feet went into the concrete, was that you have on your desk, those of us that are still here in the chamber, a letter from the Commissioner talking about that as these teachers and as these students and as these parents and as these school board members begin to evaluate these standards and apply them, and cull them out and refine them, the Commissioner stated, there will be a process for that to come up out of the classroom, come out of the local school unit, and be considered so that we can make these standards even tighter and more effective. I support these, because they set goals. They set expectations, they encourage teachers and students to reach. They recognize also, that there is a variety of roads that the student may travel to reach those goals.

I'll give you a personal example I was away from the Legislature for 8 years, I came back, and I inherited an economics course. For the first two years that I taught that course, I taught it as the other teacher had taught it. It was a classical economics course, students came and took that course, if they were going to be an accountant or if they were going to be a business major, and without exception, they were in the top 25 percent of the graduating class. Six years ago, I changed the course, developed it into an applied economic course, 50, 55 students a year now take that course. There's a waiting list for that course. They range from the bottom 10 percent of the senior class and its inclusive, usually, the top graduating seniors. What's happened with that course is, the classical vocabulary, the classical economic concepts are still there, but we applied those concepts and they've discovered that economics is all around us. It's not just something in a classroom, not something that is taught. It's the same teacher, just another way of getting there, and I think that's what's going to happen. We have excellent teachers in the State of Maine, we have before us, another way of getting toward reaching higher

expectations for our students. I would urge you to support these learning results.

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

Representative PERKINS: Mr. Speaker, Men and Women of the House. Thank you, for hanging in there. It seems like about every decade or so, a new reform comes down the pike. I don't remember too far, too many reforms, but remember, Johnny can't read. Why can't Johnny read? That was 3 or 4 decades ago, so we poured all kinds of money into a new reform that was going to change it forever, and that was going to be fine, and then what did we have, the nation in crisis, and then we poured money in and it just made everything bigger. The institution larger and now we have the crisis called International Competition, and global economy, that these kids have got to be able to keep up with or they'll perish.

The Commissioner was downstairs during the noon hour, Commissioner of Education, seems like a very fine man. I had a hard time getting an answer to a question though, the question that I asked a couple of times, and I'm still not positive of, what would happen if we don't pass this? If this does not pass, what would happen? I had a hard time getting an answer that I could understand, because on the one hand, I hear, it's already working. It's already being proven, people are doing it. So it's already working, if some people can do it, why does it have to become in the rules, part of the state law? I haven't bridged that gap yet. One of the people downstairs asked, what would happen in this scheme if there are children that don't seem to be able to achieve these goals, and the answer, sort of came out, the way I understood it, well, for some kids, it may not just take just 12 years, it may take 14, or so. That kind of worries me, because that's kind of assuming that all kids ought to be on this one track and that even 14, or what if it took 16, what about the kids that shouldn't be on this track at all? The other thing that kind of bothers me is we've heard that it's top down, then we heard the reputation of that is, oh my goodness, no, this is just a ground swell from the people out in the field. If it's not top down, why are we doing it? In other words, why don't people just do it anyway, why don't we just send this out, make a suggestion, these are professional people, the answer comes back, some areas, some districts, won't do it. Therefore, we have to force them to, that's not top down. I have trouble figuring that one out, too.

The Commissioner of Education mentioned that in Asia, that we are way behind Asia, in demanding things of students. They are way ahead of us. I'm sure he's right, but he didn't mention that they are way ahead of us in teen suicide, also. Somebody here earlier mentioned school dropouts, that this is probably a way to prevent school dropouts. I was in my car one day, going back, on public radio I heard an interview with a professor of Engineering at MIT. There was a student down there who just got \$30,000 prize for inventing a new type of bellows that was really going to help in industry. Well the professor, this student's teacher, got on and said, this fellow was a school dropout, a high school dropout. This professor of Engineering at MIT, further went on to say, you know come to think of it, the most creative students at MIT were high school dropouts. Plug this into your thinking of this discussion of standards. It seems to me, like we can almost hear the humming of a hive society, where everybody fits into this hive for the good, or perhaps industry. I'd just like to finish by reading just a few lines from one of my favorite books, called *Dumbing Us Down*, by John Taylor Getho. He was teacher of the year, 3 years, in New York City, teacher of the year in 1994, for the State of New York. He did amazing things with his students. He taught for 26 years in New York City, half the time in Harlem, in the ghetto, half the time in a more wealthy

affluent community. I just want to read a few lines and then I'll sit down.

This business that we call education, when we mean schooling, makes an interesting example of values in conflict with traditional community values. For 150 years, institutional education has seen fit to offer as its main purpose, the preparation for economic success. Good education equals good job, good money, good things. This has become the universal, national, banner hoisted by Harvard's as well as high schools. This prescription makes both parent and student easier to regulate and intimidate as long as the connection goes unchallenged, either for its voracity, or its philosophical truth. The absurdity of defining education as an economic good becomes clear if we ask ourselves, what is gained by perceiving education as a way to enhance even further the runaway consumption that threatens the earth, the air, the water of our planet. Should we continue to teach people that they can buy happiness in the face of a tidal wave of evidence that they can not? Shall we ignore the evidence that drug addiction, alcoholism, teenage suicide, divorce and other despairs are pathologies of the prosperous, much more than they are of the poor? Lest you think this is not relevant, I remind you that my wife, over the phone told me that she went to a high school last night, it was an open house for new freshmen. The principal stood up and held up a diploma and said, if you get this diploma, you will make hundreds of thousands of dollars more than if you don't. The relevance is here. One last paragraph, and then I promise I'm done.

What's gotten in the way of education in the United States is the theory of social engineering that says, there is one right way to proceed with growing up. Whatever an education is, it should make you a unique individual, not a conformist. It should furnish you with an original spirit, with which to tackle the big challenges. It should allow you to find values which will be your road map through life. It should make you spiritually rich, a person who loves whatever you are doing, wherever you are, whomever you are with. It should teach you what is important, how to live, and how to die.

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

Representative KERR: Mr. Speaker, Men and Women of the House. I was asked a question earlier in dealing with the budget, and I just received about an hour ago, the change order in the Governor's Part II budget. I would like to give you a more accurate update when we talked about how much money is left for the table. The new spending, should the Legislature approve everything that is in the Governor's change order, the spending in it is \$3.8 million, the revenue side \$2.2 million, that would mean there's \$1.6 million that would have to come from the \$3.4 million left on the table, so now what's on the table, if this document is approved, which is the Governor's recommended change order, for the table would now be left with \$1.8 million and as you all know BIW is still out there hanging. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Gardiner, Representative Colwell.

Representative COLWELL: Mr. Speaker, Men and Women of the House. I rise because I think I'm the only person who hasn't spoken today, I am ready to vote right now, by the way. I just want to say, I'm a lunch bucket kind of a guy and when people hire me to do their ceramic tile, they have reasonable expectations, they have reasonable outcomes, of what the job is going to look like. They have an idea of what the results are going to be. They think that the tiles are going to be straight, the tiles are going to be flat, and they're not going to leak. I would suggest that's a reasonable expectation. What I would say, the parallel to education is very apt. It is completely acceptable,

indeed it should be mandatory, that when we as a society, the State of Maine, invest state money into a child's education, we should expect measurable outcomes in other words, learning results. It's well within our rights to make sure that every kid who goes through 13 years of public school knows how to read, can solve basic mathematical problems, has a command of how socio-economic forces affect history, and after 13 years in school we should expect and demand that our public education dollars have bought us a student that can think critically and communicate effectively. These are the skills that our society should expect and these are the skills that our society and our businesses should demand from our schools. We have every right to demand these things and we should insist on our schools accomplishing these learning results. That's why I'm voting in favor of the "Ought to Pass" motion.

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

Representative LEMKE: Mr. Speaker, Men and Women of the House. If I can just sum up, it has interested me that almost all, if not all of those who have spoken on behalf of learning results did so with reservations and if you add those reservations together, or even taken simply, and singly, they are reasons to vote against learning results.

Representative Belanger, obviously, has a different perspective on education and I respect that. He said this is not top down, nothing could be further from the truth, ladies and gentlemen, based on my research and looking at the documents, nothing could be closer to the truth. He said that equity in funding are not relevant, with all due respect, they are absolutely relevant to any education reform bill we pass, if we're serious about it. Representative Colwell said we should have measurable outcomes and I give him credit, he didn't talk about standards, he talked about outcomes, but whether they be outcomes, or they be standards, they should be measurable and ladies and gentlemen, there is no exit exam, and there is absolutely no method of validation in this so-called standard or outcome bill.

Another Representative, I believe Representative Gagne, said things change. Yea, change takes place and I've argued on this floor for change about as much as anybody here, but not change for the sake of change and I've never learned that you can go forward by going backwards and you have one of the leading educators in the State, not a school administrator, not an MEA official, not a PTA group telling you on the basis of 31 years of teaching and about as many awards as I could pile up that what this amounts to is reinstating the factory model of education of the 19th century as we move into the 21st century. That's change all right, but it's not the right kind of change.

Representative True stated a number of disagreements, three basic ones, I agree with every one of them, but I would see those as reasons not to support a bill but to oppose if they do not fulfill one, let alone all three of those.

Representative Barth mentioned we should not be misled by quote misinformation, scare tactics, or paranoia, well I plead guilty to probably inducing some paranoia here, but as far as the handouts I have given you, and the statements I have made, I stand by every one of them. I don't believe them misinformation, everyone of them is documented. Questions have been asked on the floor, and they have not been answered, with the exception of the good Representative Kerr, who did answer the question, and in the simplest English in the world, ladies and gentlemen, the money ain't there. The money ain't there. How much will learning results cost? In the PTA handout, the answer is naturally this would be extremely difficult to ascertain. That's no answer. So we come back to our starting point, after two and presently counting two and a quarter hours of debate, every

fundamental question that has been asked in regard to this bill has not been answered, and I will repeat and I'll sit down. In the seat that the good Representative Vigue now holds, used to be another good Representative who was very outspoken, but when he spoke on the floor, you knew exactly what he was saying. And the good Representative from Waterville then spoke it the way he saw it and I was about to say learning results after CarTest, he said, "We were snookered." And he was right. We did not have the full information. We voted for a concept, we believe very much in it, but we did not have the full information.

Ladies and gentlemen, you have a lot of information before you, which argues against this bill. We can't say we were snookered if we vote for it this time, but on top of that, you have a lot of questions unanswered, which if they are not answered in this House, will have to be answered in every district of this State in 1998. So I believe in terms, number one, of educational soundness, this is the furthest from education reform, when even the proponents of it can't make an argument without stating reservations. Secondly, in terms of policy making, this is not good. The good Representative Murphy pointed out the 1984 reform, well there's a big difference about 1984, there was a consensus of support built for that reform. There exists no consensus today, in the State of Maine, on learning results. It would have been far better if we could have achieved on this, and we could have, what the Utilities Committee achieved with apparently another group dealing with another controversial issue has now achieved and developed some consensus and developed some kind of a bill with real standards that could work before we vote it. You can not enact a concept into law. You have to make a law, so ladies and gentlemen, like the South, I won't rise again. I urge you to vote against the Majority Report so we can move on to consider real education reform in Maine from the grassroots up and not from the deadwood of a failed bureaucracy down.

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

Representative MCELROY: Mr. Speaker, Ladies and Gentlemen of the House. As you might imagine, I rise today in support of the "Ought to Pass" motion. I believe that prior completion of my remarks you certainly will understand why I so proudly stand and support learning results. I don't know whether to feel glad or sad because I haven't been up early and fortunately, or unfortunately, the good Representative from Westbrook wasn't able to quote what I did or did not say.

You should know that it takes a great deal of perseverance on my part to stand here and not respond to some of the comments that I have seen and read about a profession and a people that I love and have loved for better than 30 years of my professional life. Now I want to talk to you about one of those people that I've enjoyed, who worked in the profession that I am happy that I have spent my major professional working days in. Some 20 years ago, I, along with a dozen other educators, were assembled for the purpose of reviewing the program, the process, and the personnel as required by the school accreditation process. As prescribed by the New England Association of Schools and Colleges, we were assembled in a small high school, Penquis Valley High School, in Milo, Maine, which is in Piscataquis County. Another member of that accreditation team was a young teacher of high school mathematics, during the three day process that we spent putting that institution through the accreditation regime, I grew to respect that individual. I respected her for her motivation for educational philosophy, her knowledge of the subject matter, her grasp of educational trends and most certainly because of her common sense approach to education. I also highly respected her for her concern for the appropriateness and the adequacies of the

program that were offered for the young children in that school and other schools in the State of Maine. Over the years, although we have had infrequent contacts, I have watched that young teacher grow and blossom into one of the outstanding secondary teachers of mathematics in the State of Maine. This teacher has the respect of her peers and one who is respected by her students, one who is loved by her students. The teacher, of whom I speak, is Betsy Berry, who at the time of our first meeting was teaching mathematics at Georges Valley High School in Thomaston, in Maine. Currently, Mrs. Berry, is mathematics coordinator for Maine School Administrative District 3, Beacon School Project. This Beacon School Project is one of 7 such projects in Maine and as many of you know, District 3 is a small rural 11 town school district in Waldo County. Recently, Mrs. Berry spoke at the Unity Rotary Club regarding her successful Beacon School Project. After her presentation, and during the period of questioning, she was asked to address the issue of learning results. I wanted to read to you the responses given by Mrs. Berry, a long time, well respected and, well qualified teacher. These remarks were reported by Beth Staples a local reporter for a local newspaper and now I need to bring my script closer to my glasses. SAD #3 Beacon mathematics facilitator, Betsy Berry, would love to see students striding eagerly and confidently into math classes and she told Unity area Rotarians on Tuesday that the controversial learning results adopted by the Legislature in 1996 could help eradicate the fear and dread some students associate with math. In math we're denying kids the opportunity to learn all the math they could, she said, I've had kids in Algebra I, who are afraid of mathematics, opposed to mathematics and can't do mathematics. We're doing some things wrong. We're doing a lot of things right, but I know all kids can learn important math skills. The learning results, said Berry, could make a positive difference for all students throughout the State. Two premises are, she cited, the completion of public school should have common meaning throughout the State and achievement should be assessed in a variety of ways. Berry said the results are controversial at this time, because some residents believe they take away local control. We are an independent Maine people, she said, these do not tell us how to teach or what curriculum to use, or what strategies to employ. We're not being told what text to buy. In the past, Berry said, curriculum were driven by publishers of text books published in the states of Texas, California, and New York. The learning results, however, could assist all Maine children regardless of social status, or family income. These students would become fulfilled adults, she said. Berry said at one school, at which she taught, all classes were open to all students. In reality, though, it was social circumstances, not ability, potential, or interest that dictated who was in a specific class. With certain benchmarks and standards along the way, we can make a difference for all kids, if the Legislature will adopt learning results, she said. That's why I'm in favor of learning results, she said. What else can I say, Betsy said it all. Thank you very much.

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

Representative MCKEE: Mr. Speaker, Men and Women of the House. I want to say that I have enjoyed this evening enormously. I think that the people who are sitting here are the people who sit through board meetings and sit through PTA meetings and are our big supporters of education. It has been absolutely wonderful to hear the support.

My husband and I are both teachers. One of the things we do at night is we talk about education, every single night. One of the things that we say over and over is everybody is an expert on education, our parents, our students, our banker, the guy at the

supermarket, the businessman, my car repairman, everybody tells me what's right with schools, what's wrong with schools. Everybody has an opinion on education. It's nothing to be afraid of, but I'll tell you when I first entered into the reform movement, I had an experience that I'd like to share with you. I had never listened for very long about what the business leaders were saying about education. I thought, I'm preparing these kids to go to college, I'm preparing them to go out into the world. What did they tell me, well the Maine Development Foundation had the good sense to send a few of us teachers to talk to some of you business people down at the Samoset a few years ago. There were about 95 of you, and a half dozen of us, and I sat there in the hot seat as these business people told us what we could do to make businesses more productive in the State of Maine. I heard words like, creative problem solving, critical thinking, collaborative learning, cooperation, technical skills, and I began to think, oh, this is just a business agenda, what am I going to do. I don't fit into this mode, but my seatmate that day, was none other than Leon Gorman, the head of L.L. Beans, and he won't remember this, I'm sure I remember it because he was such an important person to be sitting next to me. As I was sitting there in the hot seat thinking, I don't know how I'm going to be able to change, he said something that gave me hope. He said to one of the men who was leading the workshop, wait a minute, I agree with everything you've said about raising the bar, I agree with everything you've said about what we need in business, but please remember, in the afternoon my workers go home and they go home to be whole people and I don't want you to throw out the art, and the music, and the literature, and the history, and the government. We don't throw out the baby with the bath water and so, from that moment on, I began to really listen to people. The world had changed. I could stop my squawking. I found that the more dramatic the change, the greater the squawking, in any place, be it school, or business, or the legislature. This is nothing to be afraid of, and I would say to my good colleague, Representative Perkins, maybe, just maybe, these learning results will prevent that most creative student at MIT from having a son who might drop out of high school some day. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Enfield, Representative Lane.

Representative LANE: Mr. Speaker, Ladies and Gentlemen of the House. I rise trembling, not only with the cold, but to be speaking in the halls of ivy with so many astute and well educated educators, but I want to tell you about my journey with this whole ideal. In fact, I'm going to start with the neo-present. This is kind of an outcome based debate, really, we all know where we're going with it, we all know where we've come from, but I have to say my piece anyway.

I realize that once you fight for, or against something, long enough and hard enough, you become firmly rooted in your position, and I did not want that to happen. Last weekend I took the draft plan, the latest of the learning results, and while traveling with my husband, we went over them line by line. Funny thing, there were some really neat things in there. There were some exciting things. There were some edifying things, for teachers who have been beat up too long. My husband has been a teacher for 26 years now. Most of the stuff he does, already, so I think that's a point of edification. Some creative ideas. I applauded that book for the most part. Some things I certainly did not agree with, or did not like, so what's my point. I guess at that point, I thought, this is really not a bad document in spite of some of the errors, in spellings, but why don't we publish the book? Why don't we give it to every teacher? Why do we have to put this into law, because it does not belong in law. I'd like to address some of the things I've heard, for instance,

paranoia. We are already heading to a one size fits all, when those people who disagree with certain methodologies and disagree that certain things belong in standards are called paranoid, now am I paranoid for making that statement. Earlier today you received on your desk, at the request of Representative Perkins, an invitation to the first annual learning results implementation conference. On one side was listed, come and discuss various points, new skills, managing the whole process, more ways to involve communities, assessment of learning results, listing involvement by and in, whatever that is, resources that have proven helpful, and oh yes, assistors and resisters. So those people who don't like this method, who don't agree, are being labeled as resisters. Now I ask you, is that embracing everyone in this culture? Is that truly diversity, in our teaching approaches, and the way we approach students? After I read that document and approved that document, trying to be as objective as possible, because I had not had a love affair with the process, I tried to make it as simple as possible. Why have I resisted this? Guiding principles in statute. I've heard that this is not outcome based, of course we teach outcome based, if you get an A+, that's an outcome. If you get 100 on a test, that's an outcome. If you succeed in your chemistry experiment, you've had a fine outcome, but what a student should become in law, what a child should be, in statute. This is the outcome we're basing these learning results on. I think it's wonderful to be a creative thinker, an involved citizen who, etc., but you don't pass a law you can't enforce. I've heard about nation at risk, common core of learning. I've heard that we've improved greatly in the last 15 years. I'm excited about that. Let's keep on improving. Why do we have to put it into law? I've seen things that I don't like, that's a matter of opinion. I give you your opinion, please accept my opinion. I don't like children being marketed for the global economy, paranoid perhaps, my opinion, I'm entitled to it. I don't like communities getting together and being called stakeholders, somehow, I just don't like that as a mom, as an involved citizen who is here in this legislature. I certainly can not relate my children to tiles, little squares, that we put perfectly in place. They're not tiles. They're not trees. Our schools are not factories. We have a lot of social problems in this country, we all know that. Now we're going to make our schools the solution. I don't think so. I have a great deal of respect, let me say that, for everyone who has worked on these learning results. I have a great deal of respect for everyone on the Education Committee, I need to say that, and be on record as saying that. I have a great deal of respect for the blood, sweat and tears that have gone into this, but when you put that into law and when you mandate what a student should become, it's a paradigm shift in our whole society, let's face it. Of course there's going to be groaning and creaking, and guess what, in this outcome based debate, I like being popular, we all do, I wish I could get on board your ship, but in my heart of hearts, I can't. I just can't. So, when and if this thing is passed, and I still hold out hoping it won't, you win. It's now a law. What I can think and what I can't think. If my opinion disagrees with your opinion, I'm a resistor, I'm paranoid and I'm wondering, ladies and gentlemen, how many creative teachers are we going to loose in this process? I know several who are saying, hey, I'm out of it anyway. Hey, I'm leaving. Somebody else's problems. I'm going to check up on my retirement system, make sure I have all my years in. I wonder how many creative teachers, my son, okay, I'll give you an example. He has a degree in education. He wants to come back and teach. He probably won't get a job here. He is a wonderfully, potentially wonderful teacher. All the time he worked with children, whatever, he's been complimented by parents. I guess, he not going to want to teach here, folks. I guess we all have to be on the record with this and I'll just end it.

I had a couple of questions with the handout that I had circulated earlier and I needed to explain, because I think I caused some confusion and it involved implementation, supporting local implementation of Maine's learning results. Personalize opportunities to learn template, POTL, it's called. This is a way of helping each student have a personalized, individualized plan for learning, student profile. Now this is where we get into opinion. Now, I still can have mine. We ask his history, his dreams, his nightmares, his personality characteristics, his likes, his dislikes, his strengths, and his educational needs. Now as a product, I suppose it's a very good thing to have on hand, if you're producing a product, but Todd may be your son and in his file is going to be this, history, physically aggressive, verbally abusive, physically large, 15 years old, mental health issue, dream, to be part of his community without people fearing him, to have friends, nightmare, getting locked up, something would happen to mother and there would be no one who cares or advocates for him. Personality characteristics, knows he's bright, enjoys humor, likes to laugh, needs to have some control, i.e., makes choices, fragile self-esteem, doesn't trust others, fearful of joining groups, likes computers, computer games, electronics, his family, physical activity. Dislikes, losing confrontation, being challenged, being laughed at, rejection, showing his limitations. Strengths, educational needs. The point is, when we start asking these kinds of questions, we're getting inside their heads to a degree that, in my opinion, does not belong in a student file. That's why I'm going to be voting red. That's my opinion. Somewhere I've heard, I welcome yours. Thank you.

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

Representative JOY: Mr. Speaker, Ladies and Gentlemen of the House. The last session of the legislature, when we had this debate, I was the last speaker and it was followed up by the vote, and I hope that that's the case today. I've given a lot of thought to the proposed learning results. I've done a lot of reading on them. I've done a lot of studying on them and I wish I could tell you that in the two years since we voted on these before that I had found something that I could hang my hat on so that I could change my mind and support them. Ladies and gentlemen, there is very little here to support. We've heard people talk about good teachers. About good theories of education and so forth and there are lots of people who have theories on what is good education, but I have yet to meet an expert on good education.

Unfortunately, even though this is a unified effort of many people, it was still done with the aid of facilitators who directed the people in the direction that they were supposed to go. There are a lot of excellent educators already in our public schools, but prescriptive goals are not going to make them better teachers. I find it interesting that there has never been any effort in the development of these learning goals, or results, whatever you want to call them, to build upon the strengths that exist in our schools today. How do we account for the successes that our students have had in recent years on the national level without learning results? They have made some very outstanding achievements. We have recognized many of them in the hall of this House. The educational programs that these children followed and the educational programs that you and I followed, yes, they have developed over the years, they have changed over the years, but they are what has brought us to this country that we are today. Do we have some problems? Yes, indeed. Is prescriptive learning going to be an answer to those problems? Absolutely not. If we really wanted standards for our students in school, ladies and gentlemen, they have been around for years. There are all kinds of groups out there called National Council of

Teachers, all, every discipline that we have in the schools. They have developed standards and they have upgraded those standards over the years. Never once, never once did they attempt to put them in law, which is what we are asked to do today. One of the things that I have not been able to find in these so called package of learning results is how we're ever going to deal with the individual likes, dislikes, differences and bring our children to a point that they can be adults who are able to make choices based on their individual preference. If they are all going through a program which prescribes that they will all come out the same, if there is anybody that believes that we can bring our children through school so that they will all come out the same, then I feel sorry for everybody who thinks that way. One of the things that I can foresee in the future is that future legislators will never have to sit here for over two hours or two hours and a half, or three hours to have debates, because if they all go through the same school program and all come out with the same learning results, they're all going to think the same. Consequently, there will be absolutely no reason for debate. Ladies and gentlemen, I think we are heading down a very, very dangerous road. Mr. Speaker, I would like to finish with a question.

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

The SPEAKER PRO TEM: The Representative may pose his question.

Representative JOY: It's on a point of order. With all due respect to the notwithstanding that I heard earlier, section 7, of the State Commitment to Professional Development, says failure of the legislature to annually appropriate a minimum of \$2 million for professional development will result in suspension of the system of learning results. Now, we are being asked to vote on something that is already suspended because this legislature has not appropriated \$2 million on an annual basis for professional development. Point of order, please.

The SPEAKER PRO TEM: 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 Madison, Representative Richard.

Representative RICHARD: I asked about this and checked this out and this wording in this appropriations section, notwithstanding the provisions of Public Law 1995, Chapter 649, Section 7, provides for the appropriation of funds for professional development of educators. I believe, and if I'm wrong I stand to be corrected, I believe that that takes care of the inadequacy of the total amount of money. If I may, I would like to continue.

The SPEAKER PRO TEM: The Representative may continue.

Representative RICHARD: I could continue way into the evening, as I've been making a lot of notes up here, but I will spare you that, I would just like to comment on a few things that have been said.

One, about the flexibility and the prescriptive nature of this. This does have flexibility, that's one of the values of the whole program. It has a great deal of flexibility for communities to decide what methods, methodology is not in here, what methods of teaching they would like to have in their community. The locals make the decisions of what and how. Many people have said how good the Virginia program was, and it was mentioned previously that is prescriptive. The question was asked, and I'm sorry that Representative Perkins was not in the room, what if we don't pass this? We have heard a great deal of talk in this chamber during this session about equity. We want equity from the north to the south and that's what we are trying to provide. With the learning results we have a mobile society. If somebody moves from Madawaska to South Portland, we would like to think

that the children who would walk into the South Portland schools and they would be up to date. They would be at a similar level. We are not trying to create robots. We are not trying to get everybody to think the same, but we are trying to have some standards so that the 4th grade in Madawaska will have the same standards as the 4th grade in South Portland. It was stated that this reform was promoted by big business I have on my desk various information that was given to us by Chancellor MacTaggart, by Doctor Card, Teacher of Education Department, of the University of Southern Maine, by Dagmar Quom of the Mathematics Department, and of Bob Cobbs, the Dean of the College of Education of the University of Maine, these people are all supporting learning results. It has been said that we have not legislated disparity before, again I refer to the 1984 Education Reform Act, which Representative Murphy mentioned before, and in 1984 I was sitting up there in the balcony, and I was just as uneasy as those people are up there now, if there's anybody left up there. We didn't know if this legislative body was going to pass the Education Reform Act of 1984, there was a great deal of discussion. Not everybody agreed. Some people thought it was too prescriptive and this was stated that this had never happened in Maine before, because not all of the school districts could meet all of the necessary reforms, waivers were given. That was done in 1984.

Two of the members of this body who are teachers said something to the extent, that it's hard to change, and it is hard to change, but you find most teachers are willing to make a change. I did resent the remark that no attempt was made to build on the strength we have in education today. Many of the people who worked on this are teachers. They were building on what they know and what they do, therefore, I don't think we can say no attempt to build on the strengths we have in education today. The remarks that I liked the best was, set the teachers free to teach and the students free to learn, and I think that's what we want to do with the learning results. Set the teachers free to teach and the students free to learn. I hope you will support the pending motion. I hope there are enough people in this building to vote on it.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Bucksport, Representative Bigl.

Representative BIGL: Mr. Speaker, Ladies and Gentlemen of the House. Sorry I'm not a professional educator, but I will speak anyway. I'm a grandfather, a father, I see some very valuable things here and I just can't wait to push the green button, so I hope, I'm maybe next to the last so I can push that green button. Learning results to me are all about expectations. I'm throwing out by voting green. I'm saying to the children in this state, I have very high expectations of you and I do know that you can live up to them.

I have two more reasons for voting green. One is learning results has been exported to Connecticut, very active in Connecticut, Maine learning results. Now let me tell you what that is, I have a son and daughter-in-law and they have three daughters, my three grandchildren in Connecticut, they home school. Guess what their bible is for schooling? I gave them a copy of the learning results. They called me up and said, hey, if we had this earlier, our kids would be in a public school. I have one more reason for voting for learning results, and that's immortality. We all want a little immortality, don't we? Well I want mine and I'm going to get my share, 35-40 years from now my grandchildren are going to be adults, families of their own and they're going to say, you know, Grampy did us a favor when he pushed that green button. I'd like to have you all do that with me. Thank you.

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

Representative STEDMAN: Mr. Speaker, Ladies and Gentlemen of the House. I want to take a little bit prospective now, looking ahead to some of the things that are scheduled to take place following the implementation of these rules if they should happen tonight. If you look at the final report from the Task Force on Learning Results, some of the things that are being proposed to come later to our great institution of education in the State of Maine. One of the things that have been mentioned in some of the conversations I've heard, not necessarily in here, but around the hall, is that there are no sanctions that are involved in this plan, that if a system chooses not to, or can not, participate to the fullest level that is expected of them, there will be no sanctions, but quoting from this final report, it says that school systems do face sanctions for failure to comply. Department of Education assistance to enable compliance includes providing support services, additional funding, or sanctions if necessary. In fact, the document also states that, "Every community can depend upon receiving equitable, predictable and adequate funding." Given this State's history in this area, it leaves me wondering what the financial impact is going to be in 1999, 2000, 2001, 2002, and how the state is going to meet that impact. Learning results will depend upon all school systems being able to financially implement these results. Will this lead to local systems being required to increase local share and is this a potential mandate? I hope you read the BDN editorial that I sent around yesterday concerning this issue, before you threw it away. It states that inequality among schools has been prevalent for many years, the whole issue here deals with what happens with funding and school districts that can't comply. It goes on to say that inequality among schools has been prevalent for many years, but never before has the state condoned the difference. Legislation that enacts learning results give official permission for some schools to offer less and demand less of their students. Long after most states have recognized that this condemns some student to an inferior education and Maine Legislature is prepared to approve a measure that has this outcome. In this same vein, this report states that each school district personnel, excuse me, let me back up a bit here. The final report of the Task Force on Learning Results, this report states that each school district's personnel budget must include a minimum of 5 percent of the account to be allocated to educator development. Could this be a mandate on those districts who do not currently have this kind of funding? Speaking of educator training, "Certification of Maine's newest educators will be performance based." The Report goes on to say, prospective teachers enrolled in the state's pre-service education program, that teacher training at the state's public institutions, will learn curriculum, assessment and instruction practices, which lead to student achievement of the learning results. What about the recruitment of persons who have been trained outside the state? Will this necessarily preclude teachers from away from being employed in Maine? I would cite that inbreeding tends to produce inferior offspring. I could go on and on expressing my reservations about this whole process. We have only the tip of the iceberg before us, let it not be said that I am anti-education reform, I just don't think money thrown at creating a system, based on ulterior and unrealistic goals, and which will be proven to be effective by a test designed to prove its effectiveness, is the right way to go. I think we would be better served by a design that concentrates on inputs, not outcomes, because I believe that the program, the curriculum is in place and the teachers are expected to be professional in their performance as educators. The results will happen and individual students will conform to their own goals and be able to pursue their own dreams. Thank you, Mr. Speaker.

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

Representative CHARTRAND: Mr. Speaker, Men and Women of the House. I've heard learning results called a lot of things this afternoon. Somebody mentioned that it was a dangerous road and that we shouldn't go down, and somebody else said that it was nothing to be afraid of, and I tend towards that second opinion. I also think it's something that's unnecessary, it may not be anything to be afraid of, but I don't think it's something we really need to spend this much time or money on in Maine. A supporter of it said that it wasn't a mandate to teach what is already being taught and I agree with that view. I think much of what's in this book is being taught, and I wonder why, then, we are putting so much effort into defining that so specifically, and telling ourselves that it's being taught and making sure that everybody's teaching it that way. It seems to me that we're looking for some kind of guarantees, that if we pass this children are going to leave our schools and they are going to be well educated and things are going to be a lot better with the school systems. I'd love to vote for this if that was the case, but to get better educations and better school systems for our children is going to take a lot tougher choices than this one we are making tonight. We've got some really big challenges and unfortunately they're always matched by financial decisions, that's what the tough part is, prioritizing our decisions about education, about GPA and the formula for it, how much money we're going to put into it, building facilities and constructions, special education needs, how to really help the teachers in the classrooms on a day to day basis, with the size of their classrooms and the tools they have to work with, what they're paid, their benefits, all those kind of things. I think that has a lot more to do with the kind of education you're going to see in Maine and I'm a little sorry we've spent more time on this in this session, more time on this set of learning results, than on any of those issues. We've spent about 4 hours here today debating this. Some of those really tough issues we're leaving, or we're changing incrementally in this session and leaving to studies for the next session. I think, to me, that's one of the most bothersome aspects of learning results. It is pretty much a big distraction to what we really have to do with education in Maine. It's not a dangerous road but it's a distraction that is beginning to cost us more and more in terms of time and money in Maine, both for the Department of Education, for the Legislature and for our teachers and schools that are already looking into it. The best programs in the world, I think, that we could do for our teachers are some of the things that I mentioned before, but really doing something about them, really having some tough debates here, and tough decisions about how to change some of the basic ways we fund and look at education in Maine. I think that's the crossroads we're at in Maine and it's not whether or not to accept learning results tonight, but when we're going to take education a little more seriously and all the other decisions we make here. It would be a lot easier to pass this and get consensus than on some of the other things we have to face. Someone told me that the implementation of learning results will lead us towards making those other decisions and that will help us get there, but I don't agree with that. I think passing these shows no evidence that there will be adequate implementation, even of these results, or the tough decisions about what kind of consequences we give if people didn't meet these results, or what kind of rewards we'd give if they did. Those are the things we need to look at about our teachers and how they're delivering the education. What we're going to do about it if they don't and what we're going to reward if they do do that. There's nothing in these results about that aspect of it. We have to turn back to the simple tough problems in Maine and forget for awhile about

these. There's a lot of good in this book, I think there's a lot of great ideas that teachers and schools could take from and implement as they see fit on the local level, but there's also a lot of words in here that I'm a little afraid of. One of the pages I turned, and I don't mean to pick on little things, because there's a lot of good and bad in here, but in the social studies, economics, elementary grades, K-2, the only thing that is mentioned there is, explain the terms, consumer and product, and that's certainly symbolic of a lot of our economic system in the US, but I'd hate for my kids to only be told about the definitions of consumer and product as the result that they are going to get out of the first two grades of school.

Our teachers already spend years learning and working with themselves to decide what to deliver to their students, what kind of education to give and I think they're pretty much well prepared now to give a good education to our students, and in fact test results recently have shown many of our students in Maine are doing well. Our assessment tests have been climbing in many areas and I think that's an assessment tool we can still use. We can enforce it a little more and decide how to implement it, but we have a good assessment tool right there now. A lot of other states, or maybe not a lot, but certainly some, have spent much more time and money with learning results than we have already and they have found a few years further down the road that they made a mistake and they have gotten away from them, they've decided to give up on working with that because it couldn't be implemented on a local level, it was a mandate that they couldn't possibly enforce and they had already spent many millions of dollars on it. I really don't want to see us go any further down this route than we have already. I'd like to see us stop spending money in this direction right now. Stop wasting our time debating these fine philosophical points and get back to helping education as we know we really have to. Our state has spent a lot of time on this already, and I hope we'll not spend too much more on it, and not spend too much more on it for the rest of the session in this area. Thanks.

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

Representative JOY: Mr. Speaker, Ladies and Gentlemen of the House. I won't belabor this issue too much more. I don't think that the answer to my question was the appropriate one. I think that the learning results are in suspension and I think that any action that we might take upon them is moot, but I would like to just address the issue of the strengths of our teachers who are involved in this, being a starting point to build on. Up until two years ago, I lived next door to a lady who teaches in our vocational program, she teaches health care and her students have won all kinds of awards in many, many competitions. She is an excellent teacher. She was selected to come down and work on developing learning results. Each group that was set aside had an individual called a facilitator, and that's what I made reference to a short time ago. Her group worked very hard, very diligently, because they were all experts in their field. They came up with what they felt was an excellent outline for the goals that they wanted to set for their students in this career field. When they had that completed the facilitator came back, oh no, no, that's not what you want, this is what you want to do, this is what you want to do, this is what you want to do. Ladies and gentlemen, what they came out with was what the facilitator intended them to come out with in the first place and this lady was very indignant to feel that she had completely wasted her time and effort, in fact, all of the teachers in the group felt the same way. Not too long ago, I sent her a paper which explains the so called delphi technique, and she said to me, "Henry, I realize now I've been delphied." I hope that you'll oppose this motion and kill this learning results package.

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

Representative VIGUE: Mr. Speaker, Ladies and Gentlemen of the House. I just wanted to get up and tell you that from my perspective, sitting here and listening and not saying a word, it's just added a new dimension to my understanding of the Legislature and I thank you very much for the education.

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

Representative BRENNAN: Mr. Speaker, Men and Women of the House. I want to respond directly to Representative Joy's concern about whether or not this is in suspension and I believe that it is absolutely untrue that these are in suspension, in fact, what happened last session when the legislature did not appropriate \$2 million for learning standards, there was an amendment attached to the budget that allowed for that particular requirement of the \$2 million to be suspended until July 1, 1997. When we passed a budget this pass time, we further changed the language so that that requirement that said that \$2 million had to be appropriated in each year of the biennium in order for learning standards to go forward was no longer in affect. I don't think that really is an issue before us, and I don't think that that should be in any way a reason why somebody may feel that they don't want to continue to support the learning results.

Secondly, I'd also like to point out again, that this summer I served on the critical review committee comprised of over 25 different people from around the state, teachers, business people, parents, educators, and legislators and never once did we have a "facilitator" that said, this is the way you should develop or that you should write learning standards. There was a very collaborative process, the people sat down and spent hours looking at national standards, international standards, and then drafting appropriate learning indicators for the State of Maine and there was by no way, shape a coercive process where the outcome was already determined by some identified facilitator. Lastly, I've talked about learning standards for almost a year, year and a half, with Representative Chartrand and we've shared our different views about the importance of learning standards and one of the things I just wanted to say to Representative Chartrand and I've mentioned it in a different way before, but one of the reasons why I think learning standards are so important at this particular time is because what was good enough for me, for an education when I was high school, is not good enough for my son. Unfortunately, sometimes what we do is make a mistake in education and say, what we had in school was good enough for us and it is now good enough for our children. The skills, the education, and what my son needs in order to meet the challenges of the 21st century are far different than what I had when I was in high school. I believe that the learning standards will allow our high school, our elementary schools, to provide that type of education to allow those challenges to be met and I hope that we don't dismiss the learning standards simply because people say it is not something that relates to what I had when I was going to school.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Brewer, Representative Fisher.

Representative FISHER: Mr. Speaker, Men and Women of the House. About an hour ago the good Representative Colwell suggested that he was the last one to speak on this issue, he was wrong, I haven't I'm for it. As I look at the clock, about this time the good Representative from South Portland, Sam DiPietro, used to go home to start making his meatballs and pizzas for the next day. I think he might like to see some action at this time of the night.

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

Representative O'BRIEN: Mr. Speaker, Ladies and Gentlemen of the House. I promise I'll be very, very brief. I think I may be the last speaker, I planned it that way. This is one of those issues that I've been back and forth on and I really wanted to want this, as a mother and an educator, not a teacher, but an educator in many ways, accountability from our schools, from our teachers, and from our children is very, very high on my priority list. I have fought with the school boards, my husband is the Chairman, he hates to see me go into the meetings. I have fought with teachers, it's been a passion of mine for many, many years. I disagree with some of the comments that were made earlier about we're expecting too much of our children. I don't think we expect enough. I think that children will rise to levels that we expect of them, challenge them and they will do it. I think it's unlimited potential, so I want to want this, and as I have said I have talked to many people in the last several weeks about it. I finally have come to the realization that I will vote for this, but I reiterate, I echo, a lot of the concerns that have been expressed here this afternoon and this evening. I think this has been a very, very healthy debate, because if this does pass, these learning results do pass, I believe that the administration, the people who have diligently worked on this for many, many thousands of hours, I believe, I think they are hearing these concerns and I ask that they will heed these concerns. Some of the concerns that I still have, and I feel very uncomfortable about, I'm not one who likes fluff, I don't like a lot of vision statements, and mission statements, and sitting around and touchy, feely things. I just don't have time for that. I wear a Nike hat, just do it. Just get it over with, don't spend money and don't spend time on this. I see a lot of that in here and I'm very concerned about that, but I've expressed those concerns as many others have, and I think that they are being heard. So I think we do need to start somewhere, I think our schools are in desperate need of help. I think this is a good starting point. We can jump off from here and watch it very, very closely and I won't ask you to join me in that, I just wanted to share my concerns. Thank you.

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

Representative O'NEIL: Mr. Speaker, Men and Women of the House. I did not come prepared to speak on this issue tonight so I'll sit down.

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

**ROLL CALL NO. 262**

YEA - Ahearne, Bagley, Baker CL, Baker JL, Barth, Belanger DJ, Belanger IG, Berry DP, Berry RL, Bigl, Bodwell, Bouffard, Brennan, Bruno, Bull, Bumps, Cameron, Carleton, Chick, Cianchette, Clark, Clukey, Colwell, Cowger, Davidson, Desmond, Donnelly, Dunlap, Etnier, Fisher, Fisk, Frechette, Fuller, Gagne, Gagnon, Gooley, Green, Hatch, Honey, Jabar, Joyner, Kane, Kneeland, Kontos, Labrecque, LaVerdiere, Lemaire, Lemont, Madore, Mailhot, Marvin, Mayo, McElroy, McKee, Mitchell JE, Morgan, Murphy, Muse, O'Brien, O'Neal, O'Neil, Peavey, Pendleton, Pieh, Pinkham RG, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Spear, Stanley, Stevens, Taylor, Tessier, Thompson, Townsend, Tripp, True, Usher, Vigue, Watson, Wheeler GJ, Winglass, Winsor, Wright, Madam Speaker.

NAY - Bolduc, Bragdon, Brooks, Buck, Bunker, Chartrand, Chizmar, Driscoll, Foster, Gerry, Gieringer, Goodwin, Jones SA,



Joy, Joyce, Kasprzak, Kerr, Lane, Layton, Lemke, Lindahl, Lovett, MacDougall, Mack, McAlevey, Nass, Nickerson, Ott, Paul, Perkins, Perry, Pinkham WD, Plowman, Savage, Skoglund, Snowe-Mello, Stedman, Tobin, Treadwell, Tuttle, Underwood, Vedral, Volenik, Waterhouse, Wheeler EM, Winn.

ABSENT - Campbell, Cross, Dexter, Dutremble, Farnsworth, Gamache, Jones KW, Jones SL, Meres, Sanborn.

Yes, 95; No, 46; Absent, 10; Excused, 0.

95 having voted in the affirmative and 46 voted in the negative, with 10 being absent, the Majority "**Ought to Pass**" as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (H-569) 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-569) and sent up for concurrence. Ordered sent forthwith.

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The Speaker resumed the Chair.

The House was called to order by the Speaker.

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

#### REPORTS OF COMMITTEES

##### Divided Report

Majority Report of the Committee on **Banking and Insurance** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-668) on Bill "An Act to Establish the Breast Care Patient Protection" (H.P. 1113) (L.D. 1556)

Signed:

Senators: LaFOUNTAIN of York  
MURRAY of Penobscot  
ABROMSON of Cumberland

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

Minority Report of the same Committee reporting "**Ought to Pass**" as amended by Committee Amendment "B" (H-669) on same Bill.

Signed:

Representative: JONES of Pittsfield

Was read.

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

The Bill was read once. Committee Amendment "A" (H-668) 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-668) and sent up for concurrence.

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#### Committee of Conference

Report of the Committee of Conference on the disagreeing action of the two branches of the Legislature, on Bill "An Act to Remove Restrictions on Items that May Be Auctioned by Public Broadcasting Stations" (EMERGENCY) (H.P. 953) (L.D. 1316) has had the same under consideration, and asks leave to report:

That the House recede and concur with the Senate.

Signed

Representatives: TUTTLE of Sanford

DAVIDSON of Brunswick

DONNELLY of Presque Isle

Senators: DAGGETT of Kennebec

CAREY of Kennebec

FERGUSON of Oxford

Was read.

Representative TUTTLE of Sanford moved that the House accept the Committee of Conference Report.

Representative GERRY of Auburn requested a roll call on the motion to accept the Committee of Conference 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 Committee of Conference Report. All those in favor will vote yes, those opposed will vote no.

#### ROLL CALL NO. 263

YEA - Bagley, Baker CL, Berry DP, Berry RL, Bigl, Bodwell, Bolduc, Bouffard, Brooks, Bruno, Bull, Bunker, Carleton, Clark, Colwell, Cowger, Davidson, Donnelly, Driscoll, Dunlap, Etnier, Fisher, Fisk, Frechette, Fuller, Gagnon, Goodwin, Gooley, Green, Hatch, Jabar, Joyner, Kane, Kerr, Kontos, Labrecque, LaVerdiere, Lemaire, Lemont, Lindahl, Mailhot, Mayo, McAlevey, Mitchell JE, Morgan, Murphy, Muse, O'Neal, O'Neil, Ott, Paul, Peavey, Perry, Pieh, Poulin, Povich, Quint, Richard, Rines, Rowe, Samson, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Spear, Stanley, Stevens, Taylor, Tessier, Thompson, Townsend, Tripp, True, Tuttle, Usher, Vigue, Volenik, Watson, Wheeler EM, Wheeler GJ, Winsor, Wright, Madam Speaker.

NAY - Ahearn, Baker JL, Barth, Belanger DJ, Belanger IG, Bragdon, Brennan, Buck, Bumps, Cameron, Chartrand, Chick, Chizmar, Cianchette, Clukey, Desmond, Foster, Gagne, Gerry, Gieringer, Honey, Jones SA, Joy, Joyce, Kasprzak, Kneeland, Lane, Layton, Lovett, MacDougall, Mack, Madore, Marvin, McKee, Nass, O'Brien, Pendleton, Perkins, Pinkham RG, Pinkham WD, Plowman, Powers, Savage, Snowe-Mello, Stedman, Tobin, Treadwell, Underwood, Vedral, Waterhouse, Winglass, Winn.

ABSENT - Campbell, Cross, Dexter, Dutremble, Farnsworth, Gamache, Jones KW, Jones SL, Lemke, McElroy, Meres, Nickerson, Sanborn, Skoglund.

Yes, 85; No, 52; Absent, 14; Excused, 0.

85 having voted in the affirmative and 52 voted in the negative, with 14 being absent, the Committee of Conference Report was accepted.

Subsequently, the House voted to Recede and Concur.

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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 item which was tabled earlier in today's session:

HOUSE DIVIDED REPORT - Majority (10) "**Ought to Pass**" as amended by Committee Amendment "A" (H-604) - Minority (3) "**Ought to Pass**" as amended by Committee Amendment "B" (H-605) - Committee on **Judiciary** on Bill "An Act to Amend the

Laws of Murder and Manslaughter to Include the Death of a Fetus" (H.P. 541) (L.D. 732) which was tabled by Representative THOMPSON of Naples pending his motion to accept the Majority "Ought to Pass" as amended Report.

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

Representative PLOWMAN: Madam Speaker, Men and Women of the House. I ask you to reject the motion and go on to pass the Minority "Ought to Pass Report." The Majority "Ought to Pass" while acknowledging the fact that fetal manslaughter, or the death of a baby, or loss of a pregnancy is certainly something that should be taken into account. The amendment only covers assault, what it says is, if someone beats a woman until she loses her baby, that person will be charged with aggravated assault, rather than just assault. In recognition of the fact that she was pregnant. It changes the title, in fact.

I guess my objection is that it only covers certain circumstances where a woman would lose her pregnancy. Aggravated assault is not something that you're charged with, if you cause a death driving drunk, or driving too fast, or driving to endanger. That's just one of the examples of what is not covered. So if someone beats you until you loose your child, we recognize the severity of that, but if someone drunk driving causes you to loose your pregnancy, this doesn't cover it. The Minority Amendment is An Act to Amend Murder and Manslaughter to Include the Death of a Fetus, if you look through the amendment you will find that we've taken great care to draft the bill so that nothing done by your doctor, whether in the abortion technique, or a life saving technique, or any kind of surgery or treatment that causes the death of a fetus can be considered manslaughter. We've very carefully gone through to make sure that no doctor will feel constrained in the treatment, or the providing of an abortion by this. This says just that if a woman is carrying a pregnancy, a wanted pregnancy, and looses that pregnancy, we've had testimony where women were beaten until they lost their babies by jealous ex-husbands, or jealous boyfriends, that would be covered under the aggravated assault. However, it doesn't recognize that there was a victim besides the woman. It doesn't recognize the loss. The Minority Report will and I would ask you to go on and accept the Minority Report. I believe 21 states recognize this. I'm sorry, I'm not prepared and I'm freezing. Arizona recognizes the death of an unborn child at any state of development as manslaughter. Keep in mind that all of these are outside of the realm of abortions or medical treatments. This is in the commission of a criminal act. California offers it as murder, it is recognized as murder. It sets the stage as becoming a fetus. Georgia has two, feticide and feticide by vehicle, applicable on quickening of the fetus and on and on, it just continues through. It's not a new concept, I believe there are 19 or 20 states that now recognize the fact that the loss of a fetus, the loss of a pregnancy is a real loss and there is a real victim. I ask you to please go ahead and vote this down, so we can accept the Minority "Ought to Pass" Report. Thank you.

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

Representative THOMPSON: Madam Speaker, Men and Women of the House. Let me explain a little bit about what this does. The Majority Report takes the crime of aggravated assault and adds a new provision to that crime, which indicates as follows: a person is guilty of aggravated assault if that person intentionally, knowingly, or recklessly causes bodily injury to a woman, who is in fact pregnant, that includes loss or injury to her pregnancy. Then it contains the exceptions that it does not apply to medical or other health care acts, or omissions of the pregnant

woman. The intent of this report, or this bill, is to increase the penalties in the class level of the crime when a pregnant woman is assaulted and it results in injury to, or loss of her pregnancy. The majority of the committee felt this was the appropriate way to handle this matter, because it is impossible to separate an injury to the woman and her pregnancy. What we are saying is you can not have an assault on a fetus without having assaulting the woman. So we are saying, that if you assault the woman and it results in an injury to her and the fetus then it is an enhanced level of crime. And for this aggravated assault it enhances it to a class A crime. The original bill creates a number of new crimes, solely against the fetus, including intentional homicide, voluntary manslaughter of an unborn child, involuntary manslaughter of an unborn child, assault of an unborn child, and aggravated assault of an unborn child. Five new crimes. Already in our sentencing procedures, the court is able to take whatever the circumstances are of the victim, the physical condition of the victim included, to determine the length of sentence for an appropriate crime. We've gone beyond that, in our Majority Report and indicated that it should be elevated another level, or the higher crime, so that even stricter sentences are available against someone who assaults a woman who is pregnant. We believe that this is a rational way of dealing with this issue and we would ask for your support for the Majority Report.

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

Representative WATERHOUSE: Madam Speaker, Ladies and Gentlemen of the House. I'm not saying what we have before us now, the motion the Majority Report, is a bad Report, however, I will say it doesn't go far enough. Assaults on the woman are already covered in the law, assault and battery, aggravated assault, and so forth. What the original bill attempted to do and the Minority Report does is recognize the fact, as 25 other states in the nation do, that when we have a woman who is pregnant with a wanted pregnancy and she's assaulted, either by her husband or her boyfriend, or her child is killed in a car accident, that there's not one victim in that assault, or in that accident, there's two victims. Now for those of you who feel queasy about that concept, that it might infringe on the woman's right to choose, that's not so. There has been no constitutional challenges to any of these provisions, in any of these 25 states, and I dare say that if there was going to be one, there certainly would have been one challenged to the one in California that has been on the books since 1971. California has some of the most liberal abortion laws in the country. We're asking you to vote against the Majority Report and go on to the Minority Report and support the idea, as 25 other states have done, that when these things happen there are two victims. Certainly, when the woman is assaulted, or there's a car accident by a drunk driver, in order for the child to get injured or killed, it would have to affect the mother. There's no way of getting around that. The mother's carrying the child. We have to recognize the fact and get beyond this pro-choice, pro-life issue, and recognize the fact that this isn't a choice issue, and recognize the fact that there's two victims here. I urge you to vote against the Majority Report and go on to the Minority Report.

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

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

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

Representative KASPRZAK: Madam Speaker, Men and Women of the House. I surely appreciate the Majority Report on

this from the Committee, but I would ask that you would support the Minority Report in so much that it just makes it a more serious crime. When a woman who chooses to have her child, who's ready to give birth, she may have already gone to her baby shower, grandparents are expecting, everyone is awaiting this baby. This is a baby she chooses to have and someone, a husband, a boyfriend, someone decides that they don't want that child to be born and takes the right of the woman away to have that child by injuring the child in such a manner that when he's born, he doesn't survive, or he dies right there in her womb. I would ask that you would support her in this matter, that when she decides to have the child she would be able to give birth to the child and not have that right taken away from her. I think it's pretty clear in our debates on the floor that I've never been interested in taking away the rights of a woman to have, or have not, a child. It's always been about that little child, that little baby and when that baby's life is taken by someone in a manner such as a drunk driving accident, or a man who decides he's jealous and he doesn't want that baby to be born, he deserves to be punished in a way that will recompense her in some manner, that she has the right to choose to have that baby. This certainly isn't an abortion issue, this is only to protect the woman who has the child who wants to give birth to a child. I would ask that you would not support the Majority Report, but that you might support the Minority Report and make it a real crime. Call it what it is. He's taken the life of a person. A person that the mother wanted to give birth to. I'd ask you to support that.

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

Representative MAYO: Madam Speaker, May I pose two questions through the Chair?

The SPEAKER: The Representative may pose his questions.

Representative MAYO: Is there in this bill, or in statutes, a definition of the term wanted pregnancy, would be my first question. The second question would be, does this, or does it not, establish a new definition in statutes of the term unborn child?

The SPEAKER: The Representative from Bath, Representative Mayo has posed a series of questions through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Naples, Representative Thompson.

Representative THOMPSON: The Report that's before us, it does not contain either of those terms. The original bill does define an unborn child, means any individual of the human species from fertilization until birth.

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

Representative TOWNSEND: Madam Speaker, Men and Women of the House. The loss of a wanted child is a tragedy, no question about that. However, I'm disturbed to hear repeated discussion of the assault's affects on an unborn child, without an acknowledgment of the fact that that child was carried within a human being. By accepting Committee Report A we can acknowledge the assault upon the woman who carried that child, as well as acknowledge the tragedy of the loss of that child. I would be very, very sad if we were to treat women as containers within which a fetus were held. I will be voting to accept the Majority "Ought to Pass."

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

Representative PLOWMAN: Madam Speaker, Men and Women of the House. When a woman looses a baby, she doesn't say, I lost my pregnancy. She doesn't say, I lost my fetus. She looses her baby. I have yet to find a way to have a baby without a baby being carried by a woman in her womb. We

already acknowledge that there is an assault on the woman and I apologize if we created any misconceptions that were overlooking the woman. That's something that has already been discussed. Past, and people have been prosecuted and put in jail for it. We're talking about recognizing, as 25 other states have, without any impact on the availability of reproductive choice in the 25 states, many of these statutes go back to the 70's, earlier and more recent. It is not an attack on reproductive choice. It is acknowledging that at a certain point, that the potential life is recognized by the state and in decision after decision as the pregnancy progresses, each Supreme Court decision, law court decisions, and statute recognizes that the state has an interest in protecting a potential life. Life, okay. I don't think it would be enough for a woman who looses her child. Now if she looses the 3 month old sitting next to her in a drunk driving accident, she's lost a child, if she's pregnant, on the way to the hospital, 10 centimeters dilated and looses her child in the next 20 minutes to a drunk driver, a savage beating, someone shooting her as she crosses the parking lot, that's an aggravated assault. I don't see that as loosing a fetus. I don't think the woman sees that as loosing a fetus. It's a tragic, criminal act that must be recognized and in this case it wouldn't even be recognized as an aggravated assault. If the woman was run down by a drunk driver, that's vehicular manslaughter, you can have your choice, you could charge the guy with aggravated assault, because he ran over a pregnant woman, or you could charge him with vehicular manslaughter, if the woman dies. But if the woman lives, there's no death involved, as far as our statutes are concerned. We heard earlier, in earlier debates, that different movements served to protect reproductive choice.

Representative DONNELLY of Presque Isle moved that the rules be suspended so that the House may extend session until 10:00 p.m.

The same Representative requested a roll call on his motion to suspend the rules.

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

#### ROLL CALL NO. 264

YEA - Ahearne, Baker CL, Belanger IG, Berry RL, Bodwell, Bouffard, Brennan, Brooks, Bruno, Bull, Bumps, Bunker, Cameron, Carleton, Chartrand, Chick, Clark, Clukey, Colwell, Cowger, Davidson, Desmond, Donnelly, Driscoll, Dunlap, Etnier, Fisher, Foster, Frechette, Fuller, Gagnon, Gerry, Goodwin, Green, Hatch, Jabar, Kane, Kerr, Kneeland, Kontos, Labrecque, LaVerdiere, Lemaire, Lovett, Madore, Mailhot, Marvin, McAlevey, McKee, Mitchell JE, Morgan, Muse, O'Neal, O'Neil, Ott, Peavey, Perkins, Perry, Pieh, Povich, Powers, Quint, Richard, Rowe, Samson, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Spear, Stanley, Stedman, Stevens, Taylor, Tessier, Thompson, Townsend, Tripp, Usher, Volenik, Waterhouse, Watson, Wheeler EM, Wheeler GJ, Winglass, Wright, Madam Speaker.

NAY - Bagley, Baker JL, Barth, Belanger DJ, Berry DP, Bigl, Bolduc, Bragdon, Buck, Chizmar, Cianchette, Fisk, Gagne, Gieringer, Gooley, Honey, Jones SA, Joy, Joyce, Joyner, Kasprzak, Lane, Layton, Lemke, Lemont, Lindahl, MacDougall, Mack, Mayo, Murphy, Nass, O'Brien, Paul, Pendleton, Pinkham RG, Pinkham WD, Plowman, Rines, Savage, Snowe-Mello, Tobin, Treadwell, True, Tuttle, Underwood, Vedral, Vigue, Winn.

ABSENT - Campbell, Cross, Dexter, Dutremble, Farnsworth, Gamache, Jones KW, Jones SL, McElroy, Meres, Nickerson, Poulin, Sanborn, Skoglund, Winsor.

Yes, 88; No, 48; Absent, 15; Excused, 0.

88 having voted in the affirmative and 48 voted in the negative, with 15 being absent, the motion to suspend the rules did not prevail.

LEGISLATIVE RECORD- HOUSE, May 22, 1997

Subsequently, the House adjourned at 9:05 p.m., until 8:30 a.m., Friday, May 23, 1997.