

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
33rd Legislative Day
Friday, May 23, 1997

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

Prayer by Father Ed Thomson, St. Andrews Catholic Church, Augusta.

Pledge of Allegiance.

The Journal of yesterday was read and approved.

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 Create an Elder Abuse and Fraud Unit in the Department of the Attorney General" (H.P. 476) (L.D. 647) has had the same under consideration, and asks leave to report:

That the House recede from passage to be engrossed; read and adopt Conference Committee Amendment "A" (H-662) and pass the Bill to be engrossed as amended by Conference Committee Amendment "A" (H-662) in non-concurrence.

That the Senate recede and concur with the House.

Signed

Representatives: KERR of Old Orchard Beach
TOWNSEND of Portland
OTT of York

Senators: MICHAUD of Penobscot
CLEVELAND of Androscoggin
BENNETT of Oxford

Was read.

The House voted to accept the Committee of Conference Report.

The House voted to recede from passage to be engrossed.

Conference Committee Amendment "A" (H-662) was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended by Conference Committee Amendment "A" (H-662) in non-concurrence and sent up for concurrence.

SENATE PAPERS

Ought to Pass as Amended

Report of the Committee on **Judiciary** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-294) on Bill "An Act to Amend the Child Support Laws Concerning Seize and Sell Orders and Reunited Families" (S.P. 454) (L.D. 1428)

Came from the Senate with the report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-294) as amended by Senate Amendment "A" (S-307) thereto.

The Report was read and accepted. The Bill was read once. Committee Amendment "A" was read. Senate Amendment "A" to Committee Amendment "A" was read and adopted. Committee Amendment "A" as amended by Senate Amendment "A" 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-294) as amended by Senate Amendment "A" (S-307) thereto in concurrence.

Ought to Pass Pursuant to Joint Order (S.P. 632)

Report of the Committee on **Transportation** reporting "Ought to Pass" - Pursuant to Joint Order (S.P. 632) on Bill "An Act to Ask Voters in a Referendum Whether One Travel Lane in Each Direction Should be Added to the Maine Turnpike, Paid for by Turnpike Tolls, to Reduce Accidents and Congestion" (S.P. 663) (L.D. 1883)

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed.

The report was read and accepted and the Bill was read once.

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

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

Divided Report

Majority Report of the Committee on **Labor** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-300) on Bill "An Act Regarding the Penalty for Failure to Allow a Terminated Employee to Review Certain Files" (S.P. 218) (L.D. 677)

Signed:

Senators: CATHCART of Penobscot
MILLS of Somerset
TREAT of Kennebec

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

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

Signed:

Representatives: JOY of Crystal
PENDLETON of Scarborough
TREADWELL of Carmel

Came from the Senate with the Majority "**Ought to Pass**" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-300).

Was read.

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

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

Divided Report

Majority Report of the Committee on **State and Local Government** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-278) on Resolve, to Establish a Devolution Review Board (S.P. 499) (L.D. 1561)

Signed:

Senators: NUTTING of Androscoggin
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 Not to Pass**" on same Resolve.

Signed:

Senator: LIBBY of York

Representative: KASPRZAK of Newport

Came from the Senate with the Majority "**Ought to Pass**" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-278).

Was read.

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

The Bill was read once. Committee Amendment "A" (S-278) 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-278) and in concurrence.

Divided Report

Majority Report of the Committee on **Criminal Justice** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-303) on Bill "An Act to Establish and Implement Restorative Justice" (S.P. 570) (L.D. 1727) (Governor's Bill)

Signed:

Senators: MURRAY of Penobscot

O'GARA of Cumberland

MITCHELL of Penobscot

Representatives: PEAVEY of Woolwich

McALEVEY of Waterboro

POVICH of Ellsworth

JONES of Greenville

TOBIN of Dexter

BUNKER of Kossuth Township

FRECHETTE of Biddeford

WHEELER of Bridgewater

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

Signed:

Representatives: MUSE of South Portland

O'BRIEN of Augusta

Came from the Senate with the Majority "**Ought to Pass**" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-303).

Was read.

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

Representative MUSE of South Portland 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 Ellsworth, Representative Povich.

Representative POVICH: Madam Speaker, Men and Women of the House. LD 1727, An Act to Establish and Implement Restorative Justice. What is restorative justice? This bill does two things. First, it authorizes a juvenile caseworker to initiate a

community resolution team for juveniles accused of committing a juvenile crime. The second thing the bill does is to require adult offenders accused of low risk offenses. These are not domestic violence offenses to appear before a community reparations boards. These boards have the authority to do a variety of things, including pay restitution, perform community service, undergo counseling and even write an apology to the victim. Failure to comply with the board requirements is a violation of probation.

Our new commissioner of Corrections, Martin Magnusson, gave us compelling testimony. I would like to draw extensively from his remarks at the public hearing. In Maine these days, we need to place more emphasis on victims of crimes and to place the harm done by the offender at the center of the process. I particularly supported that restorative justice is the perfect first step in the Criminal Justice Committee's upcoming task to substantively work the juvenile code. This effort is the center of our committees work for the next session. Restorative justice includes communities as full partners in the process of holding offenders accountable. Communities have a vital role in maintaining societies' norms. Community resolution teams, also known as family group conferences, are ways that the community can become involved in the process of holding offenders accountable in providing victims greater involvement. Let me hasten to add that these are volunteer boards, with a big V, Volunteer. They are thoughtful people who represented all aspects of the community. Their discussions with offenders were genuine and focused on restoring the victim and addressing the harm done.

The boards mete out punishment. The victim, if he or she chooses, can then confront the offender. Restorative justice is not a new or untested approach. Other states, including Vermont and Minnesota, have adopted restorative justice as part of their corrections response. Many communities throughout the country have adapted family group conferences or community resolution teams as a method of working with juveniles. The majority, 11 to 2 amendment, which received 11 out of 13 votes, this bill limits restorative justice to a pilot program that sunsets on May 1, 1999. The majority felt that the Department of Corrections should at least be given a chance to try the program for two years. If it is not effective or is unsatisfactory for some other reason, it need not continue.

Let me repeat, the Department of Corrections will be required to report to the Criminal Justice Committee on the progress of the board and the community resolution teams on January 1st of every year. The bill sunsets, and we mean it, as of May 1, 1999. Oh yes, before I forget, this may become a significant part, the cost of the program, the juvenile component will be federally funded and will not start until federal funds are secured. The adult component will be absorbed by the department. Thank you very much men and women of the House. Please support the pending motion and give the victim a voice.

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

Representative MUSE: Madam Speaker, Men and Women of the House. I stand today to talk briefly about restorative justice as the only member of the Criminal Justice Committee who actually works in the corrections field. That is important. Restorative justice does not restore anything. This program was put together in a package and was sold to us and is trying to be sold to you as a program for victims. A program to help and aid victims. I would support that. I would strongly support that. I think that is important, but these are a few things that victims have had to say about this program. These are quotes. "Most victims are interested in protection from offenders and restitution. Restitution is already available through the system. Protection

from offenders needs to be a priority and programs that deal with that need to be adequately funded and staffed." Another quote, "Public safety needs to be a priority. This program spends money on petty crime, which it does, while programs for violent offenders are not adequately funded or staffed." Does the name Norman Dickinson ring a bell to anybody? Another quote that came to us from a victim, "If a man is standing in front of you pointing a gun at you, you probably agree that you need to address that problem before you consider dealing with someone who might point a gun at you. It is always important, particularly, when there are limited resources, such as time, money and man power to deal with the most immediate problems first."

Ladies and gentlemen, we have severe problems in our correctional system throughout the State of Maine. Norman Dickinson was just one shining example that was brought to all of our attention when he was batted from town to town like a ping pong ball because nobody wanted him in their town. He was a prime example of somebody who went right through the entire system without any programs, without any help or any assistance from the state and was tossed out onto your doorsteps. We have seen the Department of Probation and Parole be decimated and cut back in the number of staff, be thrown out of their offices, their entire clerical staff eliminated. These are the people we need to increase.

I am not saying that restorative justice is a bad program. It is just not a program whose time has come yet. Ladies and gentlemen, I would strongly urge you to vote no on this so that we can move ahead and vote for the Minority Report. Thank you.

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

Representative O'BRIEN: Madam Speaker, Ladies and Gentlemen of the House. I haven't even had my coffee yet and I have been thrown into this. This is very, very important to me. I would ask for your indulgence just for a few moments. This is a problem, as Representative Muse clearly stated. If, indeed, it were to aid our victims, I certainly would be 150 percent for it. I think it is a good concept. We can't disagree with the concept. I am bothered by many, many facets of this. I would ask your indulgence.

First of all, I would like to say that I have great respect for the new commissioner, Commissioner Magnusson and the department. The words that I will say they are in no way to defame their character, reputation or respect. I have great respect for them. However, when the Criminal Justice Committee, several months ago, was sitting down before the Appropriations Committee and asked for the Part I or Part II budget. The restorative justice was in this. Yes, this bill is a pilot project, but restorative justice was in that with a price tag of \$750,000, that is three-quarters of a million dollars. Now, lo and behold, there is no fiscal note to this. I really question this. I have been saying this and the committee knows it is no surprise that I have a real problem with all of a sudden it is dissipated in vapor, \$750,000 down to nothing.

To top it all off, yesterday afternoon, we received something from the Criminal Justice Committee where we had to rate our priorities for the Appropriations Table. I was very surprised to see it in writing that it said, the fiscal note on this, as we the Criminal Justice Committee members needed to prioritize, allocation to \$500 to the Department of Corrections in 1997-98 and 1998-99, but DOC may require additional funds if federal funds or other special revenues are received. I haven't had a chance to go the Department of Corrections, as I said, I just received this late yesterday, but I am really concerned. All of a sudden there is a may in here. We may require additional funds. I would ask you to really think about that.

Besides the money, I am concerned as to why they need our blessing. We hear that there are several restorative justice programs going on as pilot already. I am real concerned that they need this legitimize by this body if they are already going through this. For those of you who don't have a real sense of what this is about, there will be a community reparations board. Low risk offenders and juvenile offenders will go before a community board of volunteers. I know many of you, as do I, sit on or have in the past, sat on volunteer boards. They are not easy to come by. If you have a volunteer board of 15 people, how many, on a regular basis, show up? I have a real problem with this volunteer board giving the "sentence" to the juvenile offender and low risk offender telling them what they will need to do.

I guess I would end this by saying that I am a victim, my family was a victim of a crime in the past several years. It was a break-in and burglary by juveniles. We knew the kids. They were "good" kids. We didn't want this to be a Class B felony on their record. We worked with the DA and we worked with the department and we said, okay, let's work with this and we will give them community service, a lot of community service. We also required alcohol counseling for them. This could be a good thing. The two young men received 400 hours of community service. What happened was one of them did the work, the parents were wonderful on this and wanted these offenders to learn a lesson. One of them worked for me at the Children's Museum. He didn't do 400 hours, but he put in a real good faith effort. The other one did nothing. He did a few hours at the YMCA. At the end of the term, I called the department and said, how come, as Executive Director, where this child was placed, how come I was never contacted? How come no one ever checked to see that he was doing his work? How come there was no report done? How come the YMCA had no idea this child was on probation that was doing community service? How come no one ever checked? This totally fell through the cracks. These offenders, these kids, that broke into my home and stole from me, nothing was ever done. It was never followed up on.

I have been obnoxious in asking the department about this. I am not getting a real good answer, I will tell you. They say it is the individual caseworker. As a victim, if this program is supposed to help the victim and this is helping the empower the victims, making them feel good and being part of this, I had these kids come to my home. I did ask for an apology and they gave me one. I asked them to apologize to their parents. I went like this to them, as if they were my own. That made me feel good, but knowing that nothing ever happened to them and the kids at Cony High School are laughing about this situation, that sure doesn't make me feel empowered. This, ladies and gentlemen, to me, is a program that if we were fully staffed, if the probation and parole people were there and they had their offices and the tools to do this job, then fine, but they don't. We are not ready for this in any stretch of the imagination. I have received calls from Kittery to Fort Kent from victims, line people, probation and parole people saying we can't do anything else. We cannot do this.

You may hear from others that say there are victims that want this and there maybe are ones that do. I can't speak for other members of the committee, but I have heard from innumerable victims and innumerable people that are supposed to be implementing this project saying that we can't do it now. Please don't give us anything else. This is a lot of rhetoric. I will close now, but I just need to reiterate this for those of you who may have come in. A few months ago, when we started this, this project was \$750,000 and it went down in flames. All of a sudden, it is pared down to a pile of projects and it is no money.

I ask you, I am naive here and I am a freshman, but somehow it just doesn't gel with me. Thank you.

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

Representative MCALEVEY: Madam Speaker, Men and Women of the House. I came here three years ago being kind of a bricks and mortar type of guy. Lock them up and throw them away. In this short three years, I have learned that we need to deliver our services to the public and our corrections systems much like we do our schools. We need to have a shopping bag filled with many different programs. I am concerned that the fiscal note originally on this, for a statewide program, was huge, but this is a pilot project. I am cautiously optimistic that this is going to work. I would ask that we give the Department a chance to let it work. If it is going to have a minimal note on it, then they can find the resources within themselves, then we are that much ahead of the game. Remember, it is a pilot project. They are going to have to report back to us and eventually back to you, as a full body, to make that policy decision. Is this the way we want to go? Personally, I would like to free up prison cells or jail cells for the violent offenders and put the low risk offenders out. Yes, this does deal with low risk offenders, but this is a pilot project in three areas of the state. I would like to give it a chance to see how it works. I am skeptical, but, as I said earlier, I am cautiously guarded about this. I am going to be watching this very closely. I know the members of my committee are going to also be watching this very closely. We won't know if this will work or not unless you try it. The fact that they said they could do it now with very little resources, I think that is a real politic number three. The second semester. We are learning how the system works. I would ask you to support this.

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

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

The SPEAKER: The Representative may pose his question.

Representative STEDMAN: Madam Speaker, Ladies and Gentlemen of the House. To anyone who can answer, in the discussions in committee was there any decision made as to where these pilot projects may take place?

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 Ellsworth, Representative Povich.

Representative POVICH: Madam Speaker, Men and Women of the House. I will need some help from the committee, because I have drawn a brain cramp. Belfast, Biddeford and Auburn. Thank you committee.

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

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

The SPEAKER: The Representative may pose her question.

Representative FULLER: Madam Speaker, Men and Women of the House. Do the pilot projects actually require statutory authority? It seems to me that since they are going on that this bill is not even necessary.

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

Representative MCALEVEY: Madam Speaker, Men and Women of the House. I believe they don't need statutory authority. It is my understanding that in many cases, they are doing some of this already. It is under another name, but by adopting the program and the titles, we may be eligible for some

federal funds. It came to us because it is a policy decision. The decision to take this type of approach is new to this state. They felt that that decision best lie with us, rather than the bureaucrats.

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

Representative O'BRIEN: Madam Speaker, Men and Women of the House. In response to that question, I have asked that often. The latest answer that I have and I sincerely hope that I am repeating what I heard correctly is that in certain cases when the community reparations board, when that board is the one that issues the sentence, that authority is taken away from the judges and given to this board. That is the piece that does require the blessing of this House. My paranoid conspiracist self that I am, I think it is opening the door for funding. Thank you.

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

Representative THOMPSON: Madam Speaker, Men and Women of the House. I am a cosponsor of this bill. I would like to clarify a few things. This bill came about as a result of the strategic planning of the Department of Corrections. I was involved with that strategic planning as a subcommittee of the Criminal Justice Committee in the 117th Legislature. We met and invited over 150 participants throughout the state and the criminal justice system. This is one of the off shoots of that strategic planning. The legislation is needed for the adult side of the program. The juvenile side of the program does not require any enacting legislation, other than defining the program in a better manner. There is no state funds involved in this. There is a federal grant being drawn down and appointing the way the fiscal note is written saying, if you don't get the federal money, then you would have to come back for state money. Obviously, if they don't get the federal money, they have to come back to us and say fund it. Then you could turn it down. It is being funded by a federal grant and it is part of their strategic planning and it is a pilot project and I would ask for your support.

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

Representative TOBIN: Madam Speaker, Ladies and Gentlemen of the House. I voted in favor of this motion for two primary reasons. The first one, I think, is very, very, very important. That is an effort to make juvenile offenders, offenders who do not commit or offend the state of laws of Maine again. This had tremendous potential. If a 14 year old or a 15 year old sits across the table from the person whose house they broke into, whose car they have stolen and are asked either orally or in writing to make an apology, that juvenile is humbled and that victim looks at that juvenile in the eye and maybe, often times, might even forgive that juvenile. That juvenile may not commit a crime again. I sincerely doubt that it will have much affect on a hardened criminal, but it does have a great deal of potential for juveniles.

The other reason is let's give the department an opportunity to be innovative. Let's let the Department of Corrections be creative. I know, as a school board member and as a school administrator for the last 30 years, I really appreciated someone who gave me the freedom to experiment, to be creative, to be innovative, to come up with new ideas to tackle the problem. Those are the two reasons that I voted for this particular bill. I ask you to vote for this bill this morning. Thank you.

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

Representative PEAHEY: Madam Speaker, Men and Women of the House. I would just like to add a couple more points to what the committee has said. This is something for

victims if they want it. It is purely voluntary. If a victim feels they do not want to ever face that offender, they don't need to. The other part of this is that this is an offender being accountable to their community as well as their victims. These are community boards and this pilot program is a community board. That offender has to sit down with community members, the folks they are going to meet in Shaws and CVS. They have to be accountable for the crime that they committed. The other thing that I wanted to mention, this is an alternative way of dealing with low risk offenders. There are no violent offenders involved in this program. We asked the question, who would the offenders be? People who passed bad checks, petty theft, shoplifting, minor breaking and entering, they are called property crimes. The bill specifically excludes any sexual offenses or personal bodily offenses. No domestic violence offenders will be involved in this program. It is very specific to property crimes, low risk offenders and victims participation is voluntary. Thank you very much.

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

Representative MUSE: Madam Speaker, Men and Women of the House. I apologize for rising to speak on this again. I know it is Friday and we have a very busy and heavy schedule in front of us. I feel that it is very important that I just address some of the statements that have been made. During our hearings, I specifically asked Commissioner Magnusson, who I also have a great deal of respect for and I am delighted that he is in the position that he is in. I think he will take us down wonderful roads, but I specifically asked him, knowing that we would be debating this on the floor, so I could bring his answer back to you people. What does this program offer that is not already available to any victim today? His answer was, nothing. Everything that this program offers is already available to any victim. Representative McAlevey stated that he was a bricks and mortar guy a couple of years ago.

I work in corrections. I have been there for 20 years and I have always been a programs guy. I invented Cumberland County's first community work program taking inmates out to repair vandalized cemeteries. Everybody thought we were insane. Local police wanted to put us in jail. I believe in programs. I believe they are the way to go because corrections has failed all of us miserably for years. The pendulum is swinging now and we are seeing programs. Programs are the way to go. Okay, fine, but let's be inventive. Let's be creative. Let's put probation and parole back to where they were, in fact, let's bump them up the way they have done in Massachusetts and several other states, increase the number of probation and parole officers, establish some electronic monitoring programs and various other programs. Kick a bunch of people out of the prisons that are in for nonviolent crimes at the end of their sentence. Free up the bed space to put the violent offenders that Representative McAlevey wants to see locked up. I agree. Let's lock them up, but let's create the bed space for them. We could eliminate our overcrowding problem. We could stop thinking about having to build a new state prison. We could stop all sorts of things.

I attended a meeting in York County regarding restorative justice. It was attended by members of the police departments throughout York County, members of probation parole, Sheriff Department members, representatives from the district attorney's offices and by victims. Ladies and gentlemen, when that meeting ended, nobody at that meeting was in favor of restorative justice. That pretty much sums it all up. Again, I would urge you to vote "Ought Not to Pass" so that we can move ahead and pass the Minority Report.

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

Representative JONES: Madam Speaker, Ladies and Gentlemen of the House. I have voted for this bill and I am very much behind the bill. I think this actually brings communities to the forefront to help those juveniles not enter those prisons and in the long run it is going to save us money. I would like to just read a brief statement. Community reparative boards provide Maine communities with input into justice processes that benefit crime victims by recognizing and attempting to meet their needs and offenders by developing sanctions that hold them accountable for their actions and provides a positive experience. Community reparative boards can provide a more effective use of corrections and community resources that focus on offender accountability, victim satisfaction and direct community involvement in decision making and ownership of justice processes. I talked to several probation officers in my area. They definitely support this approach. We need to have our communities involved, our clergy and our schools. We need to work with these juveniles so they realize that doing life is not the way to go. I urge you to accept this bill. Thank you.

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

Representative O'BRIEN: Madam Speaker, Men and Women of the House. Just a couple of closing comments and then I would like to pose a question through the chair. The reason that I requested, really wanted to be on the Criminal Justice Committee was because I wanted to work with juvenile justice. I want to be part of a group that is going to reform juvenile justice. It is very, very high on my priority list. I also want to work with victims. It is very important to me. This isn't it. As it has been said, over and over, and it is very telling when the commissioner says nothing. This is going to nothing different than what is already being done out there. I again say, why do we need this in statute if it is already being done, pilots throughout the state? Again, probation people, people who are going to be doing this have told me that they are very leery of it. They don't have the tools to do what they need to do now and we are giving them something else to do. Obviously, I am very, very leery of this. I would close by asking the Speaker if I could pose a question through the Chair? It was by a previous speaker that it was said that the only money that may be required and we have been told there is none, the only money that may be required is if we receive some federal grants or if we don't receive the federal grants. This paper that I have here that says the Department of Corrections may require additional funds if federal funds or other special revenues are received. I read that to mean, because I write grants in my other life. Many grants are matching grants. We get a million dollars from the feds. We need to put in a million dollars. I ask you, is this what this means? Again, legitimately pose that question. Thank you.

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

Representative POVICH: Madam Speaker, Men and Women of the House. They may ask for additional funds, but they may not receive it. Our understanding was that the federal funds did not require a match. We are already doing the community resolution for juveniles in Auburn, Biddeford and Belfast with the support of local law enforcement. We need authority for the adult component. Local law enforcement isn't under the provision of this statute that we are proposing. We need to have the LD in place so that we can have the reporting requirements in place. I urge you to support the pending motion "Ought to Pass" as amended.

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

ROLL CALL NO. 265

YEA - Ahearn, Bagley, Baker CL, Baker JL, Belanger IG, Berry DP, Berry RL, Bigl, Bouffard, Brennan, Bruno, Bunker, Cameron, Campbell, Carleton, Chartrand, Chick, Chizmar, Clark, Clukey, Colwell, Cowger, Davidson, Dexter, Driscoll, Dunlap, Dutremble, Etnier, Fisher, Foster, Frechette, Fuller, Gagne, Gagnon, Gerry, Gieringer, Gooley, Green, Hatch, Honey, Jabar, Jones SL, Jones SA, Kane, Kerr, Kontos, Labrecque, LaVerdiere, Lemaire, Lemont, MacDougall, Mailhot, Marvin, Mayo, McAlevey, Mitchell JE, Morgan, Nass, O'Neal, O'Neil, Paul, Peavey, Pendleton, Perkins, Perry, Pieh, Pinkham RG, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Savage, Saxl JW, Saxl MV, Shannon, Skoglund, Snowe-Mello, Stanley, Taylor, Thompson, Tobin, Townsend, Tripp, Tuttle, Vedral, Vigue, Volenik, Watson, Wheeler EM, Winglass, Winn.

NAY - Barth, Belanger DJ, Bragdon, Brooks, Buck, Bull, Bumps, Cianchette, Desmond, Goodwin, Jones KW, Joy, Joyce, Joyner, Kasprzak, Kneeland, Lane, Layton, Lemke, Lindahl, Lovett, Mack, Madore, McElroy, Murphy, Muse, Nickerson, O'Brien, Ott, Pinkham WD, Plowman, Shiah, Sirois, Stedman, Treadwell, True, Waterhouse, Wheeler GJ, Winsor, Wright.

ABSENT - Bodwell, Bolduc, Cross, Donnelly, Farnsworth, Fisk, Gamache, McKee, Meres, Sanborn, Spear, Stevens, Tessier, Underwood, Usher, Madam Speaker.

Yes, 95; No, 40; Absent, 16; Excused, 0.

95 having voted in the affirmative and 40 voted in the negative, with 16 being absent, the Majority **"Ought to Pass"** as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (S-303) 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-303) in concurrence.

Divided Report

Majority Report of the Committee on **Taxation** reporting **"Ought Not to Pass"** on Bill "An Act to Clarify the Law Governing Property Tax Exemptions for Charitable and Benevolent Institutions and Literary and Scientific Institutions" (EMERGENCY) (S.P. 13) (L.D. 11)

Signed:

Senators: RUHLIN of Penobscot

DAGGETT of Kennebec

Representatives: TRIPP of Topsham

ROWE of Portland

MORGAN of South Portland

SPEAR of Nobleboro

LEMONT of Kittery

CIANCHETTE of South Portland

TUTTLE of Sanford

BUCK of Yarmouth

Minority Report of the same Committee reporting **"Ought to Pass"** as amended by Committee Amendment "A" (S-262) on same Bill.

Signed:

Senator: MILLS of Somerset

Representatives: GREEN of Monmouth

GAGNON of Waterville

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

Was read.

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

Representative DUNLAP of Old Town requested a roll call on the motion to accept the Majority **"Ought Not to Pass"** Report.

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

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

ROLL CALL NO. 266

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

NAY - Bull, Dunlap, Gagnon, Green, Jabar, Jones KW, Perry, Powers, Townsend, Vedral, Volenik.

ABSENT - Bodwell, Bolduc, Cross, Donnelly, Farnsworth, Fisk, Gamache, Lemaire, McKee, Meres, Poulin, Sanborn, Spear, Stevens, Tessier, Underwood.

Yes, 124; No, 11; Absent, 16; Excused, 0.

124 having voted in the affirmative and 11 voted in the negative, with 16 being absent, the Majority **"Ought Not to Pass"** Report was accepted in concurrence.

Divided Report

Majority Report of the Committee on **Inland Fisheries and Wildlife** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (S-270) on Bill "An Act to Ensure Funding for Snowmobile Law Enforcement Activities" (EMERGENCY) (S.P. 193) (L.D. 611)

Signed:

Senator: HALL of Piscataquis

Representatives: PAUL of Sanford

CLARK of Millinocket

DUNLAP of Old Town

UNDERWOOD of Oxford

TRUE of Fryeburg

GOODWIN of Pembroke

CROSS of Dover-Foxcroft

PERKINS of Penobscot

CHICK of Lebanon

Minority Report of the same Committee reporting **"Ought to Pass"** as amended by Committee Amendment "B" (S-271) on same Bill.

Signed:

Senators: KILKELLY of Lincoln

RUHLIN of Penobscot

Representative: USHER of Westbrook

Came from the Senate with the Majority **"Ought to Pass"** as amended Report read and accepted, Committee Amendment "A" (S-270) read and adopted, Senate Amendment "A" (S-306) read and adopted, and the Bill failing of passage to be engrossed.

Was read.

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

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

Representative USHER: Madam Speaker, Men and Women of the House. As you can see, I am on the "Ought to Pass" Minority Report. This bill does establish a new fund. It allocates \$42,000 to pay for the road blocks that we had this past winter that the snowmobilers were using, for checking snowmobiles and OUIs. It does establish a dedicated fund. Do we want another dedicated fund within the department? We can come up with the \$42,000 and pay for this. Another dedicated fund will make bigger government and make more people working and following this small account. It is only one-tenth of a percent of the whole budget. I believe that you ought to vote against the Majority Report so we can take the "Ought to Pass" Minority Report and pass this.

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

Representative LEMKE: Madam Speaker, Men and Women of the House. In a few weeks we will have an event in Westbrook called Westbrook Together Day. I am going to jump the gun, Westbrook is together on this. Representative Usher presented you with some good solid facts and I urge you to follow his light.

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

Representative PAUL: Madam Speaker, Ladies and Gentlemen of the House. The bill creates the Snowmobile Enforcement Fund in the Department of Inland Fisheries and Wildlife and requires that a certain amount of each resident and nonresident snowmobile registration fee be collected by the department to be credited to that fund. Resident snowmobile registration fees are increased from \$20 to \$25 per year. The nonresident snowmobile fee does not change. That remains at \$60 annually. The money in the fund supplements other appropriations to the Bureau of the Warden's Service for snowmobile enforcement and may be used by the Warden Service, only for enforcement, safety, educational services and related to snowmobile activities. The bill requires a one-time transfer of \$42,000 from the department carrying balances account to reimburse the warden service for snowmobile enforcement expenditures that were in excess of the amount budgeted by the Warden Service for those purposes in fiscal year 1996-97. If that amount is not sufficient to fully reimburse the Warden Service for those costs, the bill authorizes the state controller to transfer additional money from the carrying balances account, as necessary, to fully reimburse the Warden Service.

The bill also requires the department to budget for snowmobile enforcement activities at a level that is not less than the average snowmobile enforcement operation program expenditures in the previous two fiscal years. The Inland Fisheries and Wildlife Committee presented to the Appropriations Table a priority list of eight bills to be funded. Out of the eight bills, the bill to fund the Snowmobile Enforcement Fund was third on the list. That shows you how much weight the committee puts on this funding. I certainly hope you will support the Majority "Ought to Pass" Report.

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

Representative TRUE: Madam Speaker, Ladies and Gentlemen of the House. First, I must, as you will note, I am on the opposite side of my good friend and former student, Representative Usher. I am not trying to be the teacher today. However, I voted the way I did after long debates that we had relative to the budget of this particular department. I feel strongly that if you remember all of the accidents and things that we have had in this industry, that we certainly need to make sure that we have the funds available to make sure that we can enforce this activity a little more closely than we have. That is the reason I feel that it should be a dedicated fund. Thank you.

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. 68 voted in favor of the same and 28 against, the Majority **"Ought to Pass"** as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (S-270) was read by the Clerk and adopted. Senate Amendment "A" (S-306) 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-270) and Senate Amendment "A" (S-306) in non-concurrence and sent up for concurrence.

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

Divided Report

Majority Report of the Committee on **Labor** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (S-301) on Bill "An Act to Make the Workers' Compensation System More Equitable" (S.P. 491) (L.D. 1523)

Signed:

Senators: CATHCART of Penobscot

MILLS of Somerset

TREAT of Kennebec

Representatives: HATCH of Skowhegan

SAMSON of Jay

BOLDUC of Auburn

RINES of Wiscasset

CLARK of Millinocket

STANLEY of Medway

Minority Report of the same Committee reporting **"Ought to Pass"** as amended by Committee Amendment "B" (S-302) on same Bill.

Signed:

Representatives: JOY of Crystal

JOYCE of Biddeford

PENDLETON of Scarborough

TREADWELL of Carmel

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 "B" (S-302).

Was read.

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

On further motion of the same Representative, tabled pending her motion to accept the Majority **"Ought to Pass"** as amended Report and specially assigned for Tuesday, May 27, 1997.

Divided Report

Majority Report of the Committee on **Taxation** reporting "**Ought Not to Pass**" on Resolve, Establishing a Task Force to Propose Targeting of Revenue Sharing Dollars to Communities That Accept Community-based Services (S.P. 544) (L.D. 1662)

Signed:

Senators: RUHLIN of Penobscot

DAGGETT of Kennebec

Representatives: TRIPP of Topsham

MORGAN of South Portland

SPEAR of Nobleboro

LEMONT of Kittery

CIANCHETTE of South Portland

BUCK of Yarmouth

TUTTLE of Sanford

Minority Report of the same Committee reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-291) on same Resolve.

Signed:

Senator: MILLS of Somerset

Representatives: GREEN of Monmouth

GAGNON of Waterville

ROWE of Portland

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

Was read.

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

The SPEAKER: The Chair recognizes the Representative from Monmouth, Representative Green.

Representative GREEN: Madam Speaker, Men and Women of the House. I would like to point out that although the title may be a little misleading, the bill actually does not designate funds directly from revenue sharing. What it does ask is that several stakeholding departments in government get together and talk about the possibility of special funding for those communities that open up their territory, their community and their hearts for specific kinds of housing, particularly those housings such as group homes. This does not make an appropriation. It simply asks the various departments, the Department of Education, the Department of Mental Health and Retardation and several others to get together and talk about how we can, in fact, implement several decisions that have told us that we must move people into the community. It is a task force to start looking at a different way of using our communities so that we do, in fact, open up space and our hearts to these people. It merely asks for a task force. Thank you.

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

A vote of the House was taken. 67 voted in favor of the same and 22 against, the Majority "**Ought Not to Pass**" Report was accepted in concurrence.

Divided Report

Majority Report of the Committee on **Judiciary** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-286) on Bill "An Act to Implement the Recommendations of the Judicial Compensation Commission" (S.P. 322) (L.D. 1062)

Signed:

Senators: LONGLEY of Waldo

LaFOUNTAIN of York

Representatives: THOMPSON of Naples

WATSON of Farmingdale

ETNIER of Harpswell

JABAR of Waterville

MAILHOT of Lewiston

POWERS of Rockport

PLOWMAN of Hampden

MADORE of Augusta

NASS of Acton

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

Signed:

Senator: BENOIT of Franklin

Representative: WATERHOUSE of Bridgton

Came from the Senate with the Majority "**Ought to Pass**" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-286).

Was read.

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

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

Representative WATERHOUSE: Madam Speaker, Ladies and Gentlemen of the House. As you can see, it is quite a lopsided report. I am not going to use a lot of your time. I just want to make a few points and then let you vote. In the committee, we heard that the judges have a large workload. They are doing a very good job considering the workload that they have. We are getting a big bang for our buck. I don't debate that. We look at other states and how they are paying their judges, but as my good friend and committee colleague from the other body said, we shouldn't be in the business of trying to keep up with the Joneses. Having said that, I just want to make a few points and a few facts about how our judges do in the State of Maine. By Maine standards, judges salaries, the health benefits for judges and their families, plus dental insurance benefits for the judges and their families, plus life insurance benefits are more than adequate, I feel.

Judges are also compensated for travel and meals above and beyond mileage to the extent of \$433 for district judges, \$1,210 for superior judges and \$2,676 for supreme court judges per year. Judges are also compensated for mileage on the average of \$2,237.32 per year. They also have their retirement benefits paid by the state. One of the arguments we had for raising the compensation for the judges was that we needed to attract good people. I dare say that we have good people on the bench now, very good people. We are attracting good people now and none are leaving. None have ever left, save for a district court judge who returned to private practice after one month on the bench because he found sentencing to be difficult. He didn't like doing it. We are not losing judges because of pay. When you look at the pay of judges across the state and compare them to the average per capita income in the state, you would think it is a very good job. I certainly would.

The other question we have to ask ourselves is why should we pay supreme court justices \$96,000 a year, as recommended, when their caseloads are less than other judges. They have law clerks to help them. I am not going to stand here and make the argument that the judges aren't doing a good job. I am not going to stand here and make the argument that they are overworked. I dare say a lot of us in our occupations are overworked. That is not the argument. I don't think we should make the argument and look at what other states are doing and try to keep up with other states as far as how they are paying people because that shouldn't be what we are about. I urge you to vote against the pending motion. Madam Speaker, I ask for a roll call.

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 Naples, Representative Thompson.

Representative THOMPSON: Madam Speaker, Men and Women of the House. This bill is the result of the report of the judicial compensation commission, which was made up of John DeMattio, Ivil Cianchette and Elaine Rosen. Business people familiar with most people in the State of Maine. They did a very detailed and comprehensive study, which showed that Maine's judges are among the most productive in the country, yet are paid at a level ranking anywhere, depending on the judge, district or superior court, from 35th to 41st in the nation. They are not being compensated as well as other people in state government and in the private sector who have comparable or even less demanding and responsible positions. The committee took the recommendations and lowered the amount of the requested increases to a level below what the commission had requested. The judges, there is no doubt in anyone's mind that the judges are doing a tremendous job in the State of Maine. They have worked hard. They handle a tremendous number of cases. The idea isn't that some of them are leaving, the idea is that when an opening occurs, there are a lot of good lawyers in the State of Maine that would make very good judges. We want the best lawyers in Maine to make the best judges. That is what this is intended to do. Thank you.

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

ROLL CALL NO. 267

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

NAY - Bolduc, Buck, Foster, Gerry, Gieringer, Goodwin, Jones SA, Joy, Kasprzak, Lane, Layton, Lemke, MacDougall, Mack, Nickerson, Pinkham WD, Snowe-Mello, Stedman, Tobin, Treadwell, Underwood, Vedral, Waterhouse, Winsor.

ABSENT - Bodwell, Cross, Desmond, Donnelly, Farnsworth, Fisk, Gamache, Meres, Perry, Sanborn, Skoglund, Spear, Stevens, Usher.

Yes, 113; No, 24; Absent, 14; Excused, 0.

113 having voted in the affirmative and 24 voted in the negative, with 14 being absent, the Majority **"Ought to Pass"** as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (S-286) 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-286) in concurrence.

Divided Report

Majority Report of the Committee on **State and Local Government** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (S-296) on Bill "An Act to Allow the Town of Chester to Annex a Certain Parcel of Land" (S.P. 633) (L.D. 1850)

Signed:

Senators: NUTTING of Androscoggin
GOLDTHWAIT of Hancock
LIBBY of York

Representatives: AHEARNE of Madawaska
BUMPS of China
FISK of Falmouth
BAGLEY of Machias
GERRY of Auburn
SANBORN of Alton

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

Signed:

Representatives: GIERINGER of Portland
KASPRZAK of Newport
DUTREMBLE of Biddeford

Came from the Senate with the Majority **"Ought to Pass"** as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-296).

Was read.

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

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

Representative JOY: Madam Speaker, Ladies and Gentlemen of the House. I urge you to defeat the "Ought to Pass" motion and accept the "Ought Not to Pass." This is a case of a community, which granted, needs room to expand for economic development, but there is already economic development existing in this little portion of T2R8 that they want to follow up. A few years ago, in my area, in the Town of Island Falls, they attempted to annex a whole township, which was a much more ambiguous undertaking. However, part of the problem that exists here is if this is annexed by the Town of Crystal, the rest of the unorganized territories are going to have to pick up the taxes that are lost on that property. To give you an idea, the amount of land that is in question here is 8,166 plus acres with a building value of \$509,000, the land value is \$1 million. Personal property value is \$532,000. Total taxable value is \$2,049,694. The total tax amount is \$18,836.70. The number of taxpayers are 11. Five of them are in agreement with the Town of Chester, but the other six are not. The largest landholder here is International Paper Company. Part of the reason that the county commissioners are in opposition to this is that they will lose about \$42,600 in tax dollars to the county.

I also can sympathize with the Town of Chester being only a half township. They do need room to expand. However, the expansion is already taking place in this unorganized territory and the advantages that they have from this expansion are readily apparent. I urge you to defeat the pending motion.

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

Representative AHEARNE: Madam Speaker, Ladies and Gentlemen of the House. The certain part of land that is being questioned, there are no inhabitants of this piece of land. In fact, there are just a few businesses in there. I believe there is approximately six. All of them have no objection to this part of land going to the Town of Chester. Information regarding to how much the county would lose in terms of taxes would be approximately \$1,800, not \$42,000.

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

Representative JOY: Madam Speaker, Men and Women of the House. The excise tax collection is the \$42,600. These figures were given to me by Ms. Shieve, the Director of the Unorganized Territories. It is very true. There are no residents. This is exactly why it is possible for the Town of Chester to take this over. In Island Falls there happened to be one resident in the unorganized township that they wanted to annex and that one individual had the vote that kept them from doing it. Unfortunately there are no residents here that live in this particular portion so nobody can speak up and say not. Thank you.

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

Representative CHICK: Madam Speaker, Ladies and Gentlemen of the House. You may have some concerns why a person from York County rises this morning to speak about a condition in Penobscot County. My knowledge of this situation comes from the first selectman in Chester, a man that is connected with 12 votes. I have known him over a few years and I am not thinking here this morning of trying to convince you of what has occurred in some other towns. I have discussed this with several people and I have also discussed this with the previous speaker. I believe this is an opportunity for economic growth. I would ask that you support this motion. Thank you.

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

Representative STANLEY: Madam Speaker, Men and Women of the House. I stand here in support of this LD. The reason why is because, as Representative Chick said, this is for economic development. This is an area where the land can be used for a major access route into part of Lincoln, which goes up into Cherryfield and Lee and all the surrounding areas. This would help to open up land for economic development for jobs that are needed in the area. Also, the Town of Chester has come a long way. They came from an evaluation in 1982 of \$4 million and today an evaluation of \$40 million. Their mill rate is \$8.65 a thousand. The county's mill rate is \$9.19 with a reduce for unorganized territories. The reason this is beneficial is that up in our area, jobs are very important. This will help open up the area because part of the area that this encompasses has been opened up for development. That is some of the reason for the increase in valuation. The more jobs we have in our area, as I said, it is in a major access route, will help the people in northern Penobscot County. I thank you and wish for your support.

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. 76 voted in favor of the same and 28 against, the Majority **"Ought to Pass"** as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (S-296) 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-296) in concurrence.

Non-Concurrent Matter

An Act to Amend the Laws Pertaining to Wine Tasting (S.P. 108) (L.D. 387) (C. "B" S-122) which was passed to be enacted in the House on May 8, 1997.

Came from the Senate passed to be engrossed as amended by Committee Amendment "B" (S-122) as amended by Senate Amendment "A" (S-184) thereto in non-concurrence.

The House voted to Recede and Concur.

Non-Concurrent Matter

Bill "An Act Amending the Compensation for Members of the Panel of Mediators" (H.P. 1001) (L.D. 1393) which was passed to be engrossed as amended by Committee Amendment "A" (H-587) in the House on May 21, 1997.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-587) as amended by Senate Amendment "A" (S-308) thereto in non-concurrence.

The House voted to Recede and Concur.

Non-Concurrent Matter

Bill "An Act to Provide Health Insurance Coverage for Prostate Cancer Screening" (S.P. 320) (L.D. 1060) on which the Majority **"Ought Not to Pass"** Report of the Committee on **Banking and Insurance** was read and accepted in the House on May 22, 1997.

Came from the Senate with that Body having adhered to its former action whereby the Minority **"Ought to Pass"** as amended Report of the Committee on **Banking and Insurance** was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-274) in non-concurrence.

Representative SAXL of Bangor moved that the House Insist and ask for a Committee of Conference.

Representative MAYO of Bath moved that the House Recede.

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

Representative SAXL: Madam Speaker, Men and Women of the House. I would ask that you defeat this motion, this has to do with a vote that's coming back to us from the Senate, one which we passed in the House and I would ask that you stand by me and by your vote and that we defeat this motion to recede and concur and go on to a Committee of Conference.

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

Representative MAYO: Madam Speaker, Men and Women of the House. I would urge that you vote for the motion to Recede. We had a lengthy debate on this issue early yesterday morning, for those of you who were up at that time. I do not intend to repeat it, given the admonition that we had from the Speaker earlier this morning, however, it is a controversial issue. It is one, if you read the morning papers, Bangor, Waterville, Augusta and Portland, you would have seen a lengthy article on this particular subject with quotes from our good friend at the other end of the hall, who recommends highly that this PSA test

be included in insurance. With that, I would urge that you support the Minority Report, if it is supported, there will be an amendment offered at the appropriate time, which is a clarifying amendment.

The Chair ordered a division on the motion to Recede.

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

Representative CARLETON: Madam Speaker, Men and Women of the House. I hope that you will defeat the motion to Recede, so that we can go on to consider the motion made by the Committee Chair. I, too, will not repeat at length the discussion that was held yesterday about this bill, suffice it to say that there are a large number of medical organizations, respectable medical organizations, which think that this bill is not only not needed, but may very well be harmful. This is a mandated coverage bill. I think that we should mandate coverage only for procedures that clearly provide benefit. Not only does this bill not do so, but weight of evidence is the other way.

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

Representative DAVIDSON: Madam Speaker, Men and Women of the House. I hope you will support this pending motion and I request the yeas and nays.

Representative DAVIDSON of Brunswick requested a roll call on the motion to Recede.

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 Saco, Representative O'Neil.

Representative O'NEIL: Madam Speaker, Men and Women of the House. I don't want to prolong debate either. A real quick point that wasn't made the other day. Whenever we, as a Committee, have a mandate that we think we might want to consider, first thing we have to do is send a the report over to the Bureau of Insurance to order them to institute a study of the proposed mandate. The study generally is 40, 50, 60, 80, 100 pages long and they really get into it. We tend to take the study seriously when it comes. The evidence within this study, which cost \$9,000, by the way, the evidence in this study was overwhelming and the result was the 9 to 3 Report.

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

Representative BRUNO: Madam Speaker, Men and Women of the House. Once again, I'm going to ask you to take the emotion out of this argument. We as a committee, I think, do very good work up there. We studied this carefully. The majority of us had the same conclusion, that this is an unreliable test. But what I need to tell you is that we just received a fiscal note on this and the cost to just the State Employee Health Program, now, at a minimum, will be \$129,000, with a maximum of \$240,000 and this money has not been funded in this biennium, so this will go to the Appropriations Table, where they will have to make the decision on whether or not to fund this. Remember, you're not only doing this to the state employee health plan, but you're doing it to every small employer out there, who will have to pay for this for their employees. Thank you.

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

Representative MAYO: Madam Speaker, Men and Women of the House. No to prolong this a great deal more, but I feel compelled to correct a statement that was just made a minute ago. The fiscal note that we received recently on this particular issue was originated in February and March, it was prior to the receipt of the \$9,000 study, that we heard about a minute ago from the good Representative from Saco. The Office of Fiscal &

Program Review has not seen the report that was asked for by the Banking and Insurance Committee and that report says that the cost will be to a policy somewhere between 10 and 11 cents, so it would put the report and the figures that we just heard a minute ago, off by up to 80 percent, and that the total cost that would go under the Appropriations Table, would be somewhere in the neighborhood of \$25,000 to \$26,000 at most. In talking with the Office of Fiscal & Program Review this morning, they were seeking a copy of the report and will be prepared to testify at the Appropriations Committee when it reviews the Appropriations Table and they hope to have better information at that time, but they now realize that the report that the committee has in its hands is not necessarily accurate.

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

ROLL CALL NO. 268

YEA - Ahearn, Baker JL, Belanger DJ, Belanger IG, Berry RL, Bolduc, Bouffard, Brennan, Bull, Chizmar, Clark, Cowger, Desmond, Dexter, Driscoll, Etnier, Gerry, Goodwin, Green, Hatch, Jabar, Jones SL, Labrecque, LaVerdiere, Lovett, Madore, Mailhot, Mayo, McAlevey, McElroy, Mitchell JE, Nickerson, O'Brien, O'Neal, Paul, Peavey, Perkins, Pieh, Povich, Quint, Rines, Rowe, Samson, Savage, Shannon, Shiah, Sirois, Snowe-Mello, Spear, Thompson, Townsend, Tripp, True, Tuttle, Volenik, Watson, Wheeler EM.

NAY - Bagley, Baker CL, Barth, Berry DP, Bigl, Bragdon, Brooks, Bruno, Buck, Bumps, Bunker, Cameron, Campbell, Carleton, Chartrand, Chick, Cianchette, Clukey, Colwell, Davidson, Dunlap, Dutremble, Fisher, Foster, Frechette, Fuller, Gagne, Gagnon, Gieringer, Gooley, Honey, Jones KW, Jones SA, Joy, Joyce, Joyner, Kane, Kasprzak, Kerr, Kneeland, Kontos, Lane, Layton, Lemaire, Lemont, MacDougall, Mack, Marvin, McKee, Morgan, Murphy, Muse, Nass, O'Neil, Ott, Perry, Pinkham RG, Pinkham WD, Powers, Richard, Saxl JW, Saxl MV, Stanley, Stedman, Taylor, Tessier, Tobin, Treadwell, Underwood, Usher, Vedral, Vigue, Waterhouse, Wheeler GJ, Winglass, Winn, Winsor, Wright.

ABSENT - Bodwell, Cross, Donnelly, Farnsworth, Fisk, Gamache, Lemke, Lindahl, Meres, Pendleton, Plowman, Poulin, Sanborn, Skoglund, Stevens, Madam Speaker.

Yes, 57; No, 78; Absent, 16; Excused, 0.

57 having voted in the affirmative and 78 voted in the negative, with 16 being absent, the motion to Recede did not prevail.

Subsequently, the House voted to Insist and ask for a Committee of Conference. Sent up for concurrence.

COMMUNICATIONS

The following Communication: (H.C. 284)

STATE OF MAINE

ONE HUNDRED AND EIGHTEENTH LEGISLATURE COMMITTEE ON LABOR

May 21, 1997

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

Dear President Lawrence and Speaker Mitchell:

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

- L.D. 1023 An Act to Clarify the Definition of Total Incapacity for the Purpose of Workers' Compensation
- L.D. 1406 An Act to Clarify Laws Relating to Unemployment Compensation for Service with Nonprofit Organizations, Educational Institutions, State Government and Local Governments
- L.D. 1724 An Act to Amend the Unemployment Insurance Laws
- L.D. 1839 An Act to Promote Temporary Service by Retired Public Employees

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

Sincerely,

S/Sen. Mary R. Cathcart S/Rep. Pamela H. Hatch
Senate Chair House Chair
Was read and ordered placed on file.

The following Communication: (H.C. 285)

STATE OF MAINE

**ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON STATE AND LOCAL GOVERNMENT**

May 21, 1997

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

Dear President Lawrence and Speaker Mitchell:

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

- L.D. 1237 An Act to Require Legislators to Disclose Their Interest in Pending Legislation

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

Sincerely,

S/Sen. John M. Nutting S/Rep. Douglas J. Ahearne
Senate Chair House Chair
Was read and ordered placed on file.

The following Communication: (H.C. 286)

STATE OF MAINE

**ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON TAXATION**

May 21, 1997

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

Dear President Lawrence and Speaker Mitchell:

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

- L.D. 296 An Act to Eliminate the Net Operating Loss Deduction Carry-back

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

Sincerely,

S/Sen. Richard P. Ruhlin S/Rep. Verdi L. Tripp

Senate Chair House Chair
Was read and ordered placed on file.

ORDERS

On motion of Representative LABRECQUE of Gorham, the following Joint Resolution: (H.P. 1334)

**JOINT RESOLUTION IN HONOR OF THE
85TH BIRTHDAY OF GIRL SCOUTING**

WHEREAS, the Girl Scouts of the United States of America is the largest voluntary organization for girls in the world and is committed to providing opportunities for its members to develop their potential and become vital members of their communities; and

WHEREAS, the Girl Scouts was first organized in this country in 1912 by Juliette Gordon Low of Savannah, Georgia based on her observations of the Girl Guide and Boy Scout organizations in Great Britain; and

WHEREAS, there are now Girl Scouts and Girl Guides in almost 100 countries linking 8 million girls in international friendship dedicated to good citizenship, good conduct, service to the community, promoting the love of the out-of-doors and adherence to the Girl Scout Promise and the Girl Scout Law; and

WHEREAS, there are two Girl Scout Councils in the State of Maine, Kennebec and Abnaki Councils, serving almost 20,000 current members, and there are more than 300 councils throughout the United States and overseas, and all are celebrating the 85th birthday of the Girl Scout organization; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Eighteenth Legislature, now assembled in the First Special Session, proudly congratulate and recognize the Girl Scouts in the State and throughout the Nation on the special occasion of their 85th birthday and express our appreciation to all members and leaders, past and present, for their energy, work and commitment to the precepts of the Girl Scouts, and we extend our best wishes for continued longevity and success; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Abnaki Girl Scout Council, to the Kennebec Girl Scout Council and to their national headquarters.

Was read.

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

Representative LABRECQUE: Madam Speaker, Ladies and Gentlemen of the House. It is with a great deal of honor that I stand here and recognize and congratulate the Girl Scout Organization, which across this nation is celebrating it's 85th Birthday. I'd like to give you just a very brief outline of what happens to Girl Scouts here in Maine, and we're very fortunate to have three young ladies from Cadet Troop 766, from Winterport and also their leader, whom, I believe, is in the balcony.

Girl Scouts were alive and well in Maine, starting back as far as 1924. There were many small councils at that time, most of them in the Northern part of the State. In 1962, there was a consolidation and two Council's became incorporated, Kennebec and Abnaki. The Kennebec Girl Scout Council is in the Southern part of the State, Kittery to Camden to Jackman. It serves 11,000 girls, 6,000 adults and has 900 troops. Abnaki Council now serves 8,000 girls, 1,600 adults and has 595 troops. I hope you will join with me in wishing them a very happy birthday and continued longevity.

The SPEAKER: The Chair recognizes the Representative from Winterport, Representative Brooks.

Representative BROOKS: Madam Speaker, Ladies and Gentlemen of the House. I rise just to say a couple of quick things. I want to thank Representative Labrecque for introducing this Resolution and I want to tell you how proud I am to have as my guests the three young ladies who are standing down here in front, Champagne Hamilton, Jeannie Degan, and Crystal Beal. Thank you, Madam Chairman.

Was adopted and sent up for concurrence.

REPORTS OF COMMITTEES

Ought to Pass Pursuant to Joint Order (H.P. 993)

Representative BAGLEY from the Committee on **State and Local Government** on Resolve, for Laying of the County Taxes and Authorizing Expenditures of Kennebec County for the Year 1997 (EMERGENCY) (H.P. 1335) (L.D. 1884) reporting "**Ought to Pass**" Pursuant to Joint Order (H.P. 993)

The report was read and accepted and the Resolve was read once.

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

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

Ought to Pass Pursuant to Joint Order (H.P. 1323)

Representative TRIPP from the Committee on **Taxation** on Bill "An Act to Amend the Insurance Premium Tax for Certain Large Domestic Insurers" (H.P. 1336) (L.D. 1885) reporting "**Ought to Pass**" Pursuant to Joint Order (H.P. 1323)

The report was read and accepted and the Bill was read once.

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

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

Ought to Pass Pursuant to Joint Order (H.P. 148)

Representative KERR from the Committee on **Appropriations and Financial Affairs** on Bill "An Act Concerning Certain Biennial Budget Bills and to Change Certain Provisions of the Law" (EMERGENCY) (H.P. 1337) (L.D. 1886) reporting "**Ought to Pass**" Pursuant to Joint Order (H.P. 148)

The report was read and accepted and the Bill was read once.

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

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

Ought to Pass Pursuant to Joint Order (H.P. 1326)

Representative VIGUE from the Committee on **Business and Economic Development** on Bill "An Act to Provide Warranty Reimbursement Protection for Retailers" (H.P. 1340) (L.D. 1889) reporting "**Ought to Pass**" Pursuant to Joint Order (H.P. 1326)

The report was read.

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

Representative VIGUE: Madam Speaker, Ladies and Gentlemen of the House. I've been asked to include in the public record part of this letter. L.D. 1327 protects personal sports mobile dealers, which includes snowmobiles, ATVs, and personal watercraft dealers. The testimony before the Business and Economic Development Committee shows that a vast disparity of bargaining power exists between snowmobiles, ATVs, and personal watercraft manufacturers and dealers. Dealers must rely solely on the manufacturer for the right to sell and acquire these machines. When a dealer invests a significant amount of resources in establishing a dealership and securing a franchise, they become susceptible to economic coercion by the manufacturer. Often this greater bargaining power and economic coercion is written into the sales agreement, or franchise agreement prepared by the manufacturer for the dealer to sign. For example, the manufacturer use this economic bargaining power to require a dealer to provide parts and labor to satisfy manufacturer warranties, which is then reimbursed to the dealer at less than a fair price. Consequently, a dealer must raise prices for consumers on non-warranty work or absorb the losses to stay competitive. This is contrary to the interest of Maine dealers, which invest capital in these franchises and to the public interest, especially non-warranty customers. Manufacturers should pay the same rate in honoring these, their warranties, as non-warranty customers pay and should not directly, or indirectly charge warranty costs back to Maine dealers. This legislation helps level the playing field between the manufacturer and the dealer by providing essentially the same protections that Maine auto dealers already have. It is a vital role of our government that we protect all Maine dealers and Maine citizens from such arbitrary and unconscionable business practices. I urge you to support L.D. 1327. I thank you very much.

The Committee Report was accepted and the Bill was read once.

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

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

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

Divided Report

Majority Report of the Committee on **Labor** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-657) on Bill "An Act to Extend the Jurisdiction of the Maine Labor Relations Board to Public Employees Who Have Been Employed Fewer Than 6 Months" (H.P. 123) (L.D. 147)

Signed:

Senators: CATHCART of Penobscot

TREAT of Kennebec

Representatives: HATCH of Skowhegan

SAMSON of Jay

CLARK of Millinocket

RINES of Wiscasset

STANLEY of Medway

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

Signed:

Senator: MILLS of Somerset

Representatives: JOY of Crystal

JOYCE of Biddeford
TREADWELL of Carmel
PENDLETON of Scarborough

Was read.

On motion of Representative BERRY of Livermore, tabled pending acceptance of either Report and later today assigned.

Divided Report

Majority Report of the Committee on **Natural Resources** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-646) on Bill "An Act to Establish Guidelines for the Utilization of Municipal Solid Waste Incinerator Ash and Its Derivatives" (H.P. 344) (L.D. 466)

Signed:

Senators: TREAT of Kennebec
NUTTING of Androscoggin
BUTLAND of Cumberland
Representatives: ROWE of Portland
SHIAH of Bowdoinham
BULL of Freeport
COWGER of Hallowell
JONES of Greenville
McKEE of Wayne
MERES of Norridgewock

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

Signed:

Representatives: DEXTER of Kingfield
NICKERSON of Turner
FOSTER of Gray

Was read.

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

The Bill was read once. Committee Amendment "A" (H-646) 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-646) and sent up for concurrence.

Divided Report

Majority Report of the Committee on **Judiciary** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-640) on Bill "An Act to Amend the Conditions upon Which a Minor May Obtain Emancipation" (H.P. 1109) (L.D. 1552)

Signed:

Senators: LONGLEY of Waldo
LaFOUNTAIN of York
Representatives: THOMPSON of Naples
WATSON of Farmingdale
MAILHOT of Lewiston
ETNIER of Harpswell
JABAR of Waterville
POWERS of Rockport
PLOWMAN of Hampden
NASS of Acton
MADORE of Augusta
WATERHOUSE of Bridgton

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

Signed:

Senator: BENOIT of Franklin

Was read.

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

The Bill was read once. Committee Amendment "A" (H-640) 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-640) and sent up for concurrence.

Divided Report

Majority Report of the Committee on **Utilities and Energy** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-666) on Bill "An Act to Provide a Funding Mechanism for the E-9-1-1 System" (H.P. 1172) (L.D. 1649)

Signed:

Senators: CAREY of Kennebec
CLEVELAND of Androscoggin
HARRIMAN of Cumberland
Representatives: JONES of Bar Harbor
KONTOS of Windham
USHER of Westbrook
LaVERDIERE of Wilton
COLWELL of Gardiner
BERRY of Belmont
TAYLOR of Cumberland

Minority Report of the same Committee reporting "**Ought to Pass**" as amended by Committee Amendment "B" (H-667) on same Bill.

Signed:

Representatives: O'NEAL of Limestone
VEDRAL of Buxton
JOY of Crystal

Was read.

On motion of Representative JONES of Bar Harbor the Majority "**Ought to Pass**" as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (H-666) 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-666) and sent up for concurrence.

Divided Report

Majority Report of the Committee on **Transportation** reporting "**Ought Not to Pass**" on Bill "An Act Directing the Department of Transportation to Conduct the Necessary Studies and to Construct an East-west Highway" (H.P. 1310) (L.D. 1858)

Signed:

Senator: O'GARA of Cumberland
Representatives: WINGLASS of Auburn
FISHER of Brewer
JOYCE of Biddeford
CLUKEY of Houlton
CHARTRAND of Rockland
LINDAHL of Northport
BOUFFARD of Lewiston

SAVAGE of Union
WHEELER of Eliot

Minority Report of the same Committee reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-673) on same Bill.

Signed:

Representative: DRISCOLL of Calais

Was read.

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

Divided Report

Majority Report of the Committee on **Health and Human Services** reporting **"Ought to Pass"** Pursuant to Joint Order (H.P. 1322) on Bill "An Act Regarding Health and the Prevention of Smoking" (H.P. 1338) (L.D. 1887)

Signed:

Senators: PARADIS of Arostook

LONGLEY of Waldo

Representatives: MITCHELL of Portland

BROOKS of Winterport

FULLER of Manchester

KANE of Saco

PIEH of Bremen

QUINT of Portland

Minority Report of the same Committee reporting **"Ought to Pass"** Pursuant to Joint Order (H.P. 1322) on Bill "An Act to Decrease Smoking Among Maine Youth, Young Adults and Adults" (H.P. 1339) (L.D. 1888).

Signed:

Senator: MITCHELL of Penobscot

Representatives: LOVETT of Scarborough

JOYNER of Hollis

BRAGDON of Bangor

SNOWE-MELLO of Poland

Was read.

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

On further motion of the same Representative, tabled pending her motion to accept the Majority **"Ought to Pass"** as amended Report and specially assigned for Tuesday, May 27, 1997.

CONSENT CALENDAR

First Day

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

(S.P. 651) (L.D. 1872) Bill "An Act to Make Changes to the Maine Economic Growth Council" Committee on **Business and Economic Development** reporting **"Ought to Pass"**

(S.P. 274) (L.D. 882) Bill "An Act to Require Defendants to Pay Restitution, Monetarily or Through Work Restitution" Committee on **Criminal Justice** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (S-305)

(S.P. 430) (L.D. 1378) Bill "An Act to Amend the Uniform Commercial Code as it Relates to Letters of Credit and Investment Securities" Committee on **Judiciary** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (S-309)

(S.P. 455) (L.D. 1429) Bill "An Act to Amend the Maine Apprenticeship Program" Committee on **Labor** reporting

"Ought to Pass" as amended by Committee Amendment "A" (S-298)

(S.P. 496) (L.D. 1527) Bill "An Act to Authorize a Police Officer to Impound the Motor Vehicle of a Person Arrested for Operating Under the Influence or Driving with a Suspended or Revoked License" Committee on **Criminal Justice** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (S-304)

(S.P. 608) (L.D. 1809) Resolve, Authorizing the Exchange and Sale of Certain Public Lands (Governor's Bill) Committee on **Agriculture, Conservation and Forestry** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (S-295)

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

(H.P. 1331) (L.D. 1881) Resolve, Regarding Legislative Review of Portions of Chapter II, Section 67: Nursing Facilities Services, Maine Medical Assistance Manual, a Major Substantive Rule of the Department of Human Services, Bureau of Medical Services (EMERGENCY) Committee on **Health and Human Services** reporting **"Ought to Pass"**

(H.P. 839) (L.D. 1144) Bill "An Act Pertaining to Parental Access to School Records" Committee on **Education and Cultural Affairs** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-670)

(H.P. 1115) (L.D. 1558) Bill "An Act to Regulate Viatical Companies" Committee on **Banking and Insurance** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-656)

(H.P. 1126) (L.D. 1582) Bill "An Act to Clarify and Amend the Storm Water Management Laws, the Erosion and Sedimentation Control Laws, and the Site Location of Development Laws" (EMERGENCY) Committee on **Natural Resources** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-643)

(H.P. 1130) (L.D. 1586) Bill "An Act Regarding Reimbursement for Sand and Salt Storage Facility Construction" Committee on **Transportation** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-658)

(H.P. 1173) (L.D. 1650) Bill "An Act to Optimize the Utility of the 5 Maine Veterans' Homes" Committee on **Legal and Veterans Affairs** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-651)

(H.P. 1255) (L.D. 1782) Resolve, Authorizing the Transfer of Land from the State to the Freeman Ridge Cemetery Association (EMERGENCY) Committee on **State and Local Government** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-635)

(H.P. 1260) (L.D. 1787) Bill "An Act to Authorize Captive Insurance Companies" Committee on **Banking and Insurance** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-638)

(H.P. 1314) (L.D. 1865) Bill "An Act to Implement the Recommendation of the Harness Racing Task Force Requiring an Executive Director of the State Harness Racing Commission" (EMERGENCY) (Governor's Bill) Committee on **Legal and Veterans Affairs** reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-652)

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

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

(S.P. 475) (L.D. 1477) Bill "An Act to Require That Workers' Compensation Coverage Be Equitably Applied to the Timber Industry" Committee on **Labor** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-299)

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

On further motion of the same Representative, tabled unassigned pending acceptance of the Committee Report.

(H.P. 404) (L.D. 549) Bill "An Act to Change the Reimbursement Procedure for Law Enforcement Personnel Testifying in Court" Committee on **Judiciary** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-639)

On motion of Representative WHEELER of Bridgewater, was removed from the First Day Consent Calendar.

The Committee Report was read and accepted. The Bill was read once. Committee Amendment "A" (H-639) was read by the Clerk.

On further motion of the same Representative, tabled pending adoption of Committee Amendment "A" (H-639) and specially assigned for Tuesday, May 27, 1997.

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

ENACTORS

An Act to Enhance the Potato Industry (S.P. 290) (L.D. 941) (C. "A" S-240)

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

An Act to Regulate Personal Sports Mobile Franchises (H.P. 964) (L.D. 1327) (C. "A" H-503)

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

On motion of Representative VIGUE of Winslow, was set aside.

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

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

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

On further motion of the same Representative, the House reconsidered its action whereby Committee Amendment "A" (H-503) was adopted.

The same Representative presented House Amendment "A" (H-628) to Committee Amendment "A" (H-503) which was read by the Clerk.

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

Representative VIGUE: Madam Speaker, Ladies and Gentlemen of the House. What we have done here is add an emergency preamble to the bill.

House Amendment "A" (H-628) to Committee Amendment "A" (H-503) was adopted.

The same Representative presented House Amendment "B" (H-635) to Committee Amendment "A" (H-503) which was read by the Clerk.

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

Representative VIGUE: Madam Speaker, Ladies and Gentlemen of the House. What House Amendment "B" does, this amendment transfers motorcycles from the automobile dealers' franchise laws, so that personal sports mobile franchise laws, established by the Committee Amendment, in recognition of the fact that personal sports mobile dealers typically sell motorcycles.

House Amendment "B" (H-635) to Committee Amendment "A" (H-503) was adopted.

Committee Amendment "A" (H-503) as amended by House Amendment "A" (H-628) and House Amendment "B" (H-635) thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-503) as amended by House Amendment "A" (H-628) and House Amendment "B" (H-635) thereto in non-concurrence and sent up for concurrence.

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

An Act to Restructure the State's Electric Industry (H.P. 1274) (L.D. 1804) (C. "A" H-568)

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

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

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

An Act to Enhance the State's Work Force Development System (S.P. 616) (L.D. 1815) (C. "A" S-246)

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

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

On motion of Representative HATCH of Skowhegan, the rules were suspended for the purpose of reconsideration.

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

The same Representative presented House Amendment "A" (H-634) which was read by the Clerk.

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

Representative CARLETON: Mr. Speaker, Men and Women of the House. Could somebody explain this amendment?

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

Representative BIGL: Mr. Speaker, Men and Women of the House. It changes a couple of commas, two punctuation errors and adds a word and underlined.

House Amendment "A" (H-634) was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (S-246) and House Amendment "A" (H-634) in non-concurrence and sent up for concurrence.

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

UNFINISHED BUSINESS

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

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)

PENDING - Acceptance of the Majority "**Ought to Pass**" as amended by Committee Amendment "A" (H-604) Report. (Roll Call Ordered)

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

Representative PLOWMAN: Madam Speaker, Men and Women of the House. As Paul Harvey says, "And now for the rest of the story."

This morning, I am awake, I am warm and I am ready. We bring before you L.D. 732, and before you right now is the Majority "Ought to Pass" as amended Report. The hazards of breaking off in the middle means that you have to hear the beginning again. This amendment, while acknowledging the loss of a pregnancy, in fact the amendment changes the name of the Bill, does not recognize, at least to my satisfaction, the incredible loss to a woman when she loses her baby.

Twenty-five states have enacted legislation to make it a crime to kill or injure an unborn child. Not one of these states has had an appeal, or a court action, that has shown a risk to the providing of reproductive services and choice. The Majority Report strips quite a bit out of the Bill and allows for an assault to be moved up to a Class A crime, if a woman is assaulted and she loses her child. It also says that a judge, in any other instance where a child is lost, the pregnancy is lost, that the judge may take that into consideration when sentencing, but it does not expand the parameters of sentencing. It just says that the judge may take it into account within the parameters as allowed by statutes. To me, that doesn't do very much. The judge already has that.

I'd like you to go on and defeat this report so we can look at the Minority Report. The Minority Report says that if anyone injures a child, injures a woman by beating, or other crimes, such I mentioned last night, OUI, vehicle manslaughter, anything but the provision of medical services, whether for choice, reproductive choice reasons, or whether for emergency or therapeutic health care. The actions of a doctor in the death of a fetus can never be considered, through this Bill, as manslaughter. This has to be the result of a criminal act. A beating, reckless conduct with a firearm, shooting someone, a car accident involving an OUI offense. It has to roll along through the criminal process. As I said last night, a woman who's expecting a child does not view her loss as the loss of a fetus. She views the loss as the loss of her baby, her child, she and her spouse, she and her partner. The words wanted pregnancy were used last night, but that's not a criteria, the

pregnancy doesn't have to be determined wanted or unwanted at any point, because that's not the issue. The issue is that a potential life, which is protected by the state, and recognized in case law as deserving of the protection of the state, is there. This recognizes that the potential life carried by a woman has been ended as the result of some kind of violence. Pregnant women are often, I should say, domestic abuse and physical abuse, towards pregnant women rises when the woman is pregnant. She may be subject to domestic and physical abuse, but it tends to increase if she's pregnant. Many women are beaten, many women are beaten for the purpose of destroying the child. It's horrible and the intent is often stated. I'm beating you to destroy the child you're carrying. Sounds like a hate crime, as a matter of fact.

We need to look at what happens in the other 25 states and be assured that this does not attach itself to any violations of the rights of a woman, for her reproductive choice. This says, you just can't take a woman's child away from her, without there being a real serious, severe, penalty. Other states have done it. We can do it and I think that we have been very careful in the drafting of this Bill to keep in mind, with what can be perceived as a risk to reproductive choice. I'd appreciate it, Madam Speaker, if you would order a roll call. Thank you.

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

Representative KASPRZAK: Mr. Speaker, Men and Women of the House. The necessity of this bill was proven a few years ago, in 1989, there was an incident where a drunk driver was cruising down the road and he was driving recklessly and ran into a car that held two people who had just left a baby shower and the woman in the accident happened to be about eight months along in her pregnancy. It was a short time later that her child was born and died soon after that and when the people involved in that case tried to take the strongest steps they could in prosecuting this drunk driver, this criminal, they couldn't find anything in case or statute in the State of Maine to help them to bring stronger charges against the person. Justice Wathen said that it was necessary that we have something in statute, but it hasn't been written in yet. So this bill simply says that if a pregnant woman is beaten, raped, assaulted, involved in an accident in way that causes her to lose her child or that the child is injured, they have something to go on so they can bring strong charges against them. I'd ask that you defeat the pending motion and support the Minority Report in that it takes the strongest step possible short of the bill. The bill is a really good bill and I appreciate the two "Ought to Pass" Reports, but the Minority Report, I think, makes a much stronger statement in giving the lawyers something to go on in protecting the rights of the woman to have her child. She expects to have her child, she wants her child and that right is taken away from her in one of the cases that I've just mentioned. I appreciate your support on this. Thank you.

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

Representative JABAR: Madam Speaker, Men and Women of the House. I rise to support the Majority position. I want to say that from the outset that both the Majority opinion and the Minority opinion in this particular bill have the same goal in mind and the same objective in mind. I think everybody who voted on this bill agreed that something should be done, that we recognize the seriousness of either an accident with a drunk driver, or an assault, which gives rise to the death of the fetus, that something should be done. So we all have the same goal and the same purpose in mind, how we arrived at it is why you see two reports. Rather than proceed the way some other states have proceeded, we decided to do something that works within the context of

existing law to make it simpler, rather than complicate our criminal law. What it does is enhance the penalty and set out in the statute to defining aggravated assault. The situation where there is a death of fetus, the termination of a pregnancy, as a result of an aggravated assault. What it also did was it enhanced it to a Class A crime, and that means with a maximum penalty of 40 years. I take the example of the drunk driver who causes the death of fetus and that person can be prosecuted under aggravated assault, because it's reckless conduct. It's reckless conduct with a motor vehicle, even though he also may be guilty of drunk driving. Since it caused the death in that situation, you may result in a 40 year sentence. The situation where the child may live beyond a birth, obviously, gives a complicated case and a very unusual case, but nevertheless, the defendant in that case is still subject to even a Class B crime, which is 20 years and the consideration of what happened as a result of that accident is something the court can take into consideration. One of the factors we added was that in sentencing the pregnancy of the victim is something that the court may take into consideration when determining whether the person should get the maximum sentence. So we felt the changes, which you have before you in the Majority Report more than adequately deals with this situation, gives the court more than enough in the way of sentencing to make this a real deterrent and we would ask you to support the Majority Report because we feel that it accomplishes the same thing, just in a different route than that recommended by the Minority. Thank you.

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

Representative WATERHOUSE: Madam Speaker, Ladies and Gentlemen of the House. As I said last night, this bill is not a bad bill before us, this motion, but it doesn't go far enough. There seems to be some fear to go to the point where we admit that when a woman is assaulted to such a point, either by a husband, or her boyfriend, or a stranger, or a drunk driver, that she doesn't suffer a higher degree of assault when her child dies. She suffers the loss of her child. I can understand there are some people that are a little fearful of recognizing that fact, because of their pro-life stance, pro-choice stance, or whatever, but I want to assure you that this bill in the Minority Report has nothing to do with pro-choice, pro-life, or abortion. Now I mentioned last night that these are cases where a woman suffers a loss of a wanted pregnancy and a fellow member got up and asked the question, could somebody tell him what a wanted pregnancy was. I don't know if it because I was tired, I was kind of taken back by that question. I'll address what I consider what a wanted pregnancy is, I looked in the dictionary under wanted, it says a desire, to have a strong desire for, to have an inclination. Then I looked up pregnancy and it said the condition of being pregnant, containing unborn young within the body. So I would assume that a wanted pregnancy would be one that was desirable to have the child, and I think I understand where the good Representative was coming from, how do we know that the woman that suffers these types of situations wanted her pregnancy. Well we don't know that, but I dare say that if she had planned on terminating her pregnancy, she wouldn't have chose this method. Now to alleviate anybody's fears in here who are pro-choice, there's 25 other states in the country that have these laws. I mentioned last night that none of them have suffered Constitutional challenge, in fact, the one in California has been on the books since 1970 and I'll read a little excerpt from that situation. Legislators added unborn children to the state's homicide law in 1970, after a horrific case in which a man savagely beat, I want you women to listen to this, for women's rights and women abuse, savagely beat his estranged wife killing

their unborn baby. Now they were estranged, so I would imagine that that woman wanted that pregnancy. The judge and the jury recognized that this unborn baby was a human being who was killed. Now there seems to be some fear in this body, that if we recognize a pregnancy that was terminated through these violent acts, wanted pregnancies, and I say wanted, because I assume they are wanted, that this would open a door to stop abortion rights. The law doesn't support that, the cases across the country don't support that. Other states and most people would recognize the fact that when a woman loses a child through these violent acts of being beat up, assaulted in the streets by a stranger, or having her baby killed by a drunk driver, she loses a child, another human being. This Minority Report would recognize that fact and put it into law, and for all you women who have been fighting for women's rights, and women's abuse, and women's shelters and all the rest, I would think you would leap at the chance to put some of these criminals who assault women and kill their babies under this law. So I urge you to vote against the pending motion and go onto the Minority Report.

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

Representative MACK: Madam Speaker, Right Honorable Men and Women of the House. This bill is about being tough on criminals. This bill is giving the police, the prosecutors, an extra means to put the criminals behind bars and the difference between the two reports is, do we want to throw the book at them, or do we want to toss the book at them? I have absolutely no respect for wife beaters, or drunk drivers, and I say let's throw the book at them and keep them in jail for a long time. I urge you to vote against the pending motion.

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

Representative POVICH: Madam Speaker, Men and Women of the House. The Criminal Justice Committee had originally expected to hear this bill, we didn't, it's one of these bills that can go two places and it went to the Judiciary Committee. Well, I have some pride in turf, but I'm going to let that go right now, because I think the Judiciary Committee and the Majority "Ought to Pass" as amended Report was extraordinary, innovative and sensitive in their conclusions and their thought. I support the Majority Report because all parties interests are addressed. The Majority and the Minority and what's more, this Legislature has recently passed L.D. 261 which goes one step beyond and codifies elevated aggravated assault. Elevated aggravated assault, it'll be on the books coming to your Maine Revised Statutes in 90 days after we adjourn. Elevated aggravated assault, and I want to tell you, it's going to handle all these nasty scenarios that the Representative from Bridgton has described. It's going to be law so what is my point here, is that current Maine law, does the job. You talk about being tough on criminals, pass the Majority Report, combined with L.D. 261 and you bet we're going to be tough on criminals, watch it. Thank you very much.

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

Representative WATSON: Madam Speaker, Men and Women of the House. I'm going to speak in support of the Majority "Ought to Pass" Report, of which I am on that Report as a member of the Judiciary Committee. The wrongful interruption of a woman's right to carry her pregnancy to term should be punished and protected against. The Minority Report, I feel, creates a dangerous fictional separation between a woman and her fetus. Rather than casting injury to the fetus as something that can occur separately and without regard to the pregnant woman, I feel it's more appropriate to recognize the unity between the pregnant woman and the fetus that she carries.

Minor amendments to Maine's criminal code can be made to address injury or death to a fetus by assuring that serious bodily injury as defined under the crime of aggravated assault includes loss or injury to a pregnancy. It's totally unnecessary to treat the fetus as a separate legal entity. Criminal law already allows prosecution for deliberate injury or death of a fetus. If a pregnant woman is assaulted and loses the pregnancy, this would already be considered serious bodily injury and justified prosecution for aggravated assault right now a Class B crime. What the Majority Report would do is raise that crime to a Class A.

The Minority Report argues that the loss of a pregnancy can no longer be considered serious bodily injury to a woman and a prosecutor would be left to prove the more complex case of a crime against a fetus and no ability to pursue the serious crime against the woman. I urge you, my colleagues here in the House today, to please accept the Majority "Ought to Pass" Report. Thank you.

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

Representative PLOWMAN: Madam Speaker, Men and Women of the House. The Minority Report does not repeal any of the current provisions that a district attorney may have in the criminal charging. Now let me ask you a question, since we have gotten to this point of separating the woman from the fetus. If a woman is beaten, does a fetus feel her pain? No. If the woman is being beaten, and the unborn child is injured, does the woman feel the child's pain? No. There are two separate nervous system, two separate entities, there are two separate thought processes, two very different, one sophisticated and growing and one immature and growing, but there are two different. When a woman takes a beating, her child feels a different pain, and that's the pain that's passed on to the child from the beating. And while the mother and the child are joined, certainly, because the child can't survive without the mother at this point, when you kill an unborn child, it is not necessarily felt by the mother, the pain of the child can not be felt by the mother. The mother feels her nerves, her injuries, her bruises, her stabs, her gunshot wounds, the child feels the child's bruises, contusions, and gunshot wounds, they're separate. They're two victims. For the life of me, I don't understand why we are so afraid to acknowledge that human beings, birth human beings. What are we afraid of? Why are we afraid? Why? This isn't going to change the course of history. This is going to acknowledge that a potential life has been extinguished and that this is not just a tumor that happens to grow within a woman. I dare say the tumor would feel some reaction as the woman is being beaten or being shot, or at least the woman would be bleeding, but the woman is not bleeding from her child's injuries, she's bleeding from her injuries. Why are we so afraid, why are we so fearful? You know as children learn to walk, psychologists have given some simple tests and it's amazing, they've taken black and white tiles and they'll make a floor and then they'll make a drop and they'll make another black and white tile and they'll put a piece of acrylic over it and as the child starts to walk to it and they perceive a little bit of difference, most of the times the child will not walk out on that acrylic until they're sure that the step is not going to be something that they can't handle. They get down and they feel around and sure enough, it's not going to be scary and they go on. We've kind of done that here. We haven't run pal mal across there thinking, well, it looks safe. We've looked at it. Let's not be afraid, ladies and gentlemen, to say that an unborn child is an unborn child. There's a real multi-personality disorder in our public policy, we urge prenatal care, we talk about making sure under the WIC program is treated healthy so that she'll have a healthy baby. We support the March of Dimes, we all want healthy children. If you're going to

get pregnant, you want to make sure you take the right vitamins and you're in good shape and you're not too heavy and you don't have this or you don't have that. But the state and the federal government saying make sure the WIC program goes on, make sure that we have the nutrition to produce a healthy child. Make sure we have the prenatal care. Can you imagine? We do all that to protect the potential life. We do all that. But then when you come to protecting the potential life from the criminal, from a violent criminal act, you protect that life from a benign neglect, by making sure that the mother does not neglect her health, you protect that child from benign neglect, but you will not protect that child from violent behavior. I don't understand where the fear is. Please put aside your fear. Please push aside this multi-personality and say that this isn't enough, that there are two victims, two separate and feeling victims. Thank you, ladies and gentlemen.

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

Representative WATERHOUSE: Madam Speaker, Ladies and Gentlemen of the House. I'll be very short. We have to get beyond this pro-life, pro-choice, abortion issue. I hate to repeat myself, but this has nothing to do with that and the good Representative, my seatmate in Judiciary, Representative Watson, says this is a dangerous separation. Why? There's 20 something other states that have done this. One since 1970. California has the most liberal abortion laws in the country. There is no danger in separation. It's just a recognition. The recognition that when a woman has this happen to her, it's just not another form of assault. It's a homicide because a person, or a child, dies. When a woman is pregnant and her child is lost through these violent acts, it's not another form of assault. It's a higher degree. You want to attach that on to the bill, that's fine, but she loses her child, a human being has died. Don't we recognize that? That's what the bill, the original bill and the amendment would do, it would recognize that in that assault, I mean you can have an assault on a woman that would not probably go to the extreme of her body and still kill the child, that's a homicide. The child has died, or you can have a case where a woman was horribly assaulted and the child might survive that assault, so raising the assault on the woman is not what we are getting at here. We are getting at when this woman loses a wanted child, it's a homicide. It's not a dangerous separation. There's no danger here. If there was, the courts would be going wild with this issue, all across the country. You'd get on the Internet and you'd see family planning cases up and down the screen challenging this, you just don't see that, so please ladies and gentlemen recognize that when a woman has been assaulted, beaten or in a car accident, she loses her wanted child, that's a homicide. Thank you.

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

ROLL CALL NO. 269

YEA - Bagley, Baker CL, Baker JL, Barth, Berry DP, Berry RL, Bigl, Bolduc, Bouffard, Brennan, Brooks, Bruno, Bull, Bunker, Cameron, Carleton, Chartrand, Chick, Cianchette, Colwell, Cowger, Davidson, Desmond, Dunlap, Dutremble, Etnier, Fisher, Frechette, Fuller, Gagne, Gagnon, Gieringer, Gooley, Green, Hatch, Honey, Jabar, Jones KW, Joyce, Joyner, Kane, Kerr, Kontos, Labrecque, LaVerdiere, Lemaire, Lemont, Lovett, Mailhot, Marvin, Mayo, McAlevey, McElroy, McKee, Mitchell JE, Morgan, Murphy, Muse, Nass, O'Neal, O'Neil, Paul, Peavey, Pendleton, Perkins, Perry, Pieh, Pinkham RG, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Savage, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Spear, Stanley,

Taylor, Tessier, Thompson, Townsend, Tripp, True, Vedral, Vigue, Volenik, Watson, Wheeler GJ, Winglass, Wright, Madam Speaker.

NAY - Ahearne, Belanger DJ, Belanger IG, Bragdon, Buck, Bumps, Campbell, Chizmar, Clark, Clukey, Dexter, Driscoll, Foster, Gerry, Goodwin, Jones SL, Jones SA, Joy, Kasprzak, Kneeland, Lane, Layton, MacDougall, Mack, Madore, Nickerson, O'Brien, Pinkham WD, Plowman, Snowe-Mello, Stedman, Tobin, Treadwell, Underwood, Waterhouse, Winn, Winsor.

ABSENT - Bodwell, Cross, Donnelly, Farnsworth, Fisk, Gamache, Lemke, Lindahl, Meres, Ott, Sanborn, Skoglund, Stevens, Tuttle, Usher, Wheeler EM.

Yes, 98; No, 37; Absent, 16; Excused, 0.

98 having voted in the affirmative and 37 voted in the negative, with 16 being absent, the Majority **"Ought to Pass"** as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (H-604) 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**.

Representative WATERHOUSE of Bridgton requested a roll call on passage to be engrossed.

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

ROLL CALL NO. 270

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

NAY - Chizmar, Clark, Goodwin, Madore, Povich, Saxl JW.

ABSENT - Bodwell, Cross, Donnelly, Farnsworth, Fisk, Gamache, Lindahl, Meres, Ott, Plowman, Sanborn, Skoglund, Stevens.

Yes, 132; No, 6; Absent, 13; Excused, 0.

132 having voted in the affirmative and 6 voted in the negative, with 13 being absent, the Bill was passed to be engrossed as amended by Committee Amendment "A" (H-604) and sent up for concurrence.

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

HOUSE DIVIDED REPORT - Majority (10) **"Ought to Pass"** as amended by Committee Amendment "A" (H-609) - Minority (3) **"Ought Not to Pass"** - Committee on **Natural Resources** on Bill "An Act to Amend the Site Location of Development Laws" (EMERGENCY) (H.P. 1065) (L.D. 1503)

PENDING - Acceptance of either Report.

The Speaker resumed the Chair.

The House was called to order by the Speaker.

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

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

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

Representative CARLETON: Madam Speaker, Men and Women of the House. Again this is a bill that does not come out of my committee and I have just been reading through it, it appears to provide that the State Planning Office has additional powers concerning what a municipality has to do if it wants to administer the site location law itself and I see in Subsection B, of Section 1, of the Bill, that the State Planning Office has the power to approve provisions of local zoning ordinances as they relate to wildlife habitat, fisheries, unusual natural areas and archeological and historic sites.

In my former life, I was a member of the Planning Board in my local town and Chair of the Site Review Board at a time when the town was in the process of drafting and submitting its comprehensive plan to the state for review and approval. The exact issues have faded from my mind, but I do recall that the town was very frustrated because it would come up with a plan, which had to be approved by the state and I think it was the State Planning Office. It would be sent up to the state and they would have their own ideas about what the Town of Wells should have in its comprehensive plan. The proposal would lay up with the state for a couple of months and then finally we would get word back that they didn't like this, or they didn't like that and that's what leads to my concern about this bill.

Title 38, Chapter 187, like most land use ordinances has general language in it. It's subject to interpretation, by its very nature. What this bill appears to do is to require that municipalities send their proposed zoning ordinances up to the State Planning Office for approval. I am awfully afraid that if this happens, our local municipalities are going to get Augusta's version of what that law means instead of their own version suitable to their own circumstances and I don't know whether I'm going to oppose this bill or not, but it's a concern that I hope other people will speak to. Thank you.

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

Representative ROWE: Madam Speaker, Men and Women of the House. I believe this is a very good bill. We spent a lot of time on this. What it does in particular to respond to the Legislator, from Wells. It does not take back the municipality's authority to review subdivisions, but it ensures that protection that has been afforded significant state resources is reinstated and it does increase the population threshold from 2,500 to 5,000 but when a municipality shall be deemed to have capacity to approve applications under the Site Location of Development Act. This goes into effect in the year 2003. At that time any municipality that has a population of over 2,500 will be assumed to have a capacity to make those approvals at the local level. The idea is, I don't think we are taking back more from local control, I think the idea is we are trying to give more to local control and I, certainly we worked on this hard. The State Planning Office had some concerns as did the Department of Environmental Protection, but through our work sessions, we

actually improved the bill, and at this point in time, it is endorsed by both of those organizations. Thank you, and I would encourage your support.

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

Representative CARLETON: Madam Speaker, Men and Women of the House. This bill does not give control back to localities, in fact, just the opposite. The operative section which I am reading says that the State Planning Office has to review comprehensive land use plans and land use ordinances as they relate to certain things and give their approval before the localities can administer the site location law. I don't think that's giving control back to the communities. I think that's centralizing control in the State Planning Office.

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

Representative ROWE of Portland 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 motion 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. 271

YEA - Bagley, Baker CL, Baker JL, Berry RL, Bolduc, Brennan, Brooks, Bull, Bunker, Chartrand, Colwell, Cowger, Davidson, Desmond, Driscoll, Dunlap, Ethier, Frechette, Fuller, Gagne, Gagnon, Green, Hatch, Jabar, Jones KW, Jones SL, Kane, Kontos, LaVerdiere, Lemaire, McKee, Mitchell JE, Morgan, Muse, O'Neal, O'Neil, Pieh, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Stanley, Thompson, Townsend, Tripp, Usher, Volenik, Watson, Wright, Madam Speaker.

NAY - Ahearne, Barth, Belanger DJ, Belanger IG, Berry DP, Bigl, Bouffard, Bragdon, Bruno, Buck, Bumps, Cameron, Campbell, Carleton, Chick, Chizmar, Cianchette, Clark, Clukey, Dexter, Dutremble, Fisher, Foster, Gerry, Gieringer, Goodwin, Gooley, Honey, Jones SA, Joy, Joyce, Joyner, Kasprzak, Kerr, Kneeland, Labrecque, Lane, Layton, Lemke, Lemont, Lovett, MacDougall, Mack, Madore, Marvin, Mayo, McAlevey, McElroy, Murphy, Nass, Nickerson, O'Brien, Paul, Peavey, Pendleton, Perkins, Perry, Pinkham RG, Pinkham WD, Poulin, Savage, Snowe-Mello, Spear, Stedman, Taylor, Tessier, Treadwell, True, Tuttle, Underwood, Vedral, Vigue, Waterhouse, Wheeler EM, Wheeler GJ, Winglass, Winn, Winsor.

ABSENT - Bodwell, Cross, Donnelly, Farnsworth, Fisk, Gamache, Lindahl, Mailhot, Meres, Ott, Plowman, Sanborn, Skoglund, Stevens, Tobin.

Yes, 58; No, 78; Absent, 15; Excused, 0.

58 having voted in the affirmative and 78 voted in the negative, with 15 being absent, the Majority **"Ought to Pass"** as amended Report was not accepted.

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

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

HOUSE DIVIDED REPORT - Majority (10) **"Ought to Pass"** as amended by Committee Amendment "A" (H-46) - Minority (3) **"Ought Not to Pass"** - Committee on Legal and Veterans

Affairs on Bill "An Act to Open a Discount State Liquor Store in Calais" (H.P. 277) (L.D. 341)

TABLED - March 27, 1997 by Representative KONTOS of Windham.

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

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

UNFINISHED BUSINESS

The following matter, in the consideration of which the House was engaged at the time of adjournment yesterday, has preference in the Orders of the Day and continues with such preference until disposed of as provided by House Rule 502.

HOUSE DIVIDED REPORT - Majority (9) **"Ought Not to Pass"** - Minority (4) **"Ought to Pass"** as amended by Committee Amendment "A" (H-606) - Committee on Judiciary on Bill "An Act to Allow the Child Support Obligor the Right to Provide Regularly Scheduled Child Care" (H.P. 1148) (L.D. 1613)

PENDING - Acceptance of either Report.

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

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

Representative LANE: Madam Speaker, Ladies and Gentlemen of the House. I urge you to vote against the pending motion of "Ought Not to Pass" and want to explain in two medium sized sentences what this bill does. It simply allows the parents to provide child care personally, or by a close relative, or by less expensive methods. It also allows that the cost of child care services be added to the criteria of calculating deviations from child support guidelines and apparently those costs have not been allowed up to this point. This simply expands the ability to include child care in calculating costs to the obligor, the person that pays the child care. I'd ask you to vote against the pending motion. Thank you.

The SPEAKER: The pending question before the House is to accept the Majority **"Ought Not to Pass"** Report.

The Chair ordered a division on the motion to accept the Majority **"Ought Not to Pass"** Report. All those in favor will vote yes, those opposed will vote no.

Representative LANE of Enfield 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 Enfield, Representative Lane.

Representative LANE: Madam Speaker, Ladies and Gentlemen of the House. I guess I didn't explain it very well. This broken into simple terms, the non-custodial parent sometimes has a father, a mother, grandparents of the child, or a sibling, an aunt or uncle of the child that would like to provide daycare for his child, but he does not have custodial care over and this just allows him a vehicle to do it, without a lot of contentious arguments with a mediator and so forth. It just enables him to be able to allow his parents, the child's grandparents, or an aunt or uncle to provide daycare. I urge you please to defeat the Majority **"Ought Not 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. I would ask you to support the "Ought Not to Pass" Report on this bill. The court already has the jurisdiction to handle the issue of child care in which a parent gets to provide for the child care and whether the non-custodial parent should have the right to be involved in this decision. This is an attempt, I think, to shift the balance of power and it is unnecessary and I would ask you to continue supporting my Report.

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

Representative PLOWMAN: Madam Speaker, Men and Women of the House. This bill was brought to us by a group called Maine Dads and they referred to this bill as the Mrs. Doubtfire law. A lot of times dad's are left out of the process and I'd like to recognize the fact that, while I recognize this bill will probably not go anywhere, I'd like to recognize the fact that there are parents out there, dads who would like to be involved in the day to day care of their kids and I would urge the court to be more open when looking at these dads as the child care alternatives. 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. 272

YEA - Ahearn, Bagley, Baker CL, Baker JL, Berry RL, Bigl, Bolduc, Bouffard, Brennan, Brooks, Bruno, Bull, Bunker, Cameron, Carleton, Chartrand, Chizmar, Clark, Colwell, Cowger, Davidson, Driscoll, Dunlap, Dutremble, Etnier, Fisher, Frechette, Fuller, Gagnon, Gieringer, Goodwin, Green, Hatch, Jabar, Jones KW, Jones SL, Joyner, Kane, Kerr, Kontos, LaVerdiere, Lemaire, Lovett, Mailhot, Marvin, Mayo, McKee, Mitchell JE, Morgan, Muse, O'Neal, O'Neil, Paul, Pendleton, Perkins, Perry, Pieh, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Savage, Saxl JW, Saxl MV, Shannon, Shiah, Spear, Stanley, Taylor, Thompson, Townsend, Tripp, True, Tuttle, Volenik, Wheeler EM, Wheeler GJ, Winn, Wright, Madam Speaker.

NAY - Barth, Belanger DJ, Belanger IG, Berry DP, Bragdon, Buck, Bumps, Campbell, Chick, Cianchette, Clukey, Dexter, Foster, Gagne, Gerry, Gooley, Honey, Jones SA, Joy, Joyce, Kasprzak, Kneeland, Lane, Layton, Lemke, Lemont, MacDougall, Mack, Madore, McAlevey, McElroy, Murphy, Nass, Nickerson, O'Brien, Peavey, Pinkham RG, Pinkham WD, Plowman, Samson, Snowe-Mello, Stedman, Tobin, Treadwell, Underwood, Usher, Vedral, Vigue, Waterhouse, Winglass, Winsor.

ABSENT - Bodwell, Cross, Desmond, Donnelly, Farnsworth, Fisk, Gamache, Labrecque, Lindahl, Meres, Ott, Sanborn, Sirois, Skoglund, Stevens, Tessier, Watson.

Yes, 83; No, 51; Absent, 17; Excused, 0.

83 having voted in the affirmative and 51 voted in the negative, with 17 being absent, the Majority "**Ought Not to Pass**" Report was accepted and sent up for concurrence.

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

On motion of Representative CHARTRAND of Rockland, the House recessed until 1:30 p.m.

(After Recess)

The House was called to order by the Speaker.

UNFINISHED BUSINESS

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

HOUSE DIVIDED REPORT - Majority (10) "**Ought Not to Pass**" - Minority (3) "**Ought to Pass**" as amended by Committee Amendment "A" (H-607) - Committee on **Judiciary** on Bill "An Act to Amend the Freedom of Access Laws" (H.P. 1149) (L.D. 1614)

PENDING - Acceptance of either Report.

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

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

Representative NASS: Madam Speaker, Men and Women of the House. This attempt to amend the Freedom of Access Laws has a divided report and I am on the opposition for a number of reasons. The amendment that's provided for in the Majority "Ought to Pass" Report eliminates several provisions that were in the original bill. That asks for a certain amount of time that could take place before or after a meeting and when minutes had to be available. Those things were eliminated. Also eliminated was a provision authorizing the disclosure of meeting records of executive sessions if two-thirds of the members present in executive session vote to disclose the meeting records. However, the major practical problem left with this is that it still creates a situation where in executive session, in my opinion, certain things need to be able to be discussed, which if they have to be discussed in open forums potentially result in damage to people who serve on Boards and Commissions, at the local level especially. My concern about this is primarily what happens at the local level, where you have primarily volunteers who don't have a lot of background as to what the statute requires and who often don't have consistent advice from people who are more knowledgeable about this. The major practical problem is that this is what's left is going to create potential charges of biases, prejudice, conflict of interest, or any other charges that might possibly disqualify Board members from participating in or acting on a specific matter before the Board will have to be aired open, the discussion will have to be aired open. Some of these charges often involve allegations that can hurt someone's reputation even if they are untrue. For instance, especially if these allegations get more press coverage when they're allegations as opposed to when they are finally resolved, which is often the case. Furthermore, knowing these charges have to be made and aired in public may actually display Board members who are concerned about another Board member's impartiality from even raising the issue. That is this amendment, I may be speaking more about an amendment that's to be raised later on, ensuring impartiality of Boards, no one likes to challenge another person's impartiality even in private. They certainly won't do it in public.

Madam Speaker, Members of the House, I urge you to vote the Majority "Ought Not to Pass."

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

Representative THOMPSON: Madam Speaker, Men and Women of the House. I think I thank the Representative for his support of his position. This bill tries to make a number of changes to the existing Freedom of Access Law, which has to do with how the public has access to hearings and information from various Boards and Town Councils and School Boards across

the State. It became clear to a majority of the committee as we were listening to the testimony and the information that was presented to us that we felt that what we were hearing were problems of enforcement of the current law, rather than problems with the current law. We were not given enough reason to change the current law, we were just being told how different boards didn't follow the current law. Well, that's a different problem, so the majority of the committee felt, quite clearly, that we should not amend the current law and that people should continue in their efforts to make their local boards, or whatever, follow the Freedom of Access Law. It's kind of an interesting law, the Freedom of Access Law, it says you can not do certain things, boards can not do things, you have to follow certain procedures. There is a penalty section in the law, where the district attorney could bring an action against a board member, or whatever, but basically speaking it's never done. The enforcement of this law, really, it's one of those laws, there's very few laws that I kind of think of as unenforceable, but still necessary. It's unenforceable in a legal sense, or very rarely enforced in a legal sense, but it is enforced to public pressure, when your school board, or town council, whatever, is not following this law, the way it usually gets enforced, there's people who do not agree with the decisions or the procedures they're using, raise the issue loud enough to make them conform to the law. So, I do not believe that any of these changes are necessary and I would ask you to support the "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Winterport, Representative Brooks.

Representative BROOKS: Madam Speaker, Ladies and Gentlemen of the House. I'm the sponsor of this bill, and I'm really happy that Representative Nass spoke first. I wasn't sure that I was in the beginning, because I wasn't sure where he was going to end up, and now I'm not sure where I'm going to end up. Certainly, I want this legislation, or at least I want a piece of it. I'm hoping that by the time I get done, and when I say that I don't mean to scare you into thinking that this is going to be another one of those three and a half hours, because it certainly isn't, it's going to be very brief. But when I'm done, I'm hoping that I can convince you to vote against the "Ought Not to Pass."

When I first introduced this piece of legislation and we tried to make some changes in the Freedom of Access Law, we put together a bill that was very complex and I've had a couple of conversations with the Committee Chair about that, and suggested that perhaps in the past, we ought to bite off pieces that I can chew and not the whole apple. We have sent through both the Minority Report and through an amendment that you have on your desk, and was circulated, I believe today made a significant number of changes that hopefully will bring it to a point where it is acceptable.

The previous speaker talked about problems, and what were we trying to solve. Well, there are a couple of issues out there that were part of the bill and still are part of the bill that give the bill some merit. There are a couple of things that we did and wanted to try to solve. In particular, at the present time under the Freedom of Access Law, there is not a requirement to do minutes of any board, or agency in open session. Most of them do. I am a member, in my home community, of the Planning Board, the Budget Committee, and I could go on with a couple of others, Cemetery Committee to the Land Fill Committee, we do minutes in all of those. We do them for a lot of reasons. We do them because through our own volunteer efforts, because we want to have those records as a permanent record, those minutes as a permanent record archiving those decisions that were made so we can go back next week, or next year and determine what we have done. The other reason that we do it, is

for ease of the public. That's what we are really talking about here, the public access. The public having an opportunity to be able to peruse minutes and to be able to know what goes on in a meeting, that they did not, or were not able to attend. If I can convince you to defeat the pending motion of "Ought Not to Pass" then we can get to the Minority Report. Again, and as I mentioned before, there were ten members of the committee who voted "Ought Not to Pass" and three who voted "Ought to Pass." At the beginning of this bill, at the time before it was amended, I think that many of the committee members were objecting to several pieces of the legislation, in particular, the bill originally requested that municipal executive sessions would have been required. That has been removed in the committee amendment, in the Minority Report. It also specified certain lengths of time in which those minutes would be made public, both the public session minutes and the executive session minutes. As I recall from the original bill, six days on one and 72 hours on the other. After having had an opportunity to put this through the public hearing process and examining the needs of committees such as the one I'm on, the Planning Board, we discovered and decided that that was also not something that could be done with ease, so that's been stripped off by the committee amendment. Mentioned earlier by Representative Nass that we were talking about dealing with incidences, or accusations, or complaints against a member of a particular agency, not being able to be dealt with in executive session, and instead being dealt with in open session, also, was a part of the original document. That, too, through discussions with people in the Minority on this bill was stripped out. So what we are looking at now is a document that really comes through the questions that we wanted to raise in the beginning. That is having minutes provided of open sessions by boards and agencies, not just to protect them, and having them archived, protect them in the future in the event of litigation, but also as public access. It gives people an opportunity to look at the decisions that were made. The only other piece of the bill in its original form, that exists, comes to the question of whether or not specific enough information is given in the motion to go into executive session. As many of you know, when you look at the Freedom of Access Law it says that a motion to go into executive session must, and the word must is in there, include the specific reason for going into executive session. That then is open to interpretation, and it has been the experience of many of us who have worked in the media and dealt with the public that quite frequently that statement is simply to deal with litigation, or to deal with complaints, or to deal with whatever. And it isn't specific enough, the original bill would have required some statements that were directly taken from the Freedom of Access Law. The amendment simply states that if someone there in the audience, or someone from the public, asked for the specific reason then it must be given, and I think that is a reasonable approach to this compromise. Quite frequently, I have been to meetings in my own community where the subject will be for the executive session, litigation. I have taken it upon myself to raise my hand and ask if they wouldn't be a little specific, if it deals with an issue beyond the scope of what the people at the meeting understand and know, what is the deal with the salt sand storage building, does it deal with charges against the town. We've had several instances where there have been allegations against the town clerk, there have been allegations against the town for water contamination. I wanted to know precisely what it was that they were going in to talk about. Not that I needed to know the decisions that they were making at that point, but just simply the subject. So that we could then go home and be at ease and rest knowing that we knew what was going to happen in executive session. That's all that this bill asks for, so when the motion is

made by any member of the board, or agency and they make one of those general sweeping statements that says litigation, it would then be incumbent on a member of the public who was there to say, please be specific, and then the agency would have to be that specific to tell exactly what it is they're going to talk about, not the names of the people involved, not necessarily the actual accusations, just specifics about what the nature of the discussion is going to be. During the public hearing there were people there who came from the school board, or from the area where I reside and talked about the issues involving the school board. They talked about sessions that were held without specific reasons and then there were issues that were discussed in the executive session that were not necessarily part of the original motion. Well I think that this amendment will come to that, so after having said all that, and I did it easily in less than three and a half hours. I ask you if you will join with me in defeating the "Ought Not to Pass" so that we will be able to get to the Minority Report. We will then be able to look at Committee Amendment "A" and I will offer my amendment which will address most of these concerns.

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

Representative O'NEIL: Madam Speaker, Ladies and Gentlemen of the House. I was cosponsor on this bill and I realize that it ran into some potholes along the way. The committee amended it and then now as Representative Brooks mentioned there's an amendment to the amendment. I just have a quick anecdote to tell you. Just last week a woman was pushing a younger lady in a wheelchair into the House as we were adjourning. As a parade of Legislators filed past them, they were right here at the glass and the woman had a befuddled look on her face and I stopped and I said, who are you looking for? She said nobody, I just wanted to take a look inside this room. I said, why don't you wheel her right down in and take a look. She said, we can't do that can we? I said, it's your House. Walk right in. We proceeded to come down. I introduced her to four members of the Portland delegation. She met everybody except her Representative. She mentioned to me later that it was an ephiney for her to realize that this place was actually open and that government, for the first time in her life, was presented to her as something in which she had ownership. She said, and her remark is pointed, and that's the reason for my rising today, she said, I only wish that sort of thing went on at the local level. That being said, I think the progress that Representative Brooks has made in terms of satisfying all the questions that have come up on this amendment, seems like it is a good update of a 40 year old law. Thank you.

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

Representative WHEELER: Madam Speaker, Men and Women of the House. I really hate to rise against my good friend, Representative Brooks, but being an ex-municipal official, I have to. I really feel that this law is unnecessary, our meetings are all open to the public. Our minutes are open to the public. When we go into executive sessions, of course, those aren't, and those shouldn't be, there are a lot of things that happen in executive session that need to be kept secret, not open to the public, because of legality reasons that actually save the town, but also when we go into executive session, we explain to the public exactly why we are going in. If there is a problem, as stated by Representative Brooks, it seems to me that's more of a local problem and that we should not be making laws to allow the media in on executive sessions which he says the other amendment won't, or any other executive ties that we have with our meeting. I urge you to vote the Majority "Ought Not to Pass."

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

Representative DUNLAP: Madam Speaker, Men and Women of the House. My family owned a large foundry in Georgia, which when General Sherman made his way through Georgia, sent his cavalry about 50 miles out of the way, on a significant detour, to blow up, the operation was successful, I might report. But despite this, or perhaps because of it, I have come to admire the man. He had a few pithy words about the press, which included a famous phrase that, if all reporters died tonight, there'd be news from hell before breakfast. He felt that reporters often would print camp rumors as truth and print military secrets to sell newspapers. Now I think there's a lesson in those phrases and there's been a situation near where I live, where a town council went into executive session to discuss a bus contract. People thought it was rather odd, that one of the relatives of the town council members was awarded the bus contract. I think the Freedom of Access issue, protects, not only the people being served, but those who serve the people. So that there is no dispute as to the clarity of motions made in an executive body. I'm also a cosponsor of this bill and I thought it was a pretty good bill, and I still think it's a good bill. I would urge you not to support the pending motion but to support the Minority "Ought to Pass" Report.

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

Representative PINKHAM: Madam Speaker, Men and Women of the House. I, like Representative Wheeler, served on the Brunswick Town Council for a total of 24 years, and I don't think this law was ever abused. We always tried to be as specific as we possibly could, and I think some things are so private in nature, that they just can not be taken care of the way the good Representative has suggested. I would urge you to vote for 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. I agree with everything my good friend, Representative Thompson, Chair of the Judiciary Committee, said about this bill. I've been waiting to say that all session.

When I look at laws, and bills, potential laws, we have so many of them now, I have certain criteria I look at before I decide whether to support the piece of legislation and the criteria is, is there a problem, how big is the problem, is the problem big enough to require changing a law, or creating a new one. This piece of legislation meets none of those criteria, and I urge you to vote for the Majority "Ought Not to Pass", which I am on.

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

Representative MACK: Madam Speaker, Right Honorable Men and Women of the House. I'd first like to say that this is not a partisan bill at all, for once I disagree with my Right Honorable friend from Bridgton, Representative Waterhouse. One of the principles of government is that the government is set up by the people for their benefits, not that the people are there for the government's benefit. I think it's very important that the people know what's going on with the government. I urge you to vote against the pending motion so we may put the amendment on that would exempt executive sessions and other things, but to have minutes of meetings so that the people can know what goes on in their local government, I believe is very important. We have our Registers now, if you would look in the Registers at the Maine Constitution, the preamble sets up that the people of Maine under God's supervision do agree to form ourselves into a free and independent state and if you look at article one, section

two, powers inherent in the people. All power is inherent in the people, all free governments are founded in their authority and instituted for their benefit. They have unalienable and indefeasible right to institute government and to alter, or totally change the same, when their safety and happiness require it. I do not know how people can alter, reform, or totally change the same in government if they do not know what's going on. I think this is just a common sense reform to make what goes on a little more open and available for the good people of Maine. Thank you, and I urge you to vote against the pending motion so we can put the amendment on.

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

Representative LEMAIRE: Madam Speaker, Men and Women of the House. I guess as I'm looking at public notice and minutes, and maybe its because I'm from a city and I don't recognize that there's problems in perhaps rural areas, but I have some major concerns with this. As I look at the summary, and I'm quickly trying to read this whole bill. The bill requires boards or agencies to hold discussions in regular sessions to discuss the employment, duties, promotions, demotions, compensation, evaluations, disciplinary actions, resignations and dismissals of those individuals who are either elected or appointed. You know there are some things that should be done in private, and I think personnel is one of them. If someone resigns, or if someone is fired, it eventually is going to be announced. I can't speak for other areas, but the rest of this bill, I don't have a problem with because we do it in my city now. But I think we have to be very careful the kinds of things that are announced to the public beforehand, if we're discussing personnel matters, it's announced that you are going into executive session on matters of personnel. That should be enough. If it becomes public the newspapers pick it up, whenever the decision is made. I would be very careful. I certainly am going to support the "Ought Not to Pass" Report, unless someone puts clarifying language in here, because there's some wording in here that we should be concerned about. Thank you.

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

Representative SAVAGE: Madam Speaker, Men and Women of the House. I guess I would like to ask the question, who cares about these minutes? In the 20 years that I served in municipal government, we always posted our agenda prior to the meeting, a week prior. We always posted the minutes. No one, I'll tell you no one, came in to read those minutes except the press. Thank you.

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

Representative LAYTON: Madam Speaker, Men and Women of the House. Like my colleagues, who were involved with municipal government prior to beginning their work here, I, too, was a 10 year town manager found out that the only people that were really curious about executive sessions and minutes was the media. I believe this bill stems from an incident that happened between the *Bangor Daily News* and the Bangor City Council, where the news tried to get some information that was considered privileged by that city. I think that we have to keep in mind that number one, there are only certain things allowable by law that permits boards to go into executive session. They can't go into executive session for just any old thing. There are specifics, but yet they don't have to be that specific as the good Representative Brooks wants them to be. I think we have to maintain that certain level of confidentiality and the municipalities need this because some of the procedures that they are discussing, be it employment, or whatever, there could be

potential litigation and that information can not be readily made available to the media upon their request. It just can't be that way. I strongly urge you to accept the Majority "Ought Not to Pass." Thank you.

The SPEAKER: The Chair recognizes the Representative from Winterport, Representative Brooks.

Representative BROOKS: Madam Speaker, Ladies and Gentlemen of the House. This time I will be very brief. Out of respect for the question that was asked by Representative Lemaire, the issues that she read out of the bill are deleted in the amendment. They are no longer there. That was a part of the bill that we decided that was too far reaching, so we amended them out. Point number two, as far as a local question is concerned, that's absolutely correct and believe me I am a firm believer in local rule, local decisions, however, the Freedom of Information Act is a law that sets the standards and those standards should be expected statewide, and I think that the way the law currently reads, it works very, very well. There are only a few occasions and a few situations that we wanted to come to terms with and that is the open meetings where there are no minutes, and those sections dealing with the reasons to go into executive session and I just want to repeat very quickly, because it's been mentioned, the minutes in the executive session have been deleted from the bill.

Representative BROOKS of Winterport 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 Brunswick, Representative Pinkham.

Representative PINKHAM: Madam Speaker, Men and Women of the House. I'm going to make a very short speech, I'm not going to be like one of the other people that said they was going to and then go on forever. Anyway, there's never any votes taken in this type of a session, all the votes are taken in the open, so there's really nothing that's being hidden and I think this is a law that we need, but I think we need it the way it is, not the way it's been proposed.

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. 273

YEA - Ahearne, Baker JL, Belanger IG, Berry DP, Berry RL, Bolduc, Bouffard, Brennan, Bruno, Buck, Bull, Bumps, Cameron, Campbell, Chartrand, Chick, Cianchette, Clark, Clukey, Colwell, Davidson, Desmond, Dexter, Driscoll, Dutremble, Etnier, Foster, Frechette, Fuller, Gagnon, Gieringer, Goodwin, Gooley, Green, Honey, Jabar, Jones SA, Joyce, Kane, Kasprzak, Kerr, Kneeland, Lane, LaVerdiere, Layton, Lemaire, Lemont, Lindahl, Lovett, MacDougall, Madore, Mailhot, Marvin, Mayo, McElroy, McKee, Mitchell JE, Morgan, Nass, Nickerson, O'Neal, Paul, Peavey, Pendleton, Pieh, Pinkham RG, Pinkham WD, Poulin, Quint, Richard, Rines, Rowe, Samson, Savage, Saxl JW, Saxl MV, Shannon, Shiah, Snowe-Mello, Spear, Stanley, Stedman, Taylor, Thompson, Tobin, Townsend, Treadwell, Tripp, Underwood, Usher, Vigue, Waterhouse, Watson, Wheeler EM, Wheeler GJ, Winglass, Winsor, Wright, Madam Speaker.

NAY - Bagley, Barth, Bragdon, Brooks, Bunker, Carleton, Cowger, Dunlap, Gerry, Hatch, Jones SL, Joy, Lemke, Mack, McAlevy, Murphy, Muse, O'Brien, O'Neil, Perkins, Perry, Plowman, Povich, Powers, Vedral, Volenik.

ABSENT - Baker CL, Belanger DJ, Bigl, Bodwell, Chizmar, Cross, Donnelly, Farnsworth, Fisher, Fisk, Gagne, Gamache,

Jones KW, Joyner, Kontos, Labrecque, Meres, Ott, Sanborn, Sirois, Skoglund, Stevens, Tessier, True, Tuttle, Winn.

Yes, 99; No, 26; Absent, 26; Excused, 0.

99 having voted in the affirmative and 26 voted in the negative, with 26 being absent, the Majority **"Ought Not to Pass"** Report was accepted and sent up for concurrence.

HOUSE DIVIDED REPORT - Majority (10) **"Ought to Pass"** as amended by Committee Amendment "A" (H-613) - Minority (3) **"Ought Not to Pass"** - Committee on **Agriculture, Conservation and Forestry** on Bill "An Act to Permit the Retail Sale of Smoked Alewives" (H.P. 1187) (L.D. 1686)

PENDING - Acceptance of either Report.

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 Kossuth Township, Representative Bunker.

Representative BUNKER: Madam Speaker, Men and Women of the House. This is a bill we've dealt with two or three times. I would ask that you understand that this bill came out of committee and should have been reconsidered again. The Representative from Brooklin, Representative Volenik, will probably speak again, and let you know that after we took action on this bill, endorsing Representative Perkins' bill we received some information from the Department of Health and I think Representative Volenik is prepared to supply that to you. I believe right after that Representative Perkins will speak in favor of his bill and I think we will be ready to vote at that point. Thank you very much.

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

Representative VOLENIK: Madam Speaker, Men and Women of the House. We did receive a letter from the State Epidemiologist and I'd like to read to you the majority of that letter, just to help you make your decision. I'm going to be urging that you reject the pending motion and move on to the Minority **"Ought Not to Pass"** Report.

This letter says: Dear Senator Kilkelly, etc. The passage of L.D. 1686, even as amended, would cause a health concern because it would expose Maine consumers to the threat of botulism. There are numerous documented cases of outbreaks of botulism due to the consumption of ready-to-eat, salt-cured, air-dried, whole, unviscerated fish that may or may not have been smoked. The mortality rate of human botulism is high if not treated immediately and properly.

While the botulism toxin can be destroyed by boiling, it is very difficult to destroy. Good public health policy is to prevent a food product that is contaminated from even reaching the consumer. Their recent outbreaks of other foodborne diseases have demonstrated the need to keep contaminated food off the retail market. Food is not always properly handled or prepared in the cooking process to kill these organisms.

The US Food and Drug Administration which has oversight responsibilities concerning foods, including seafood, considered ready-to-eat, salt-cured, air-dried, unviscerated fish, which may or may not be smoked, to be a potentially life-threatening acute health hazard because of the possible presence of Clostridium botulism toxin.

The Department of Agriculture, Food and Rural Resources has a set of rules dealing with smoked fish in which it is stated that all fish offered for sale shall be free of viscera prior to processing. Waivers to these rules can be granted if adequate documentation can be provided that the techniques used to process the fish will eliminate the threat of botulism.

There have not been a large number of cases of botulism from consumption of unviscerated, smoked fish, however, those cases that have occurred could have been prevented by following certain procedures, one of which is the evisceration of fish prior to smoking. Since incidents of botulism can be prevented by the evisceration of fish prior to smoking, I strongly recommend that the committee not allow the sale of unviscerated fish which do not meet the current standards developed by the State Department of Agriculture, Food and Rural Resources. The procedures permitted if this bill passes is unsafe and would be counted as a step backwards in our attempts to provide for the health and safety of the public in regards to food. A warning sign is not adequate protection from a potentially fatal disease.

That's all I have to say. Thank you.

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

Representative PERKINS: Madam Speaker, Colleagues of the House. I haven't been on the winning side of many later, but I smell victory in this one here. I don't know how many of you know what an alewife is. It's a type of herring that's about 10, 11, 12 inches long. People downeast, all along the coast, even inland, traditionally have always sold these. You salt them overnight, you smoke them, they're not ready to eat. That's one thing, in that letter, he talked about ready-to-eat food, nobody eats these things the way they come of the stick. I've never seen it, I can't imagine even trying it. So the state shut us down two or three years ago, some of the small businesses around our area, they've contacted me. They couldn't believe they'd shut them down, anyway, that's what this is about. It's about helping small business, these are the smallest businesses. You don't see these usually out in front of Rite-Aid and the big supermarkets.

But, anyway, botulism is usually a problem in canned food. It's an anaerobic, it doesn't like air. It's very, very rare, in an open fish. It has to do with canned fish. As far as viscera, open a can of sardines, viscera in there. You could make the State of Maine so safe, it wouldn't be worth living in, no, but seriously, I have been in New Brunswick, New Brunswick, Canada, on the back road one time when up over a knoll and somebody had dulce drying. You eat dulce, it's a seaweed, they're drying it in the road. That's what gives, people like to travel, because things are a little different, you know. Seriously, but if you make it all the same, anyway, you understand. Thank you.

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

Representative PINKHAM: Madam Speaker, Men and Women of the House. I ate those fish until I couldn't get them and I sure miss them and I hope they'll come back. My dad's 91 years old and he ate them until he couldn't get them and he's still alive so I think they are very fit to eat.

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

The Chair ordered a division on the motion to accept the Majority **"Ought to Pass"** as amended Report. All those in favor will vote yes, those opposed will vote no.

A vote of the House was taken. 78 voted in favor of the same and 7 against, the Majority **"Ought to Pass"** as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (H-613) 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-613) and sent up for concurrence.

HOUSE DIVIDED REPORT - Majority (11) "**Ought to Pass**" as amended by Committee Amendment "A" (H-610) - Minority (2) "**Ought to Pass**" as amended by Committee Amendment "B" (H-611) - Committee on **Banking and Insurance** on Bill "An Act to Make Maine Health Insurance Laws Consistent with Federal Laws" (EMERGENCY) (H.P. 1278) (L.D. 1808) (Governor's Bill) PENDING - Acceptance of either Report.

Representative SAXL of Bangor moved the Majority "**Ought to Pass**" as amended Report

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

Representative SAXL: Madam Speaker, Men and Women of the House. L.D. 1808, which is an 11 to 2 divided report of the committee is a department bill that conforms Maine's health insurance laws to the changes in federal law that were part of the Kennedy Cassembram bill enacted by Congress last August.

The Majority "Ought to Pass" as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (H-610) 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-610) and sent up for concurrence.

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

MATTER PENDING RULING

HOUSE DIVIDED REPORT - Majority (9) "**Ought to Pass**" as amended by Committee Amendment "A" (H-551) - Minority (4) "**Ought Not to Pass**" - Committee on **Labor** on Bill "An Act to Amend the Prevailing Wage Laws" (H.P. 1037) (L.D. 1454) TABLED - May 20, 1997 by Speaker MITCHELL of Vassalboro. PENDING - Ruling of the Chair.

The SPEAKER: The question posed to the Speaker was, is this legislation a mandate. The Chair would answer in the negative because costs were mandated on the state and not on the municipalities.

The Chair ruled that the Bill was not a mandate.

The SPEAKER: The pending question is acceptance of the Majority "Ought to Pass" Report.

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

Representative WRIGHT: Madam Speaker, Men and Women of the House. A little refresher. A couple of days ago when we started this, as you heard, this is not a mandate. Department of Labor representative said that this would only affect state projects, it would not affect any municipal projects, even if they use state money. At the same meeting a representative from DOL also admitted that the federal form that would be used was much simpler than the one the State of Maine uses and they said they would be looking at this in the future to see if they could change that. Also, it is not inflationary. There's a study done called Wages, Productivity, and Highway Construction Costs and in that study they took the top 26 states in construction dollar volume. They took the 13 highest and the 13 lowest. The low wage was \$9.76 per man hour, the high wage was \$17.65. Even at that wide difference, an 81 percent difference in the wage rate, it was \$123,000 less per mile to build the highway. This was done because they're able to retain

skilled workers, not low paid workers that people are going to walk off the street and say give me a job. These were highly skilled workers. This bill will ensure that Maine work is fairly compensated. As I said on the other day, is our neighboring two states, both New Hampshire and Vermont pay nearly twice as what Maine workers get paid. It will also help in making sure that Maine workers are not misclassified. They will not be hired on as laborers and then be put to work as carpenters, as iron workers and such. This bill will help the people of Maine, as I said, these are low paid people, they're seasonal jobs. They can not afford benefits on their own. What they should do is give these people the benefit. Do what's right with Maine. It'll help keep people off the welfare roles, off the Medicaid roles, and it's something that should be done. Thank you.

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

Representative CARLETON: Madam Speaker, Men and Women of the House. This bill would require the state to pay the prevailing wage on all construction contracts in which the state is involved. The definition of prevailing wage to include, if this bill is passed, the average benefits that are available for similar jobs in the state. I'm not sure exactly what that percentage is, I assume that it's about 30 or 40 percent. I noticed that the fiscal note on this bill says that this bill may result in significant increases in costs for various public works projects contracted out by the state. Madam Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative CARLETON: Thank you, Madam Speaker. Is my estimate of 30 to 40 percent on fringe benefits accurate? Number two, what is the total labor cost for contracts to which this bill is applicable, so that we may determine what the actual cost of this bill will be to the state?

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

Representative WRIGHT: Madam Speaker, Men and Women of the House. As far as the percentage, that is yet to be determined. Many of the contractors, the larger contractors, are already paying their workers the benefits, whether it be pension, health, per diem, and as for the cost, as you just heard, the study has shown that by using highly trained workers, the cost is actually less. As I might add, it will also help catch contractors who other than just misclassify in their workers, use other ways to get around the taxes. There's a company down in my area, does some work, and what they do is they pay a portion of their wages out as per diem. They count it as travel and hotel pay. The majority of the workers work 15 minutes away from the job. What we have is a contractor that is paying \$3.00 an hour to their workers that they don't have to pay the taxes on. These are taxes that belong in our coffers and I am saying that this will help lower our costs, not raise them.

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

Representative CARLETON: Madam Speaker, Men and Women of the House. I don't want to prolong this. I was interested in the discussion yesterday about the origins of this bill and the federal bill, which I think David Bacon, upon which it is based. Depression era bill, which sort of protect local people, local contractors, from competition from the outside. I suppose back in the 1930's in the absence of all of the labor laws and protections and in the absence of a statewide economy, and a national economy, and a global economy, David Bacon might have made some sense. I don't think it makes much sense these days. You can say that this provides additional protection

to workers, but if we want additional protection to workers we should enact it. We shouldn't write it in to our contracts and make our contract, meaning the state, more expensive than they otherwise would be. This bill will be very expensive for the state. I don't know, but I would imagine that the state enters into contracts for hundreds of millions of dollars and the labor component of it might be significant. The state will miss out on, perhaps, a good bid from somebody who is very efficient. It certainly is going to add significant cost to the state. I urge that you reject the "Ought to Pass" Report as amended.

Representative CARLETON of Wells 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 Berwick, Representative Wright. 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 WRIGHT: Madam Speaker, Men and Women of the House. This still goes on. There have been times when there have been large contractors in our state, that have bused up people from out of state. People from Alabama, people from Georgia and they pay these people much less. As far as saving money there's Iowa, several years ago, did away with their state David Bacon Act and the study show that the cost savings were not passed on to the taxpayers, they were retained by the companies, so there was no cost savings and I say again, that this be a race to the bottom as far as Maine wages are going. Please support this bill.

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

Representative JOY: Madam Speaker, Men and Women of the House. This is perhaps the second time at least that I can recall in my tenure down here that this bill has come before the Labor Committee and yes, there is a significant fiscal note on it, as the good Representative from Wells indicated and I urge you, too, to defeat the "Ought to Pass" Report and go on and accept the "Ought Not to Pass" Report.

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

Representative HATCH: Madam Speaker, Men and Women of the House. As Labor Committee Chair, I just wanted you to know that I support this bill. I just wanted to make a correction. Two years ago, we did have a Bacon Davis Bill before us on the prevailing wage, but it was to abolish this altogether, so it's a little bit different. All we're requesting of the Department is that they keep statistics on the benefits and figure them in to the equation on the prevailing wages in the state. It would be the same as federal law and we believe this is a good idea. Yes, there is a fiscal note, but I'd ask you to really look at this. Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative MAYO: Madam Speaker, Men and Women of the House. We've heard now either three or four times in this debate, something dealing with the fiscal note. I do not have in my possession, what it is. Would somebody please tell us what the fiscal note for this bill is.

The SPEAKER: The Representative from Bath, Representative Mayo 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: Madam Speaker, Men and Women of the House. I believe there are two fiscal notes to this bill. The first one, which is H-551 has a fiscal note of about \$30,000 for 97 and 98, which is mostly for an additional person in the Bureau of Labor Standards. The second fiscal note is H-594, which was prepared after I inquired of the fiscal office of the potential costs involved to the state other than an additional position in the Bureau of Labor Standards. This fiscal note, which is House Amendment "A" to Committee Amendment "A" says that this and I'm quoting now. "This bill may result in significant increases in cost for various public works projects contracted out by the state."

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

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

The SPEAKER: The Representative may pose his question.

Representative WINSOR: To anybody from the committee, does the local school construction projects come under this rule and if they do, do local school construction jobs costs also involve local funds?

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

Representative JOYCE: Madam Speaker, Men and Women of the House. I'm sorry, I only caught the first question, but it would apply to school construction because that involves state funds.

The SPEAKER: A roll call has been ordered. The pending question before the House is the motion 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. 274

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

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

ABSENT - Baker CL, Bodwell, Cross, Donnelly, Farnsworth, Fisk, Gamache, Jones KW, Joyner, Kontos, Meres, Ott, Sanborn, Sirois, Skoglund, Spear, Stevens.

Yes, 77; No, 57; Absent, 17; Excused, 0.

77 having voted in the affirmative and 57 voted in the negative, with 17 being absent, the Majority **"Ought to Pass"** as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (H-551) 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-551) and sent up for concurrence.

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

HOUSE DIVIDED REPORT - Majority (7) **"Ought to Pass"** as amended by Committee Amendment "A" (H-657) - Minority (4) **"Ought Not to Pass"** - Committee on **Labor** on Bill "An Act to Extend the Jurisdiction of the Maine Labor Relations Board to Public Employees Who Have Been Employed Fewer Than 6 Months" (H.P. 123) (L.D. 147) which was tabled by Representative BUMPS of China pending acceptance of either Report.

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

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

Representative JOYCE: Madam Speaker, Men and Women of the House. What this bill would do is eliminate the six months probationary period for the University of Maine system. By doing this, you would severely undermine the ability of the University system to weed out employees and to make sure they have a quality workforce before they have to pay them the full pay and give them all the benefits that they are eligible for. Also by doing this, you are going to increase the labor costs for the University system at a really bad time, since most members of this body are fighting pretty hard to find more money for education.

Representative JOYCE of Biddeford 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 Lewiston, Representative Lemaire.

Representative LEMAIRE: Madam Speaker, Men and Women of the House. Before I speak on this bill, I would like to make a correction of the good Representative from Biddeford, this has nothing to do with probationary teachers at the University, nothing, they have probationary periods from six months to six years. This has no effect at all on that. What this is, is they are no longer covered as a new person coming on board, the protection of the grievance procedure, protection of benefits, of those agreements that are negotiated by the different contracts at the University system. Under the University Labor Relations Act, similar exclusions only exist in Maine and public sectors in Maine, as in the public schools. But they don't exist in other states. All it is is a protection for them to have representation as a new teacher in the University system and have representation by the University if they have a grievance that they have to go through, or that they need protection for some other reason. It has absolutely nothing to do with probation. Thank you, Madam Speaker.

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

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

Representative PENDLETON: Madam Speaker, Ladies and Gentlemen of the House. The reason I'm asking that this be indefinitely postponed is if this bill passes, it will create a situation with the University, with their auxiliary personnel, the personnel that are the groundskeepers, the cooks, the janitors,

the people who do all the auxiliary work on the campus, not anybody involved in instructional capacity. The University over the last few years in their dealings with their employees in the educational capacity have written into their contracts of hire a probationary period, so that they are no longer looking at that probationary period as they would under the University Act. These other individuals, their contracts of hire for their individual groups do not at this time, and I stress, do not at this time include a probationary period. If we strike down the University Act and which at this time actually only applies to the University of Maine, when it was started it applied to the Vocational Technical Colleges and also the Maine Maritime Institution. Those institutions have included in their contracts with their employees now, a period time for probation. But the University of Maine still has four outstanding contracts for which this has not been negotiated. They are negotiating two of those contracts this summer and two more this coming spring. This could affect what happens to them in that negotiation. This period of six months was set up in the collective bargaining for the University Act. It does create a situation where the employee loses all rights to union representation during that time period, however, this does not affect them, they do have the right to join that union, if they would like to during that first six months. They have the right to all fringe benefits during that first six months. It's just the situation is that if there's a grievance, they can not be represented by their union during that first six months, because they have no status from that standpoint, so for that reason I would like to ask that this bill be indefinitely postponed with all its papers. Thank you.

The SPEAKER: The Chair recognizes the Representative from Monmouth, Representative Green.

Representative GREEN: Madam Speaker, Men and Women of the House. I would like to repeat that first of all this does not deal with probationary period, and secondly, is there a reason why an employee has less rights than someone else because they are in the first six months of employment. For these six months, these employees become like non-persons. They have no representation, also, what has not been mentioned is although they may be entering a group that, in fact, is covered under a bargaining agreement, they may be filling a slot, which is included in that agreement. That according to the current rules, the University is not required to pay that person the same amount of money that anyone else who has been working there for six months and one day receives. They are eligible for benefits, but they don't necessarily have to be granted. Why is this six months when this person is liable to be harassed, or all kinds of things could happen and suddenly because he or she is a new employee, they have no rights. This has nothing to do with probationary period of employment, it has everything to do with an employees rights.

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

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

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

Representative PENDLETON: Madam Speaker, Men and Women of the House. I think that we are getting into a problem area here when people are looking at this first six months as a probationary period. This six months was established under the collective bargaining plan that was put in for the University and the other institutions like the Maine Maritime and the Vocational Technical Schools. It was a six month time period where, because unions were coming in, when they started these contracts, yes, it does kind of make the person look like they're a

non-person as far as the employment is. The University has stressed they do not pay this person anything less than what's collectively bargained for that group as a starting wage. The University for these four contracts they have left do not have a period of time for probation and they're saying this six months time in the University Collective Bargaining Bill has become a defacto probationary period, whereas they can look at the individuals performance during that time and decide whether they should be kept as a regular employee after that first six months. So looking at it from my standpoint, I feel that we are looking at it in two different manners. We're saying probationary period, in a sense that it is, but it's part of a probationary period that was created by this body when we said that there shall be a six months time period where they can not be involved in arbitration through their union. Thank you very much.

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. 275

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

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

ABSENT - Baker CL, Belanger DJ, Bodwell, Cross, Donnelly, Farnsworth, Fisk, Gamache, Joyner, Kontos, Meres, Ott, Sanborn, Sirois, Skoglund, Spear, Stevens.

Yes, 67; No, 67; Absent, 17; Excused, 0.

67 having voted in the affirmative and 67 voted in the negative, with 17 being absent, the motion to indefinitely postpone the Bill and all accompanying papers did not prevail.

The SPEAKER: A roll call having previously been ordered. The pending question before the House is the motion 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. 276

YEA - Ahearne, Bagley, Baker JL, Berry DP, Berry RL, Bolduc, Bouffard, Brennan, Brooks, Bull, Bunker, Chartrand, Chick, Chizmar, Clark, Colwell, Cowger, Davidson, Desmond, Driscoll, Dunlap, Dutremble, Etnier, Fisher, Frechette, Fuller, Gagne, Gagnon, Goodwin, Green, Hatch, Jabar, Jones KW, Jones SL, Kane, LaVerdiere, Lemaire, Lemke, Madore, Marvin, McKee, Mitchell JE, Morgan, Muse, O'Neal, O'Neil, Paul, Pieh, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Saxl MV, Shannon, Shiah, Stanley, Tessier, Thompson, Townsend, Tripp, Tuttle, Usher, Volenik, Watson, Wheeler GJ, Wright, Madam Speaker.

NAY - Barth, Belanger DJ, Belanger IG, Bigl, Bragdon, Bruno, Buck, Bumps, Cameron, Campbell, Carleton, Cianchette,

Clukey, Dexter, Foster, Gerry, Gieringer, Gooley, Honey, Jones SA, Joy, Joyce, Kasprzak, Kerr, Kneeland, Labrecque, Lane, Layton, Lemont, Lindahl, Lovett, MacDougall, Mack, Mailhot, Mayo, McAlevey, McElroy, Murphy, Nass, Nickerson, O'Brien, Peavey, Pendleton, Perkins, Perry, Pinkham RG, Pinkham WD, Plowman, Poulin, Savage, Snowe-Mello, Stedman, Taylor, Tobin, Treadwell, True, Vedral, Vigue, Waterhouse, Wheeler EM, Winglass, Winn, Winsor.

ABSENT - Baker CL, Bodwell, Cross, Donnelly, Farnsworth, Fisk, Gamache, Joyner, Kontos, Meres, Ott, Sanborn, Saxl JW, Sirois, Skoglund, Spear, Stevens, Underwood.

Yes, 70; No, 63; Absent, 18; Excused, 0.

70 having voted in the affirmative and 63 voted in the negative, with 18 being absent, the Majority "Ought to Pass" as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (H-657) 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-657) and sent up for concurrence.

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

ENACTORS

Emergency Measure

An Act to Exempt Contract Dance Instructors and National Service Volunteers from the Unemployment Tax (H.P. 24) (L.D. 49) (H. "A" H-525)

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. 106 voted in favor of the same and 7 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Make Allocations from the Transportation Safety Fund for the Fiscal Years Ending June 30, 1998 and June 30, 1999 and to Accelerate the Starting Date of the State Police Training Academy (H.P. 455) (L.D. 618) (Governor's Bill) (C. "A" H-515)

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. 103 voted in favor of the same and 5 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Establish a One-year Moratorium on the Municipal Adoption and Enforcement of Certain Traffic Ordinances (H.P. 623) (L.D. 848) (C. "A" H-516)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 101 voted in favor of the same and 21 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Allow Minors under 16 Years of Age to Work at Certain Commercial Places of Amusement (H.P. 648) (L.D. 901) (C. "A" H-518)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 102 voted in favor of the same and 17 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Conform the State Revolving Loan Fund for Drinking Water with the 1996 Amendments to the Federal Safe Drinking Water Act (H.P. 1215) (L.D. 1715) (C. "A" H-522)

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. 105 voted in favor of the same and 9 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Prevent Hunger Among Unemployed Maine Workers (H.P. 1311) (L.D. 1859) (C. "A" H-584)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 101 voted in favor of the same and 21 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

Resolve, to Establish the Commission to Study the Unemployment Compensation System (H.P. 268) (L.D. 332) (C. "A" H-549)

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

Representative POVICH of Ellsworth requested a roll call on final passage.

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

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

ROLL CALL NO. 277

YEA - Ahearn, Bagley, Baker JL, Belanger IG, Berry RL, Bigl, Bolduc, Bouffard, Brennan, Brooks, Bunker, Campbell, Chartrand, Chick, Chizmar, Clark, Colwell, Cowger, Davidson, Desmond, Dexter, Driscoll, Dunlap, Dutremble, Etnier, Fisher, Frechette, Fuller, Gagne, Gagnon, Gerry, Goodwin, Green, Hatch, Honey, Jabar, Jones KW, Jones SL, Kane, Kerr, Kneeland, Lane, LaVerdiere, Lemaire, Lemke, Mailhot, Mayo, McAlevey, McKee, Mitchell JE, Morgan, Muse, O'Neal, O'Neil, Paul, Pendleton, Perry, Pieh, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Saxl JW, Shannon, Shiah, Stanley, Tessier, Thompson, Tobin, Townsend, Tripp, Tuttle, Usher, Vigue, Volenik, Watson, Wheeler EM, Wheeler GJ, Winn, Wright, Madam Speaker.

NAY - Barth, Belanger DJ, Berry DP, Bragdon, Bruno, Buck, Bumps, Cameron, Carleton, Cianchette, Clukey, Foster, Gieringer, Gooley, Jones SA, Joy, Joyce, Kasprzak, Labrecque, Layton, Lindahl, Lovett, MacDougall, Madore, Marvin, Murphy, Nass, Nickerson, O'Brien, Peavey, Perkins, Pinkham RG, Pinkham WD, Plowman, Savage, Saxl MV, Snowe-Mello, Stedman, Taylor, Treadwell, True, Underwood, Vedral, Waterhouse, Winglass, Winsor.

ABSENT - Baker CL, Bodwell, Bull, Cross, Donnelly, Farnsworth, Fisk, Gamache, Joyner, Kontos, Lemont, Mack, McElroy, Meres, Ott, Sanborn, Sirois, Skoglund, Spear, Stevens.

Yes, 85; No, 46; Absent, 20; Excused, 0.

85 having voted in the affirmative and 46 voted in the negative, with 20 being absent, the Resolve failed of final passage.

Representative VEDRAL of Buxton moved that the House reconsidered its action whereby the Resolve failed of final passage.

Representative SAXL of Portland requested a roll call on the motion to reconsider.

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

On motion of the same Representative, tabled pending the motion of Representative VEDRAL of Buxton to reconsider whereby the Resolve failed of final passage and specially assigned for Tuesday, May 27, 1997. (Roll Call Ordered)

Emergency Measure

Resolve, to Establish a Maine Mobility Fund Task Force (S.P. 429) (L.D. 1377) (H. "A" H-493 and H. "B" H-597 to C. "A" S-206)

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. 83 voted in favor of the same and 48 against, the Resolve failed of final passage.

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

On motion of Representative TUTTLE of Sanford, tabled pending the motion of Representative FISHER of Brewer to reconsider whereby the Resolve failed of final passage and specially assigned for Tuesday, May 27, 1997.

Emergency Measure

Resolve, to Foster Economic Growth through the Recognition and Development of Maine's Franco-American Resource (S.P. 519) (L.D. 1603) (S. "A" S-283 to C. "A" S-275)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 125 voted in favor of the same and 2 against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

Emergency Mandate

Resolve, for Laying of the County Taxes and Authorizing Expenditures of Androscoggin County for the Year 1997 (H.P. 1330) (L.D. 1880)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. In accordance with the provisions of Section 21 of Article IX of the Constitution, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 105 voted in favor of the same and 14 against, and

accordingly the Mandate was finally passed, signed by the Speaker and sent to the Senate.

Representative MARVIN of Cape Elizabeth moved that the House reconsider its action whereby Bill "An Act to Extend the Jurisdiction of the Maine Labor Relations Board to Public Employees Who Have Been Employed Fewer Than 6 Months" (H.P. 123) (L.D. 147) was passed to be engrossed as amended by Committee Amendment "A" (H-657).

The same Representative requested a roll call on the motion to reconsider whereby the Bill was passed to be engrossed.

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

Representative SAXL of Portland moved that the Bill be tabled and later today assigned.

Representative CAMPBELL of Holden requested a roll call on the motion to table.

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 Table until Later Today. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 278

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

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

ABSENT - Baker CL, Bodwell, Bull, Cross, Donnelly, Farnsworth, Fisk, Gagnon, Gamache, Joyner, Kontos, Meres, Sanborn, Sirois, Skoglund, Spear, Stevens, Tobin.

Yes, 70; No, 63; Absent, 18; Excused, 0.

70 having voted in the affirmative and 63 voted in the negative, with 18 being absent, the Bill was tabled until later in today's session pending the motion of Representative MARVIN of Cape Elizabeth to reconsider whereby the Bill was passed to be engrossed as amended by Committee Amendment "A" (H-657). (Roll Call Ordered)

An Act to Increase the Period of Probation for Sex Offenders (H.P. 49) (L.D. 74) (C. "A" H-517)

An Act to Increase the Funding for School Construction (H.P. 184) (L.D. 237) (C. "A" H-574)

An Act to Create a Repeat Offender Provision Addressing Crimes of Violence against Persons (H.P. 229) (L.D. 293) (C. "A" H-554)

An Act to Prohibit the Inhaling of Toxic Vapors for Effect (H.P. 241) (L.D. 305) (H. "A" H-546 to C. "A" H-382)

An Act to Continue the Vendor's Tax for One Year by Delaying the Repeal Date (H.P. 244) (L.D. 308) (C. "A" H-520)

An Act to Expand Access to Maine's Technical Colleges (H.P. 263) (L.D. 327) (H. "A" H-564 to C. "A" H-348)

An Act to Amend Certain Provisions Dealing with Juvenile Summonses (S.P. 175) (L.D. 504) (C. "A" S-249)

An Act to Strengthen the Laws Concerning Resisting Arrest (H.P. 443) (L.D. 593) (C. "A" H-553)

An Act to Require the Department of Labor to Ensure That Housing Provided as an Incident of Employment by Agricultural Employers Meets Minimum Standards of Habitability (H.P. 446) (L.D. 596) (C. "A" H-484)

An Act Regarding Terminal Rental Adjustment Clauses Vehicle Leasing (H.P. 646) (L.D. 899) (C. "A" H-530)

An Act to Amend the Tax against Certain Casual Sales (H.P. 671) (L.D. 923) (S. "A" S-285 to C. "A" H-547)

An Act to Clarify the Laws Relating to Backyard Burning (H.P. 703) (L.D. 967) (H. "A" H-555 to C. "A" H-392)

An Act to Require Law Enforcement Officers to Inform a Person Who Fails to Submit to a Test about the Informed Consent Law (H.P. 777) (L.D. 1065) (H. "B" H-600 to S. "A" S-232)

An Act to Ensure Consistency Between State and Federal Special Education Requirements (H.P. 842) (L.D. 1147) (C. "A" H-543)

An Act to Create a Permanent Funding Source for the Saco River Corridor Commission (H.P. 850) (L.D. 1155) (H. "A" H-598 to C. "A" H-396)

An Act Regarding Firearms Proficiency Testing for Private Investigators (H.P. 867) (L.D. 1184) (C. "A" H-511)

An Act to Improve the Transition of People with Disabilities from Children's to Adult Services (H.P. 870) (L.D. 1187) (C. "A" H-575)

An Act to Expand the Monitoring of the Conversations of Prisoners (S.P. 364) (L.D. 1223) (C. "A" S-277)

An Act to Amend the Laws Relating to State Agency Clients (S.P. 377) (L.D. 1236) (C. "A" S-266)

An Act to Clarify the Responsibilities of the Institute Councils of the Augusta Mental Health Institute and the Bangor Mental Health Institute (H.P. 963) (L.D. 1326) (C. "A" H-585)

An Act to Permit the Sale of Used License Plates (S.P. 411) (L.D. 1332) (C. "A" S-268)

An Act to Expand Options for Investment of Certain Municipal Trust Funds (S.P. 433) (L.D. 1379) (C. "A" S-264)

An Act to Require Mandatory Testing for Blood-borne Pathogens of Persons Who Are the Source of a Bona Fide Occupational Exposure (H.P. 1017) (L.D. 1409) (C. "A" H-532)

An Act to Establish the Task Force to Study Equal Economic Opportunity for All Regions of the State (H.P. 1035) (L.D. 1452) (C. "A" H-504)

An Act to Provide Subrogation Equity (H.P. 1036) (L.D. 1453) (C. "A" H-524)

An Act to Amend the Law to Be Consistent with the Organizational Structure of the Department of Corrections and for Other Purposes (H.P. 1050) (L.D. 1467) (C. "A" H-513)

An Act to Amend the Laws Concerning Health Insurance (H.P. 1084) (L.D. 1521) (C. "A" H-582)

An Act to Redefine the Community Services of the Mental Health System (S.P. 495) (L.D. 1526) (C. "A" S-257)

An Act to Outlaw the Sale of Code Grabbers in the State (H.P. 1105) (L.D. 1548) (C. "A" H-552)

An Act to Make Technical Changes in the Laws Relating to the Sale of Alcoholic Beverages (S.P. 510) (L.D. 1572) (C. "A" S-182; H. "A" H-521)

An Act to Ensure Stable Funding of Pollution Abatement Programs Administered by the Department of Environmental Protection (H.P. 1123) (L.D. 1579) (C. "A" H-545)

An Act to Ensure Safe Abatement of Lead Hazards (H.P. 1137) (L.D. 1593) (C. "A" H-577)

An Act Regarding the Division of Safety and Environmental Services in the Bureau of General Services (S.P. 518) (L.D. 1602) (C. "A" S-288)

An Act to Amend the Corporate Laws (S.P. 534) (L.D. 1639) (C. "A" S-259)

An Act to Minimize Reliance on Pesticides (S.P. 569) (L.D. 1726) (C. "A" S-272)

An Act to Remove the Disqualification for Unemployment Insurance Benefits for Claimants Who Are Locked Out by an Employer (H.P. 1222) (L.D. 1734) (C. "A" H-501)

An Act to Preserve the Solvency of the Unemployment Compensation Fund (H.P. 1236) (L.D. 1753) (Governor's Bill) (C. "A" H-502)

An Act to Establish Guidelines for Putting Certain Social Service Contracts out to Bid (S.P. 597) (L.D. 1776) (C. "A" S-282)

An Act Regarding Illegal Transportation of Drugs by a Minor (H.P. 1262) (L.D. 1789) (C. "A" H-514)

An Act to Bring the State into Conformity with the Firearms Provisions of the Violence against Women Provisions of the Federal Violent Crime Control Act (H.P. 1264) (L.D. 1791) (C. "A" H-529)

An Act to Provide Licensing for Micropigmentation Practitioners (H.P. 1270) (L.D. 1796) (C. "A" H-507)

Resolve, Directing the Commissioner of Labor to Implement the Recommendations of the Commission to Study Poverty Among Working Parents with Regard to Pay Discrimination Based on Gender (H.P. 265) (L.D. 329) (C. "A" H-588)

Resolve, to Foster the Self-governing Powers of Maine's Indian Tribes in a Manner Consistent with Protection of Rights and Resources of the General Public (H.P. 926) (L.D. 1269) (C. "A" H-531)

Resolve, to Create a Task Force to Develop a Single Payment System for State and Federal Taxes for Small Businesses (H.P. 988) (L.D. 1368) (H. "B" H-565 to C. "A" H-240)

Resolve, to Establish Additional Funding for the University of Maine System (H.P. 1018) (L.D. 1410) (C. "A" H-590)

Resolve, to Designate an East-West Highway and Install Signs on that Highway (H.P. 1027) (L.D. 1444) (C. "A" H-581)

Resolve, Directing the Department of Human Services to Apply for a Waiver to Enable People with Disabilities to Purchase Medicaid Health Insurance (H.P. 1098) (L.D. 1541) (C. "A" H-583)

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

An Act to Decrease Infectious Disease Transmission (H.P. 287) (L.D. 351) (C. "A" H-468)

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

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

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

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

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

ROLL CALL NO. 279

YEA - Bagley, Baker JL, Berry RL, Bigl, Bolduc, Bouffard, Brennan, Brooks, Bruno, Bull, Bunker, Cameron, Carleton, Chartrand, Chick, Chizmar, Clark, Colwell, Cowger, Davidson, Driscoll, Dunlap, Dutremble, Etnier, Fisher, Frechette, Fuller, Gagne, Gieringer, Green, Hatch, Jabar, Jones KW, Jones SL, Kane, Labrecque, LaVerdiere, Lemaire, Lemont, Lovett, Madore, Mailhot, Mayo, McAlevey, McKee, Mitchell JE, Morgan, Murphy, Muse, Nass, O'Neal, O'Neil, Paul, Peavey, Pendleton, Perry, Pieh, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Savage, Saxl JW, Saxl MV, Shannon, Shiah, Stanley, Tessier, Thompson, Townsend, Tripp, True, Tuttle, Usher, Vigue, Volenik, Watson, Winn, Wright, Madam Speaker.

NAY - Ahearn, Barth, Belanger DJ, Belanger IG, Berry DP, Bragdon, Bumps, Campbell, Cianchette, Clukey, Desmond, Dexter, Foster, Gerry, Gooley, Honey, Jones SA, Joy, Joyce, Kasprzak, Kneeland, Lane, Layton, Lemke, Lindahl, MacDougall, Mack, Marvin, McElroy, Nickerson, O'Brien, Ott, Pinkham RG, Plowman, Snowe-Mello, Stedman, Taylor, Treadwell, Underwood, Vedral, Waterhouse, Wheeler EM, Wheeler GJ, Winglass, Winsor.

ABSENT - Baker CL, Bodwell, Buck, Cross, Donnelly, Farnsworth, Fisk, Gagnon, Gamache, Goodwin, Joyner, Kerr, Kontos, Meres, Perkins, Pinkham WD, Sanborn, Sirois, Skoglund, Spear, Stevens, Tobin.

Yes, 84; No, 45; Absent, 22; Excused, 0.

84 having voted in the affirmative and 45 voted in the negative, with 22 being absent, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

An Act to Permit Forest Rangers to Carry Weapons (H.P. 472) (L.D. 643) (H. "B" H-489 to C. "A" H-395)

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

On motion of Representative GOOLEY of Farmington, was set aside.

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

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

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

Representative JOY: Madam Speaker, Ladies and Gentlemen of the House. To give you some idea of where I'm coming from, I've had many members of my family involved in law enforcement and they all were in a position where they carried weapons. Starting with my grandmother, two brothers and two nephews that have been involved in law enforcement. I know from talking to all of them the tremendous responsibility that they felt every time that they hooked that pistol around their waist. I know that the forest rangers have training in fire arms when they go through the police academy training. What I don't know is about how careful the selection process is made in getting these people into the academy for their training. I do know that there is a very extensive process for sheriffs, for state police, for the warden service, but I'm not sure about the forestry service.

I'd like to share with you an incident that took place weekend before last in the little town of Sherman. An elderly gentleman was burning bush in his back yard as he'd done every year for many years. He lives in a house on land that's owned by his son. Two fire wardens stopped to check to see what was going on and whether he had a permit or not and they started giving him a hard time because he didn't have a permit. The man's son came over and wanted to know what was going on and he asked

the wardens to leave because they were trespassing on his land. Apparently some words ensued and one of the wardens swung at the son, the son informed him that he had just made the most severe mistake he'd ever made in his life and he decked him. The other warden picked him up and got him back to the truck and they drove off. I guess probably, I want to relate this because I think that had there been weapons involved, they may have been a very, very serious incident and I urge you to defeat the pending motion. Thank you.

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

Representative BUNKER: Madam Speaker, Men and Women of the House. It's late on Friday, and I just ask for your support on enactment. Thank you.

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

Representative MCKEE: Madam Speaker, Men and Women of the House. I'll just say three things. I want to clarify that of the 66 people who signed that petition to carry weapons, not all of them wanted to carry weapons. They were simply supporting their fellow rangers interest in doing so. Second, I want to say that the hearing was about carrying weapons, it was not about the Maine Forest Service, and the direction of the role and responsibility of the rangers. We did not talk about that and I think that that is very serious. Consider these two things especially as you vote. We are going in a significantly radically different direction here and we've never had a hearing on it. Very serious things have been brought up and the third thing that I remember was about the training. My good colleague, Representative Bunker, from Kossuth Township, I feel is in error and that has to do with their training at the Maine Criminal Justice Center. They do not receive the same training as other law enforcement officers in the handling of weapons and the use of weapons. Thank you.

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

Representative MCALEVEY: Madam Speaker, Ladies and Gentlemen of the House. I've resisted trying to speak on this issue, but I think the policy decision was made years ago when the department decided to send these rangers to the police academy along with sea and shore fishery wardens and game wardens and that policy decision has already been made and I think if you wish them not to be quasi law enforcement then you take them out of a uniform, you take away their badge and you no longer send them to the academy. I had two wardens that were in my academy when I went through, they received the exact same training that I did. No, they didn't get the same training when it came to firearms because that was a gray area and no decision had ever been made on that and I think we've passed that Rubicon, or we're about to pass that Rubicon and make that policy decision. Thank you.

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

Representative HATCH: Madam Speaker, Men and Women of the House. I just would encourage you to vote for the enactment on this bill. I put this in for a good reason, I wasn't requested to do so, I had talked with these wardens previously about a retirement issue and discovered that they didn't cover weapons and looking at the issue it seemed to me that they should at least have the option. They don't have the option to even carry a weapon in their vehicle and I think that's wrong. They do have law enforcement, but the bill was specific originally. I know it's been amended for the commissioners just to make a policy at this time and to revisit back at the committee to look at this policy before anything is done, but it was very specific that they had to receive safety training and it has to be

passed by the commissioner's office. So I would encourage you to do so, to vote for this because I don't think we're going to just hand them guns and tell them to head for the woods. These people work in very remote areas, far from anyone, and this is a good bill. This will give them the option. They don't have to carry them, and we hope they don't, but maybe they'll keep them in their truck for whatever. I thank you for your support.

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

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

The SPEAKER: The Representative may pose her question.

Representative PLOWMAN: Madam Speaker, Men and Women of the House. Police officers and law enforcement personnel, do they go through psychological examinations and do the forest wardens do so as well?

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

Representative BUNKER: Madam Speaker, Men and Women of the House. In response to the question, some departments may have a psychological exam for their employees, some don't. I'm not sure even if the state police do, but they are developing very strict guidelines at the academy for all of our law enforcement people that are going to the academy and I sure hope that the policy that comes back to us will address a lot of these concerns and we'll have a second bite at the apple next season.

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

Representative MORGAN: Madam Speaker, Ladies and Gentlemen of the House. I served on the civil service board in South Portland and we do give testing to those officers and the consideration is how they will react under different situations and whether or not we feel that they would be a safe person to carry a firearm. There's some parts of this bill I don't understand. I don't about, we do have our Sebago Lake areas where we have a lot of people coming in and I think the rangers are in charge of this Sebago Lake and I don't know if you would want those people carrying firearms or not. In the first discussion we had on this bill, they talked about them having their own type of weapons and I don't know, I think you would want to have some uniformity in the weapons that you carried so they'd all have the same type of ammunition. You wouldn't want someone carrying a 357 magnum with a muzzle velocity of 2,800 ft., that would kill a rabbit without even touching it. I think that we ought to get together and find out what kind of weapon you may want to be carrying.

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

ROLL CALL NO. 280

YEA - Ahearne, Bagley, Barth, Belanger DJ, Berry RL, Brooks, Bunker, Campbell, Chartrand, Chick, Chizmar, Clark, Colwell, Cowger, Davidson, Desmond, Dexter, Driscoll, Dunlap, Dutremble, Fisher, Frechette, Fuller, Gagne, Gieringer, Green, Hatch, Jabar, Jones KW, Kane, Kerr, LaVerdiere, Lemaire, Lemke, Lovett, Mack, Mayo, McAlevey, Muse, O'Neal, O'Neil, Paul, Perry, Pieh, Povich, Quint, Richard, Rines, Rowe, Samson, Saxl JW, Saxl MV, Shannon, Shiah, Stanley, Thompson, Tobin, True, Tuttle, Underwood, Volenik, Waterhouse, Watson, Wheeler EM, Winn, Wright.

NAY - Baker JL, Belanger IG, Berry DP, Bigl, Bolduc, Bouffard, Bragdon, Brennan, Bruno, Bull, Bumps, Cameron,

Carleton, Cianchette, Clukey, Etnier, Foster, Gerry, Gooley, Honey, Jones SL, Jones SA, Joy, Joyce, Kasprzak, Kneeland, Labrecque, Lane, Lemont, Lindahl, MacDougall, Madore, Mailhot, Marvin, McElroy, McKee, Mitchell JE, Morgan, Murphy, Nass, Nickerson, O'Brien, Ott, Peavey, Pendleton, Pinkham RG, Plowman, Poulin, Powers, Savage, Snowe-Mello, Stedman, Taylor, Tessier, Townsend, Treadwell, Tripp, Usher, Vedral, Vigue, Wheeler GJ, Winglass, Winsor.

ABSENT - Baker CL, Bodwell, Buck, Cross, Donnelly, Farnsworth, Fisk, Gagnon, Gamache, Goodwin, Joyner, Kontos, Layton, Meres, Perkins, Pinkham WD, Sanborn, Sirois, Skoglund, Spear, Stevens, Madam Speaker.

Yes, 66; No, 63; Absent, 22; Excused, 0.

66 having voted in the affirmative and 63 voted in the negative, with 22 being absent, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

An Act to Create Efficient and Effective Administration of the University of Maine System (H.P. 1114) (L.D. 1557) (C. "A" H-580)

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

On motion of Representative BROOKS of Winterport, was set aside.

The same Representative withdrew his motion to have the Bill set aside.

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

An Act to Implement the Majority Recommendation of the Harness Racing Task Force (H.P. 1313) (L.D. 1864) (Governor's Bill)

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

On motion of Representative VEDRAL of Buxton, was set aside.

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

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

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

ROLL CALL NO. 281

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

NAY - Bolduc, Gerry, McKee, Vedral.

ABSENT - Baker CL, Bodwell, Buck, Cross, Donnelly, Farnsworth, Fisk, Gagnon, Gamache, Joyner, Kontos, Layton, Meres, Perkins, Pinkham WD, Sanborn, Sirois, Skoglund, Spear, Stevens, Vigue.

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

126 having voted in the affirmative and 4 voted in the negative, with 21 being absent, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

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

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

Bill "An Act to Ask Voters in a Referendum Whether One Travel Lane in Each Direction Should be Added to the Maine Turnpike, Paid for by Turnpike Tolls, to Reduce Accidents and Congestion" (S.P. 663) (L.D. 1883) which was tabled by Representative KONTOS of Windham pending passage to be engrossed.

Representative O'NEIL of Saco presented House Amendment "A" (H-642) which was read by the Clerk.

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

Representative O'NEIL: Madam Speaker, Ladies and Gentlemen of the House. This is an amendment to the Committee Report out of the Transportation Committee which deals with the impending turnpike widening issue. This isn't an amendment that skews whether or not we widen. It's strictly dealing with the language and the wording of the question. In deference to the Committee it is a 13-0 Report and I'll not cast dispersions on how the bill was worked, but I came to this conclusion after a very quick process. This thing came to the Legislature fast and having a little bit of time to consider it, I found that we would be best off if we deleted the last five words of the question. You got a handout from me yesterday that said clip here. What I propose is to just strike those last words. Quickly, I'll tell you what the rational is. I called two pollsters, people who do research, market research, polling, in the Portland area and asked them their opinion on how questions can be skewed. One of them told me they didn't want to get involved, the other one provided a letter that you have gotten on your desk today. In essence what they both told me was that if a client comes to them and wants a question to gain a desired outcome in any kind of poll, they can word a question to create that outcome. The trick is to create a question without biases. So, in my opinion, and in the opinion of most of the folks with whom I have spoken, those last five words which read, to reduce accidents and congestion constitute a sales pitch, in as such, may induce a little bit of biases. Regardless of whether or not any of us wants to widen the turnpike and that will be the decision of the folks in the fall, I feel its incumbent upon us to give them a clean question. I happened to be at the quasi-work session that they had at the Transportation Committee with the Turnpike Authority. The Turnpike Authority wrote this question and brought it in and to their credit they said, and the committee said also, we don't want to go back to that convoluted language that we had a few years ago when the Sensible Transportation Act was enacted. They wanted in their words to create a straightforward question. A question that was fair and a question that isn't misleading. And I think for the most part that is true, but while it's not misleading, it is leading. I saw in the paper today, I happened to talk to a reporter yesterday, if an attorney were in a court of law, the judge would rule him out of order because he's

leading the witness. The implication is that you're asking the person to make a judgment on why they want to widen the turnpike, when in reality there's no room for that kind of judgment in the question. It tends to gravitate towards being argumentative and to my point it shouldn't be there. One final note, I spoke to the chairperson of the committee before I submitted the amendment, just to let him know I was doing this and I spoke to the lobbyist from the Maine Turnpike Authority. His point, we want that language in there because those are the selling points. I said bingo. You shouldn't have selling points in a referendum question. Personally, I will vote to widen the turnpike on either question, whether we amend it striking this language or not, but I feel it's incumbent upon us not to leave the question.

When my son goes to bed at night, it gets a little tough for him to go sometimes, I say, hey Max, why don't you get up in your nice warm bed, or Max, why don't you eat your broccoli so you'll grow big and strong like dad, and he loves broccoli. They key is I embellish for affect and I don't think that as a matter of course, we should be embellishing for affect on a referendum question.

Representative WHEELER of Eliot moved that House Amendment "A" (H-642) be indefinitely postponed.

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

Representative WHEELER: Madam Speaker, Men and Women of the House. Here we go again. \$23,000,000 later and 25 years of studies, we still are going to have a few individuals that want to fight a question of whether we are going to allow the turnpike to widen or not. At our public hearing we had 31 people testify. 29 of them testified in favor of the referendum question as it's written right now. Two opposed it. One of the groups being the Natural Resource Council and another being a resident of this area. The reason that we have the wording as it is in the referendum question is that whenever a voter goes into a booth and looks at any of the referendum questions, they're always saying, gee, does yes mean yes, or no mean no, or whatever. We all said when we looked at this question we wanted to make sure that yea meant yes, no meant no. If you read the question, it will tell them. Do you favor adding one travel lane in each direction to the southern end of the Maine turnpike? We all know where the southern end of the Maine turnpike ends, right? I believe paid for by toll revenues, which if they say, how are we going to pay for this when they get in there? They'll know. To reduce accidents and congestion. This comes out of those studies that they paid \$23,000,000 worth. We've got to have that in there to explain to the people why we have to widen the turnpike. It's not a selling point. What you're hearing with amendments is just another Band-Aid approach to try to stop the widening. We had a few bills in front of our committee this year to do with price flexing and these were just approaches that were trying to avoid a referendum question to widen the turnpike. Personally, I've got calls from constituents that says, what are you even putting a referendum question out there, just you guys make a decision, right here. You know, we've been through this, but the Turnpike Authority is the one that says, no, we want to let the people speak. The Turnpike Authority, not the Transportation Committee, so upon this, we came up to a conclusion of a wording, on which we have, in which we feel is not a sales pitch, but is a question that the Maine voters will understand. We also went and had the Secretary of State Ballot Clarity Board come in and work with us on this. They agreed that this question, as worded, is simplified to a grade level of, I believe, a junior in high school. I really don't want to get into the details of that, because I was lost and I think everybody else would be lost if we really got into the different ways they look at

how they grade a question. We did come to the conclusion that this is a very well written question, yes means yes, no means no, we voted and it is a 12 to 1 Report. 12 to 1. These other sheets that you got from other marketing services are from a public opinion. I never even heard of some of these. This is why we went to the Secretary of State Clarity Board. Also you had passed around from the Times Record, which I have never heard of, inside of their editorial, which an editorial, I remind you is an opinion of one individual, they even have the NRC Staff Attorney, Conrad Snyder says, the final phrase loads the question and he wants it deleted. So I leave it up to you folks. I ask you to indefinitely postpone Amendment "A."

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

Representative BULL: Madam Speaker, Men and Women of the House. You've got to be quick around here, sometimes. I urge you to vote against the indefinite postponement. I'm not really sure what there's to be worried about with this question, why we even need those last five words there. I have not heard conclusively that widening a highway can guarantee a reduction in accidents. Now please, do not get me wrong, personal feelings aside on whether or not we widen the turnpike, the voters have a right to decide this. That is their right and this question should go out, but I think it should be done in a way that is fair and not leading. I think putting in the words to reduce accidents and congestion is a predrawn conclusion that it's saying to the people, the voters, you widen the turnpike and it will make it a safer highway. I simply do not see how that is logical. All we're asking is to ask in a straightforward way. I agree with the Representative from Eliot, it's a very clear question, but it's also a leading question at the same time. I do not see how taking out the words to reduce accidents and congestion would make the question any less clear. It would just ask, do you favor adding one travel lane in each direction to the southern end of the Maine turnpike, paid for by toll revenues? That sounds like a very simple straightforward question to me, ladies and gentlemen, and it allows people to draw their own conclusions, as to whether or not this is a good idea. I would be very, very interested for somebody in the Transportation Committee to provide to me a study that shows to me that a wider turnpike reduces accidents. I would be very, very interested to see that study on this question. I urge you to vote against indefinite postpone and then vote to clarify the question and not make it a leading question. Thank you.

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

Representative BOUFFARD: Madam Speaker, Men and Women of the House. When you analyze this question, nothing is deceptive here and everything is clear. We do know that adding a travel lane in each direction to the southern end, that's clear. Paid by toll revenues, that's clear. To reduce accidents and congestion, that's also clear and here's two of the reasons why. Number one, it was wrote in testimony that accidents have occurred on that end of the road an increase of 72 percent, so naturally, I'm assuming that if we give another travel lane, that most probably the cars are not going to be backed up bumper to bumper, that's number one. Another reason why is that two years ago, the communities of Saco and Scarborough came before us and they wanted us to approve the fact that the Maine turnpike would pay for the use of their rescue units that go onto the turnpike. This year a Representative came in with a request from the Town of Kennebunk that they also wanted to be reimbursed for having to respond to accident calls on the turnpike. This must mean and it does mean to me and it's quite clear to me that these communities are responding to accidents on the turnpike more frequently than what they were doing even

five years ago. If they are asking to be reimbursed, because they are going out there too often, there must be too many accidents on that stretch of road. So I find that there's nothing wrong in the wording of this question, that the turnpike at that end is congested and adding a third lane will reduce accidents. Thank you.

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

Representative MURPHY: Madam Speaker, Men and Women of the House. We're dealing with two issues here, the two H's. Our history and heartburn. On the history side, in 1987, there are members here in this chamber who voted with an eye to the future the needs of the future of the State of Maine to widen the turnpike. It failed when it went to referendum for a variety of reasons. One, we had just finished a very bitter confrontation with the federal agency on the nuclear dumpsite. That had left people very angry and very anti-government within the state. We hear supporters of changing this language, talking about it isn't clear. I think if we check history, we'll find those same supporters were part of that referendum language that probably is included in government textbooks now because of the classic confusion it created. I think, also, that we were in the early stages of what many people call the Ross Perotism, here in Maine. Those factors came together and a project that should have been constructed was defeated in 1991. We've studied it, it's gotten worse, and I think what we are seeing here is some heartburn, because the Turnpike Authority, very graciously, went along and said, history will probably repeat itself so let's go right directly to the people and let's create a very clear question, contrary to what was seen in 1991. I have no problems with this language, reduce accidents. Scarborough, Saco, Biddeford, Kennebunk and Wells are picking up the bodies. 65 calls last year from Kennebunk alone. We're picking up the bodies and we're hauling them away. Congestion, until I had the distinct honor of two brand new state liquor stores in Kennebunk, Kennebunk usually was on the radio, because during the spring through the fall, traffic is backed up to exit 3, Kennebunk, and that happens with regularity, Friday, Saturday and Sunday. Not just holiday weekends, but the spring through the fall, so I would hope that you would support this motion to indefinitely postpone. This is a very clear question, let's move forward. Let's work toward the progress of the State of Maine.

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

Representative CARLETON: Madam Speaker, Men and Women of the House. When I saw the five or six words in question, the first thing I thought of was that these words indicated the purpose of the request. We have in all kinds of things statements of purpose, sometimes they are at the beginning of the paper in which you are requested to do something, sometimes they are at the end. In this particular case it happens to be at the end and I think it answers the question that a voter might legitimately ask, why do you want us to do what we are being asked to do? Why do you want us to vote to widen the turnpike? What is the stated reason? We may agree with the reason, or we may not agree with the reason, but what is the rationale for it? Without going any further, I think that is perfectly appropriate to include in a referendum question.

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

Representative O'BRIEN: Madam Speaker, Ladies and Gentlemen of the House. I recently mailed out a questionnaire in my district and I received an overwhelming response. One of the questions was, I don't have the wording in front of me, but it was basically, would you like to see the turnpike widened? It was overwhelming, yes. That's where I will be on that issue, but I did

receive several comments, because two or three of the questions, and the turnpike not being one of them, kind of were loaded questions and I was chastised in the comment section. They said, when you're going to ask a question, when you're asking for our opinion, make sure that it is not biased. I do see this as a biased question, so I will be voting that way. Thank you.

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

Representative VOLENIK: Madam Speaker, Men and Women of the House. I worked for the Gallup Organization for about four years in the late 70s and early 80s, and I used to watch people responding to questions. They would often answer contrary to their own best interests because of the wording of the question. I would concur with the Representative from Saco, that the way a question is asked, or the exact wording will absolutely influence the respondents answer. Only a question that is simple, direct and has no modifying clauses or phrases is a fair question. This referendum question, as worded, is absolutely guaranteed to pass.

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

Representative WHEELER: Madam Speaker, Men and Women of the House. I think you all realize now after hearing different debate that it doesn't matter how we worded the question, there was still going to be a question on how we are wording it. Just to answer Representative Bull's question, he'd like to see a study that was done, I'm really surprised he hasn't seen it, because the Natural Resources Council is well aware of it, here is a synopsis and conclusion regarding the turnpike, alternatives, and analysis, and right in here it talks about congestion, and accidents on the Maine turnpike, how they're higher on the four lane section, and they are 72 percent lower on the six lane section. This is a question of safety. This is what this question is. It's telling the people why we need to widen the turnpike. I have some sample questions here, because I knew everybody would say, how come we haven't done this before, but this is from the Secretary of State's Office, we had a question back in 1996, should electronic video games for cash prizes be legal in Maine? Now how come, they had to put for cash prizes in this question? That's a loaded question to me. If the turnpike question is loaded, obviously that ones loaded. Another question is, do you want Maine to adopt new campaign finance laws and give public funding to candidates in state office who agree to spending limits? Come on folks, we can go on about loaded questions all day. I urge you to indefinitely postpone House Amendment "A."

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

Representative ETNIER: Madam Speaker, Ladies and Gentlemen of the House. I'm delighted that the Representative from Saco, Representative O'Neil, brought this amendment forward. I opposed the widening six years ago, whenever it was, I used to drive this road regularly. For some reason or other, I don't drive that road very much in the last few years. I'm relying heavily on the studies I have heard, based on the information I have heard to date, I certainly intend to support the widening and tell my constituents that that's what they should do, if the question arises, but the reason I am delighted with this amendment is I think it is a refreshing change from the language, the good Representative, Representative Wheeler, mentioned that we have seen in recent years on all of our referendum questions and I have been chided for as a state Representative, as to why, whether it's any number of the referendum questions that have come up, the referendum wording has been extremely misleading. I think the turnpike referendum wording was

extremely misleading and all the other ones have been as well. This is a rare opportunity for us, ladies and gentlemen, to correct that and actually send out, thanks to Representative from Saco's amendment, a clear, succinct, unslanted question. I do intend to support the widening at this point in time, I think this is a very good amendment and I urge you to oppose the indefinite postponement.

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

Representative MACK: Madam Speaker, Right Honorable, Men and Women of the House. I gave this issue a lot of thought last night, I definitely support widening of the turnpike. As you would imagine, no one would like the traffic on the turnpike to move more smoothly and faster than myself. However, when I thought about the way this question was worded, it definitely is worded clearly, but is worded biasily and I don't like setting up the precedent of having biased questions on the ballot. I would love to see a ballot question on the ballot, would you like a 25 percent income tax cut for the purpose of economic growth and so that working families keep more of what they earn. I would love to see that, but I don't think that's a fair way to word it. I would be quite upset if it was on the other way, would you like a 20 percent raise in the income tax to provide whatever needed programs you wanted to insert there. I don't think we should have politicking on the ballot itself. I definitely support widening. I think it's a great idea, but this question is biased, depending on how you ask a question, you can get the results to come out any way and I think by removing these last few words you would have an unbiased question and the good people of Maine will know enough, hopefully, to vote to widen the turnpike. Thank you.

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

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

The SPEAKER: The Representative may pose his questions.

Representative SHANNON: I would like to ask to anyone who might know the answer, is the word authority in the title of the group that controls the turnpike system in Maine? And second, if under the law, they even need to go to referendum, in order to widen the turnpike?

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

Representative WHEELER: Madam Speaker, Men and Women of the House. No, this did not need to go to referendum in order to have the Turnpike Authority widen. We could have okayed it through Legislature, but the Turnpike Authority insisted, and I argued with them about this, because I didn't want it to go to referendum, I really didn't, I'm worried about it going to referendum, to be honest about with you. I would rather seen it taken care of right here. I have constituents that call me every weekend when I get home. What are you guys doing? Take it up in the Legislature. We don't need a referendum question. Widen the turnpike, enough is enough, but the Turnpike Authority insisted on this.

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

Representative LINDAHL: Madam Speaker, Men and Women of the House. The reason we decided to put this to referendum was because if we let the Turnpike Authority go ahead with this, then there would have been a citizen initiative. They would have chose the wording on the question and possibly we would have gotten another question like they put out last time. Do you favor changes in Maine law concerning deauthorizing the widening of the Maine turnpike and establishing a transportation policy proposed by the citizen

petition? That's why we chose the wording to make it very simple and clear. Thank you.

The SPEAKER: The Chair recognizes the Representative from Wilton, Representative LaVerdiere.

Representative LAVERDIERE: Madam Speaker, Men and Women of the House. It's very rare that I rise, and it's even more rare that I admit that I'm an attorney. On this occasion, I rise to ask that you vote against the indefinite postponement and in favor of the amendment. The reason I do that is because I want to make a point that I think can be made very simply in the same way that someone made it to me when I was in law school. That was simply this, it's not so important how clear the question is, it's more important, the answer. The answer we get back from this question will be confusing, because we won't know whether people are in favor of widening, or just reducing congestion and reducing accidents. I would submit to you a simple question. Have you stopped stealing from your employer yet? Very clear question. The answer is not clear. If you say yes, that implies that you were stealing and if you say no, it implies that you haven't stopped yet. So I would submit to you, it's not so much how clear the question is, it's important to understand the answer that you get back. To that extent, I would say that the question and the answer that we get back will be much more clear if we eliminate those last five words. I would urge you to vote against indefinite postponement and in favor of the amendment. Thank you.

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

Representative CHARTRAND: Madam Speaker, Men and Women of the House. I wanted to correct one thing the good Representative Wheeler said earlier, this wasn't a 12 to 1 Report. It was actually unanimous, but I think he must have been thinking of me when he thought of 12 to 1, because I did object to this wording in Committee, but at the time I was kind of tired of being on the Minority Reports and having a lot of divided reports and went along with it and voted for this wording, but I'm actually glad to have a chance to vote on it again today and I appreciate the fact that Representative O'Neil submitted this, because I did object to this wording and I think really, the people of Maine are smart enough to know this question with or without this extra wording, but I would just as soon see it go out without the extra wording and have it be as clear and simple as possible and not have any debate about how it's worded. I think if we take the four words off, there's no question, that there's not a spin on it, very clear, in fact, when the Secretary of State's Committee that reports on referendum wording spoke to us, they did go along with the recommendation to take that wording off, too, and they did say that if it had been a citizen initiative, they probably would not let it go out with those words, but the fact that the Legislature can send it out, we can do what we want, but I would urge us to adhere to the same standards of language quality, so to speak, that the citizens would have to if they had submitted this and keep it simple without those four words. There's not a big difference and I agree that the last referendum on this subject was unclear. Let's not go back in that direction, let's keep this one absolutely clear and not fall victim to the same problems that we criticized other referendums for, as being confusing, or having extra things in there that don't need it. I really think the people of Maine are smart enough to make a decision on this without being spoon fed, so to speak, as Representative O'Neil does to his children sometimes. Let's just go against the indefinite postponement and support this question in its clearest form.

Representative CHARTRAND of Rockland requested a roll call on the motion to indefinitely postpone House Amendment "A" (H-642).

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

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

Representative DRISCOLL: Madam Speaker, Men and Women of the House. In committee we discussed this thoroughly, we had people in, we kicked it around with a lot of different viewpoints, but we did come to pretty near unanimous consensus that these words were the best way to go. We looked at a lot of different ways to word this and we finally did come up with these words and I think the Transportation Committee has done a good job and they deserve a lot of credit for the work they have put in to this wording. I think we have kicked this around long enough here in the House and I hope that you will indefinitely postpone this amendment. Thank you.

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

Representative O'NEIL: Madam Speaker, Men and Women of the House. I have a neighbor who is in favor of widening the turnpike and I asked him why, just out of curiosity, and he said, well, it's going to create 11,000 jobs and it'll give us \$465,000,000 in industrial output. I said, where on earth did you ever get that. He said, I got it out of that report from the PAC that you gave me that the study group came up with. I said, Oh, I'm sorry. Well if you can believe that you can believe a lot of things. You can believe it'll put hair on my chest, but that's not the issue. The question is, he wouldn't vote for this question because the reason he wants the turnpike widened is for economic development.

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

Representative CAMERON: Madam Speaker, Ladies and Gentlemen of the House. As far as the confusion, or being leading, if you will, I see two other phrases, depending on the interpretation can be leading. One of them says, paid for by turnpike tolls. Well, I know someone who voted against the widening for that very reason the last time, because Senator Muskie promised that the tolls would come off in 1976, and he's still angry about that, that it didn't. So that becomes a leading question to him. I know someone else who says, add one to the southbound lane so the tourists will leave faster. That becomes a leading question to that person. You can't write a question, I don't believe, that doesn't have something in it that's leading and the piece that says something about reducing accidents and congestion, is that true, absolutely it's true. Then why shouldn't the citizens know why they're voting, not like the last time when they were misled and they had to vote no to vote yes, and vote yes to vote no. It was a clear effort to misled the citizens of Maine and it worked. I submit to you that what we've accomplished by that last vote, was absolutely nothing except maybe injured citizens of Maine and other states that may not have been injured if we had gone ahead and done that and we may have doubled the cost. I don't know what the purpose of that was. I don't have any problem with the question the way it is, because it's absolutely clear and we heard somebody say, we're guaranteed to win. Hey, I feel great about that, because it's time we did it and stopped playing games. I'd urge you to support the indefinite postponement.

The SPEAKER: The Chair recognizes the Representative from Wiscasset, Representative Rines.

Representative RINES: Madam Speaker, Men and Women of the House. Like the good Representative from Augusta, I also put out a questionnaire recently and like her I kept mine as simple as possible. Should the Maine turnpike be widened? The only difference is, I got a resounding no in my results, but the

point is, I've always thought that a question should be as simple as possible and I would urge you to defeat the present motion.

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

ROLL CALL NO. 282

YEA - Baker JL, Belanger DJ, Belanger IG, Berry DP, Berry RL, Bigl, Bolduc, Bouffard, Bragdon, Brooks, Bruno, Bumps, Cameron, Campbell, Carleton, Chick, Chizmar, Cianchette, Clukey, Driscoll, Dutremble, Fisher, Foster, Frechette, Fuller, Gieringer, Goodwin, Gooley, Honey, Jones SL, Jones SA, Joy, Joyce, Kane, Kerr, Kneeland, Labrecque, Lane, Lemke, Lemont, Lindahl, Lovett, MacDougall, Madore, Mailhot, Marvin, Mayo, McAlevey, McElroy, Morgan, Murphy, Muse, Nass, Nickerson, O'Neal, Ott, Paul, Peavey, Pendleton, Perry, Plowman, Savage, Shannon, Snowe-Mello, Stedman, Taylor, Tessier, Tobin, Treadwell, True, Tuttle, Underwood, Usher, Vedral, Waterhouse, Wheeler EM, Wheeler GJ, Winglass, Winsor, Wright, Madam Speaker.

NAY - Ahearne, Bagley, Brennan, Bull, Bunker, Chartrand, Clark, Colwell, Cowger, Davidson, Desmond, Dunlap, Etnier, Gagne, Gerry, Green, Hatch, Jabar, Jones KW, Kasprzak, LaVerdiere, Lemaire, Mack, McKee, O'Brien, O'Neil, Pieh, Pinkham RG, Povich, Powers, Richard, Rines, Rowe, Samson, Saxl JW, Saxl MV, Shiah, Stanley, Thompson, Townsend, Tripp, Volenik, Watson, Winn.

ABSENT - Baker CL, Barth, Bodwell, Buck, Cross, Dexter, Donnelly, Farnsworth, Fisk, Gagnon, Gamache, Joyner, Kontos, Layton, Meres, Mitchell JE, Perkins, Pinkham WD, Poulin, Quint, Sanborn, Sirois, Skoglund, Spear, Stevens, Vigue.

Yes, 81; No, 44; Absent, 26; Excused, 0.

81 having voted in the affirmative and 44 voted in the negative, with 26 being absent, House Amendment "A" (H-642) was indefinitely postponed.

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

Representative MURPHY: Madam Speaker, Men and Women of the House. I think if we took all of our campaign brochures and all of our campaign ads, put them together, we could find in a variety of different ways, we all said we were running because we had a vision for Maine's future and I think with this issue that's before us right now, that vision is very clear.

Representative MURPHY of Kennebunk requested a roll call on passage to be engrossed.

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

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

ROLL CALL NO. 283

YEA - Bagley, Baker JL, Belanger DJ, Belanger IG, Berry DP, Berry RL, Bigl, Bolduc, Bouffard, Bragdon, Brennan, Brooks, Bruno, Bumps, Bunker, Cameron, Campbell, Carleton, Chartrand, Chick, Chizmar, Cianchette, Clark, Clukey, Colwell, Cowger, Davidson, Desmond, Driscoll, Dutremble, Etnier, Fisher, Foster, Frechette, Fuller, Gagne, Gieringer, Gooley, Green, Hatch, Honey, Jabar, Jones SL, Jones SA, Joy, Joyce, Kane, Kasprzak, Kerr, Kneeland, Labrecque, Lane, LaVerdiere, Lemaire, Lemke, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, Mailhot, Marvin, Mayo, McAlevey, McElroy, McKee, Morgan, Murphy, Muse, Nass, Nickerson, O'Brien, O'Neal, O'Neil, Ott, Paul, Peavey, Pendleton, Perry, Pieh, Pinkham RG, Plowman, Povich, Powers, Richard, Rines, Rowe, Samson, Savage, Saxl JW, Saxl MV, Shannon, Shiah, Snowe-Mello, Stanley, Stedman, Taylor, Tessier, Thompson, Tobin, Townsend,

Treadwell, Tripp, True, Tuttle, Underwood, Usher, Vedral, Waterhouse, Watson, Wheeler EM, Wheeler GJ, Winglass, Winsor, Wright, Madam Speaker.

NAY - Ahearne, Bull, Dunlap, Gerry, Goodwin, Jones KW, Volenik, Winn.

ABSENT - Baker CL, Barth, Bodwell, Buck, Cross, Dexter, Donnelly, Farnsworth, Fisk, Gagnon, Gamache, Joyner, Kontos, Layton, Meres, Mitchell JE, Perkins, Pinkham WD, Poulin, Quint, Sanborn, Sirois, Skoglund, Spear, Stevens, Vigue.

Yes, 117; No, 8; Absent, 26; Excused, 0.

117 having voted in the affirmative and 8 voted in the negative, with 26 being absent, the Bill was passed to be engrossed in concurrence. Ordered sent forthwith.

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

ENACTORS Mandate

An Act Concerning Time-out Areas (H.P. 1099) (L.D. 1542) (C. "A" H-541)

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

On motion of Representative DAVIDSON of Brunswick, the rules were suspended for the purpose of reconsideration.

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

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

On further motion of the same Representative, the House reconsidered its action whereby Committee Amendment "A" (H-541) was adopted.

The same Representative presented House Amendment "A" (H-612) to Committee Amendment "A" (H-541) which was read by the Clerk.

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

Representative DAVIDSON: Madam Speaker, Men and Women of the House. On behalf of the entire Committee on Engrossed Bills, I want to thank them for their hard work. Representative O'Brien, Representative Winglass. This amendment simply changes the word from define to define in.

House Amendment "A" (H-612) was adopted.

Committee Amendment "A" (H-541) as amended by House Amendment "A" (H-612) thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-541) as amended by House Amendment "A" (H-612) thereto in non-concurrence and sent up for concurrence.

An Act to Establish the Civil Violation of Creating a Police Standoff (H.P. 1010) (L.D. 1402) (C. "A" H-470)

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

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

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

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

On further motion of the same Representative, the House reconsidered its action whereby Committee Amendment "A" (H-470) was adopted.

The same Representative presented House Amendment "A" (H-676) to Committee Amendment "A" (H-470) which was read by the Clerk and adopted.

Committee Amendment "A" (H-470) as amended by House Amendment "A" (H-676) thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-470) as amended by House Amendment "A" (H-676) thereto in non-concurrence and sent up for concurrence.

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

UNFINISHED BUSINESS

The following matter, in the consideration of which the House was engaged at the time of adjournment yesterday, has preference in the Orders of the Day and continues with such preference until disposed of as provided by House Rule 502.

HOUSE DIVIDED REPORT - Majority (8) **"Ought to Pass"** as amended by Committee Amendment "A" (H-563) - Minority (5) **"Ought Not to Pass"** - Committee on **Legal and Veterans Affairs** on Bill "An Act Regarding the Economic Security and Safety of Harness Horsepersons" (H.P. 1239) (L.D. 1756) TABLED - May 20, 1997 by Representative TUTTLE of Sanford. PENDING - Acceptance of either Report.

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

The Bill was read once. Committee Amendment "A" (H-563) was read by the Clerk.

On further motion of the same Representative, Committee Amendment "A" (H-563) was indefinitely postponed.

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

The same Representative presented House Amendment "A" (H-683), which was read by the Clerk and adopted.

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

Representative KERR: Madam Speaker, Men and Women of the House. I'd like to just to take this opportunity and I would like to thank everyone for participating in preparing this compromise legislation. After a hard fought battle, the interested parties in harness racing, once again, got together and have drafted a bill that will actually help the sport and the entire industry. The bill ensures appropriate elections for bargaining agents, protects purse moneys without interfering with cash flow, and provides a potential for a two year license. With these changes a bill that would have been destabilizing this industry will now enhance and improve the industry's ability to plan and grow prosperously. I want to particularly thank a member from the other body, Senator Daggett, the good Representative from Fryeburg, Representative True, showed a willingness to get to the table and resolve these issues, Representative Chizmar, and the House Chair of that Committee, Representative Tuttle, the administration, the staff, Jack Richards, and Henry Jackson, along with attorneys, Craig Rancourt and Ned McCall made this all possible. I would urge your support in supporting L.D. 1756. Thank you.

The SPEAKER: The pending question before the House is passage to be engrossed.

The Bill was passed to be engrossed as amended by House Amendment "A" (H-683) and sent up for concurrence. Ordered sent forthwith.

LEGISLATIVE RECORD- HOUSE, May 23, 1997

On motion of Representative TAYLOR of Cumberland, the House adjourned at 5:20 p.m., until 9:00 a.m., Tuesday, May 27, 1997.