

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
34th Legislative Day
Tuesday, May 27, 1997

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

Prayer by Reverend Lawrence B. Wiles, Belgrade Bible Church.

National Anthem by Easton High School Band.

Pledge of Allegiance.

Doctor of the day, Kenneth H. Johnson, D.O., Stillwater.

The Journal of Friday, May 23, 1997 was read and approved.

SENATE PAPERS

The following Communication: (H.C. 287)
THE SENATE OF MAINE
3 State House Station
Augusta, Maine 04333
May 22, 1997

The Honorable Joseph W. Mayo

Clerk of the House

State House Station 2

Augusta, Maine 04333

Dear Clerk Mayo:

Please be advised that the Senate today adhered to its previous action whereby it accepted the Majority Ought Not to Pass Report from the Committee on Taxation on Bill "An Act Concerning Fuel Taxes for Carriers Operating School Buses under Contract" (H.P. 1249) (L.D. 1768).

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

Was read and ordered placed on file.

The following Communication: (H.C. 288)
THE SENATE OF MAINE
3 STATE HOUSE STATION
AUGUSTA, MAINE 04333
May 23, 1997

The Honorable Elizabeth H. Mitchell

Speaker of the House

118th Maine Legislature

2 State House Station

Augusta, Maine 04333

Dear Speaker Mitchell:

In accordance with Joint Rule 506, please be advised the Senate today confirmed, upon the recommendation of the Joint Standing Committee on Inland Fisheries and Wildlife the nominations of Harold H. Brown of Bangor and A. David Trahan of Waldoboro for appointment to the Inland Fisheries and Wildlife Advisory Council.

Thank you for your attention to this matter.

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

Was read and ordered placed on file.

Divided Report

Majority Report of the Committee on **Criminal Justice** reporting "**Ought to Pass**" as amended by Committee

Amendment "A" (S-314) on Bill "An Act to Amend the Maine Bail Code" (S.P. 509) (L.D. 1571)

Signed:

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

Minority Report of the same Committee reporting "**Ought to Pass**" as amended by Committee Amendment "B" (S-315) on same Bill.

Signed:

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

Representatives: PEAHEY of Woolwich
BUNKER of Kossuth Township

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-315).

Was read.

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

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

Divided Report

Majority Report of the Committee on **Banking and Insurance** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-313) on Bill "An Act to Streamline Licensing and Reporting Requirements and Reduce Regulatory Burdens for Licensed Insurance Professionals and Insurers" (EMERGENCY) (S.P. 535) (L.D. 1640)

Signed:

Senators: LaFOUNTAIN of York
MURRAY of Penobscot
ABROMSON of Cumberland

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

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

Signed:

Representative: MAYO of Bath

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-313).

Was read.

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

The Bill was read once. Committee Amendment "A" (S-313) 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-313) in concurrence.

Divided Report

Majority Report of the Committee on **Agriculture, Conservation and Forestry** reporting "**Ought Not to Pass**" on Bill "An Act to Amend the Membership of the Maine Land Use Regulation Commission" (S.P. 347) (L.D. 1166)

Signed:

Senators: KILKELLY of Lincoln
PARADIS of Arostook

Representatives: SAMSON of Jay
VOLENIK of Brooklin
SHIAH of Bowdoinham
GOOLEY of Farmington
BAKER of Dixfield
McKEE of Wayne

Minority Report of the same Committee reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-244) on same Bill.

Signed:

Senator: CASSIDY of Washington
Representatives: BUNKER of Kossuth Township
LANE of Enfield
CROSS of Dover-Foxcroft
DEXTER of Kingfield

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

Was read.

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

Divided Report

Majority Report of the Committee on **Appropriations and Financial Affairs** reporting "**Ought Not to Pass**" on Bill "An Act to Reduce the Cost of State Government" (S.P. 375) (L.D. 1234)

Signed:

Senators: CLEVELAND of Androscoggin
MICHAUD of Penobscot
Representatives: KERR of Old Orchard Beach
LEMAIRE of Lewiston
KNEELAND of Easton
TOWNSEND of Portland
BERRY of Livermore
POULIN of Oakland
STEVENS of Orono

Minority Report of the same Committee reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-290) on same Bill.

Signed:

Senator: BENNETT of Oxford
Representatives: WINSOR of Norway
MARVIN of Cape Elizabeth
OTT of York

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

Was read.

Representative KERR of Old Orchard Beach moved that the House accept the Majority "**Ought Not to Pass**" Report.

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

Representative WINSOR: Madam Speaker, Men and Women of the House. This won't take long. It's an interesting bill and I think it does deserve a little bit of understanding before we vote. If you think the state is heart-heavy with administrative people at the top of the wage scale, then this bill is for you. The bill that's proposed would require the Executive Department to reduce by 10 percent, or \$500,000, the people from the very small, by eliminating jobs from a very small group of people, as defined by Title 2 and Title 6. These general fund positions, actually, many of them make in excess of \$60,000 per year. These Title 2 positions primarily are commissioners, deputy commissioners, bureau directions and so on, and it amounts to about 80 people in the state payroll. These people serve at the pleasure of the appointing authority, or the Governor. The Title 5 positions are people who are generally of the Governor's staff, or the Chief Executive's staff. This bill, really, is designed to deal with those people at the top of the feeding chain. Some people feel, remembering the productivity task force, its been called, by many, productivity task force. But I think its a deserving way, because its the only way I can think of to require the administration to look at those people at the top of the feeding chain. These are not the worker bees. These are the people that many people complain about that were top heavy and so on. So with that in mind, I think its a deserving deal. Its leads the choice of how to accomplish the goal of saving \$500,000 through the administration. Its not micro-managing, in my point of view. It simply offers the Chief Executive an opportunity to reduce spending in one particular line. The total amount of people involved is somewhere around fewer than 150, and they could accomplish their goal by laying off as few as six, or more to make up the money if they wanted to take people at lower wages. So, with that in mind, I'd appreciate your vote and would ask for a roll call. Thank you.

Representative WINSOR of Norway 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 Old Orchard Beach, Representative Kerr.

Representative KERR: Madam Speaker, Men and Women of the House. Just a little further explanation on what this bill does. The good Representative did indicate that it was a reduction of \$500,000 that could be achieved through a similar productivity two. As you all know, the joint standing committees reviewed these title 2 and title 5 positions. At no time were there any recommendations to decrease these positions or money amounts. What is disturbing about this bill? It asks the Chief Executive to come up with a plan to reduce this dollar amount by \$500,000. That plan comes back to the Legislature, and then by a two-thirds vote we have to make that decision. That's what's so bad about this bill? It comes back to us and we make that decision. I would urge you to support the Majority "Ought Not to Pass" Report and next time around should we go through this budgetary process, that if we find, in our joint standing committees, areas that you can make reductions, you make them. But let's not go through productivity two here in the Legislature.

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

Representative MARVIN: Madam Speaker, Ladies and Gentlemen of the House. One of the big frustrations to me as a member of the Appropriations Committee is that state government just keeps getting bigger and bigger. Contrary to popular belief, we never cut any programs. I think, certainly, the

argument can be made that this is just another version of the productivity task force, and that the productivity task force really didn't live up to our expectations. However, I don't think that this means that we give up. I don't think this means we say, Aah, it didn't work so forget about it. I think what it means is we work harder and try another method of making state government get smaller and more efficient. This is one possible option. Now, I would dare say that there are branches of our government, and departments in state government that are extremely well run and well administrated. I would also suggest that their are some departments that are quite top heavy and need to be realigned. The productivity task force tried to work from the bottom up, and this project will try to work from the bottom down. I don't know for a fact it will work. Maybe it will and maybe it won't, however, I am sure that Maine state government needs to be smaller. This is one way to achieve that goal. I'm a strong believer in good government, and a government that's run in an efficient, cost effective manner. I think this is an opportunity for us to move towards those ends. I urge you to defeat the pending motion and to go on and accept the Minority Report. Thank you.

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

Representative TOWNSEND: Madam Speaker, Men and Women of the House. As you'll see, my name appears on the "Ought Not to Pass" report on this bill. I regard it as a clumsy approach to solve what is a very real issue, and that is the gross of the non-classified employees in state government. However, human nature being what it is, the approach that this takes, I think, is the wrong one. It leaves the judgment to the commissioners, along with the Governor, the Executive, to choose which positions to be eliminated. I think that we saw, through the productivity task force, a tendency to guard the positions of those closest to us, and to eliminate the positions of those with whom we do not work well. I would point to the fact that, during the productivity task force process, we developed a number of these positions, associate commissioners, assistant to the commissioner, special legislative liaison. I can assure you that through this bill, those people will retain those positions. But, probably those who work a little closer to the front line will lose theirs. One of the things that we learned through the process of working on this is that there are a fair number of quite low paid non-classified employees. I would suggest that another way to address this very idea would be to put in a bill to eliminate specific positions. Perhaps, eliminate each of the legislative liaisons. That would total up to the \$500,000 goal here. Finally, I want to recall the outcome of the productivity task force and remind you that one of the first things we did when we came back into session this year, was to undo some of the damage that had been done in the Corrections Department as a result of the productivity task force. We've learned that setting a financial goal and hacking positions to meet it is a bad idea. For that reason I ask you to join me in voting "Ought Not to Pass."

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

Representative WINSOR: Madam Speaker, Men and Women of the House. It is for the very reasons that my good colleagues from Old Orchard and Portland ask you to support the present motion that I oppose it. Frankly, we're talking about fewer than 150 job positions. I think there are only seven or eight people who fill out those slots who are paid less than \$50,000. Those people work as personal aids to the Executive and secretaries. The second thing, we have a real swipe at this because the Governor, or the Executive, would choose whose job to eliminate, and as the good Representative from Old Orchard said, it would have to come back to us for final approval. I think it's a conservative, not perfect, but certainly it's the only

way I know to accomplish the goals of having people seriously look at those individuals who serve at the top of the food chain. I appreciate your vote, and thank you very much.

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. 284

YEA - Ahearne, Bagley, Baker CL, Baker JL, Belanger IG, Berry RL, Bigl, Bodwell, Bolduc, Bouffard, Brooks, Bruno, Bull, Bumps, Cameron, Chizmar, Clark, Clukey, Colwell, Cowger, Davidson, Dexter, Driscoll, Dunlap, Dutremble, Etnier, Farnsworth, Fisher, Frechette, Fuller, Gagne, Gagnon, Hatch, Jabar, Jones KW, Jones SL, Kane, Kerr, Kneeland, Kontos, LaVerdiere, Lemaire, Lemont, Madore, Mailhot, Mayo, McAlevey, McElroy, Mitchell JE, Morgan, O'Neal, O'Neil, Paul, Pendleton, Perry, Pieh, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Spear, Stanley, Tessier, Thompson, Townsend, Tripp, Tuttle, Vigue, Volenik, Watson, Wheeler EM, Wheeler GJ, Winn, Wright, Madam Speaker.

NAY - Belanger DJ, Berry DP, Bragdon, Buck, Campbell, Carleton, Chick, Cianchette, Cross, Desmond, Donnelly, Fisk, Foster, Gerry, Gieringer, Goodwin, Gooley, Honey, Jones SA, Joy, Joyce, Kasprzak, Lane, Layton, Lemke, Lindahl, MacDougall, Mack, Marvin, Murphy, Nass, Nickerson, O'Brien, Peavey, Perkins, Pinkham RG, Pinkham WD, Plowman, Savage, Snowe-Mello, Stedman, Taylor, Tobin, Treadwell, True, Underwood, Vedral, Waterhouse, Winglass, Winsor.

ABSENT - Barth, Brennan, Bunker, Chartrand, Gamache, Green, Joyner, Labrecque, Lovett, McKee, Meres, Muse, Ott, Stevens, Usher.

Yes, 86; No, 50; Absent, 15; Excused, 0.

86 having voted in the affirmative and 50 voted in the negative, with 15 being absent, the Majority "Ought Not to Pass" Report was accepted in concurrence.

Non-Concurrent Matter

An Act to Authorize a Physician's Assistant or a Nurse Practitioner to Sign Papers Transferring a Patient for Evaluation for Emergency Involuntary Commitment (S.P. 83) (L.D. 263) (C. "A" S-227; S. "A" S-229) on which the Bill and accompanying papers were indefinitely postponed in the House on May 21, 1997.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (S-227) as amended by Senate Amendment "A" (S-322) thereto and Senate Amendment "A" (S-229) in non-concurrence.

The House voted to Recede and Concur.

Non-Concurrent Matter

Bill "An Act to Amend the Conditions upon Which a Minor May Obtain Emancipation" (H.P. 1109) (L.D. 1552) on which the Majority "Ought to Pass" as amended Report of the Committee on **Judiciary** was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-640) in the House on May 23, 1997.

Came from the Senate with the Bill and accompanying papers indefinitely postponed in non-concurrence.

The House voted to Adhere.

Non-Concurrent Matter

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide 4-year Terms for Senators and Members of the House of Representatives (S.P. 89) (L.D. 269) on which the Minority "**Ought Not to Pass**" Report of the Committee on **State and Local Government** 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 Majority "**Ought to Pass**" as amended Report of the Committee on **State and Local Government** was read and accepted and the Resolution passed to be engrossed as amended by Committee Amendment "A" (S-287) in non-concurrence.

The House voted to Adhere.

Non-Concurrent Matter

Bill "An Act to Amend the Site Location of Development Laws" (EMERGENCY) (H.P. 1065) (L.D. 1503) on which the Minority "**Ought Not to Pass**" Report of the Committee on **Natural Resources** was read and accepted in the House on May 23, 1997.

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" (H-609) in non-concurrence.

Representative ROWE of Portland moved that the House Recede and Concur.

On further motion of the same Representative, tabled pending his motion to Recede and Concur and later today assigned.

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

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

Expression of Legislative sentiment recognizing Charles Buker (HLS 368)
TABLED - May 2, 1997 by Representative SAXL of Portland.
PENDING - Passage.

The Sentiment was read.

The SPEAKER: The Chair recognizes the Representative from Poland, Representative Snowe-Mello.

Representative SNOWE-MELLO: Madam Speaker, Fellow Members of the House. I am honored and privileged to stand here today in recognition of two fine young men who live in my district in the town of Minot. These two men, young men, who belong to the Boy Scout Troop 139 in Minot, have earned the high rank and distinction of Eagle Scout. Frank "Carl" Mottram, III earned his Eagle Scout by designing, building and painting a new sign for the town office in Minot. Charles "Chuck" Buker earned his Eagle Scout by clearing the brush and debris from the intersections and road signs in the town of Minot. Both young men have worked diligently to attain their Eagle Scout. In this, I extend my congratulations and best wishes to both Carl and Chuck for a job well done. Thank you.

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

REPORTS OF COMMITTEES
Divided Report

Majority Report of the Committee on **Labor** reporting "**Ought Not to Pass**" on Bill "An Act to Require Step-pay Increases in Wages in Expired Collective Bargaining Agreements" (H.P. 1060) (L.D. 1498)

Signed:

Senators: CATHCART of Penobscot
MILLS of Somerset

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

Minority Report of the same Committee reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-678) on same Bill.

Signed:

Senator: TREAT of Kennebec
Representatives: HATCH of Skowhegan
BOLDUC of Auburn
STANLEY of Medway

Was read.

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

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

Representative HATCH: Madam Speaker, Men and Women of the House. This particular bill has been amended by the minority of the committee. The amendment removes, from the bill, changes to the laws governing municipal public employees labor relations, and amends the laws governing the University of Maine system labor relations and Judicial employees labor relations. With the amendment the bill requires the state, the Judicial branch and public employees subject to laws governing the University of Maine system, to continue to pay wage increases according to the wage plan of an expired collective bargaining agreement until an impasse is reached. The amendment permits the parties to negotiate a specific agreement for an alternate method for handling wage increases. An application section limits the scopes of this bill to those contracts negotiated after October 1, 1997. During our deliberations, the negotiating teams for the state and for the University of Maine were in the committee room and said that in most cases they do indeed pay those step increases. With the amendment there is a note, it says \$1 million, but if they're already being paid, I can't even imagine why they would need the \$1 million more to pay these step increases. I encourage you to support this. It would help in the negotiations with the University of Maine system for those teachers who are on a step increase system. Thank you very much.

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

Representative PENDLETON: Madam Speaker, Men and Women of the House. I believed, as the other committee members did that voted on the "Ought Not to Pass" side, that this would be interfering with the collective bargaining process for these employees. We did find out, during the hearing, that in most cases in expired contracts, the step increases if individuals had them coming, they were being paid. So, I feel that there is really no need for this bill, based on those two reasons. I would request a roll call on this issue please.

Representative PENDLETON of Scarborough requested a roll call on the motion to accept the Minority "**Ought to Pass**" as amended Report.

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

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

Representative COWGER: Madam Speaker, Men and Women of the House. I introduced this legislation out of great respect for public employees, having been one in my, shall we say, former life. Most public employees do not have the right to strike, and therefore I consider that they deserve additional means of protection. Such as what this bill does, which is simply to guarantee that step pay increases in expired contracts continue to be honored until an impasse is reached. The original intent of this bill was to have it apply to all public employees. It was since amended by the committee to apply only to state employees, employees of the Judicial branch and employees covered under the University of Maine system. I would urge you to support the pending motion. Thank you.

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

ROLL CALL NO. 285

YEA - Ahearne, Bagley, Baker CL, Baker JL, Berry RL, Bolduc, Brooks, Bull, Chartrand, Clark, Colwell, Cowger, Davidson, Driscoll, Dunlap, Dutremble, Farnsworth, Fisher, Frechette, Gagne, Gagnon, Goodwin, Green, Hatch, Jabar, Jones KW, Jones SL, Kane, Kontos, LaVerdiere, Lemaire, Lemke, Madore, McKee, Mitchell JE, Morgan, Muse, O'Brien, O'Neal, O'Neil, Paul, Povich, Powers, Quint, Rowe, Samson, Sanborn, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Stanley, Tessier, Townsend, Tripp, Usher, Volenik, Watson, Wheeler GJ, Wright, Madam Speaker.

NAY - Belanger DJ, Belanger IG, Berry DP, Bigl, Bodwell, Bouffard, Bragdon, Bruno, Buck, Bumps, Cameron, Campbell, Carleton, Chick, Chizmar, Cianchette, Clukey, Cross, Desmond, Dexter, Donnelly, Etnier, Fisk, Foster, Fuller, Gerry, Gieringer, Gooley, Honey, Jones SA, Joy, Joyce, Kasprzak, Kerr, Kneeland, Lane, Layton, Lemont, Lindahl, MacDougall, Mack, Mailhot, Marvin, Mayo, McAlevey, Murphy, Nass, Nickerson, Peavey, Pendleton, Perkins, Perry, Pieh, Pinkham RG, Pinkham WD, Plowman, Richard, Rines, Savage, Snowe-Mello, Spear, Stedman, Taylor, Thompson, Tobin, Treadwell, True, Tuttle, Underwood, Vedral, Vigue, Waterhouse, Wheeler EM, Winglass, Winn, Winsor.

ABSENT - Barth, Brennan, Bunker, Gamache, Joyner, Labrecque, Lovett, McElroy, Meres, Ott, Poulin, Stevens.

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

63 having voted in the affirmative and 76 voted in the negative, with 12 being absent, the Minority "Ought to Pass" as amended Report was not accepted.

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

Divided Report

Majority Report of the Committee on Labor reporting "Ought to Pass" as amended by Committee Amendment "A" (H-677) on Bill "An Act to Protect Workers and Establish Labor Standards for 'Workfare' Participants" (H.P. 1122) (L.D. 1578)

Signed:

Senators: CATHCART of Penobscot
MILLS of Somerset
TREAT of Kennebec

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

STANLEY of Medway

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

Signed:

Representatives: JOYCE of Biddeford
TREADWELL of Carmel

Was read.

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

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

Representative HATCH: Madam Speaker, Men and Women of the House. This particular bill has been replaced by a committee amendment. The original bill had in it that the towns that employed these "workfare" participants would have to have workers' comp insurance. We found out, through the hearing process, they did not need it. Their liability, town liability, would take care of it. But, this amendment replaces the bill with more limited labor standards governing the use of "workfare" participants. The amendment prohibits the use of "workfare" participants to fill vacant positions when there is a labor dispute, or in a manner which violates existing collective bargaining disputes, or infringes upon promotional opportunities for employees. Employers using "workfare" participants must also provide access to a grievance procedure for participants and employees to resolve issues regarding displacement of employees. The amendment also requires the Department of Human Services and the Department of Labor to report to the Joint Standing Committee on Labor by February 1, 1998 on efforts at the federal level to develop standards for "workfare" participants. The amendment also authorizes the committee, the Labor Committee, to report out legislation on labor standards for "workfare" participants during the Second Regular Session of the 118th. The fiscal note on this bill, these costs can be incorporated within the department's existing budget. In other words, we're hoping the feds come down with some rules, and we can use some of those in crafting new legislation in the next session. Thank you.

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

Representative TREADWELL: Madam Speaker, Ladies and Gentlemen of the House. This bill would treat the "workfare" recipients, maybe I should back up just a little bit and explain for those of you who don't know what the "workfare" program is. The Taniff Welfare Reform Act that was passed in Washington and reformed the welfare program, established something called "workfare" which requires the welfare recipients to do some community service as a part of the entitlement to receive those benefits. A single parent family would be required to work 20 hours a week. Now that's not hardly full-time work. What the bill does is give the "workfare" recipients essentially, employee with the towns. We had, in the committee during the hearing and work sessions, we had the general assistance, or the Director of Welfare, depending on their title, from Bangor, Portland, Waterville, Biddeford, the town of Solon and the town of Lincoln. All spoke against this bill because it ties the hands of the town, maybe not literally, but it gives the employee status to the welfare recipients when all it's intended to do is provide them with the opportunity to provide community service for those benefits that they're receiving. The fiscal impact to this bill, according to the fiscal note that I have, is \$1,500,000 a year. In the final analysis, the bill does absolutely nothing to benefit the welfare recipient. All it does is penalize the town.

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

Representative SAMSON: Madam Speaker, Men and Women of the House. It's true that the "workfare" is a federal law. But, the federal government allows states to set standards for "workfare" participants. What this bill does is it basically says that, set standards so that people leaving welfare and going on welfare will not be used in certain cases such as labor disputes. And that "workfare" recipients going to work will not be used to displace workers that currently have jobs. Municipalities basically testified against it for one reason, and that is that we had originally in the bill that the municipalities would have to pay workers' comp on their "workfare" participants. That's been amended out of the current bill. So, much of what the towns were testifying against has been taken out of the bill. Another problem with the bill is that "workfare" participants, some of them, would be working for less than minimum wages. There was a lot of discussion about that during work session and during public hearing. That has been taken care of, for now, with the Department of Human Services and the Department of Labor are supposed to be coming up with standards within the next six months or so. That is why, by February 1, we will be looking at this again. I urge you to support the "Ought to Pass."

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

Representative LAYTON: Madam Speaker, Men and Women of the House. I'm sure that if each and every one of us went back to our home towns, the cities that we represent, and ask them, the town managers or the boards of selectmen, how they felt about the potential liability and increased cost of paying the workers' comp based on "workfare", I don't think you'd get favorable response from them. What I suspect that will happen is if this bill was to pass, is that insurance companies would look at the average number of people that go on workfare in any given municipality and probably rate, and change their coverages and payment schedules based on that average. It will be a tax increase, believe me, to municipalities. Thank you.

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

Representative SAMSON: Madam Speaker, Men and Women of the House. Once again I repeat that the workers' comp coverage in this bill has been removed. It is no longer there. Thank you.

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

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: 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. 286

YEA - Ahearn, Bagley, Baker CL, Baker JL, Belanger IG, Berry RL, Bigl, Bolduc, Bouffard, Bragdon, Brooks, Bruno, Bull, Cameron, Chartrand, Chick, Chizmar, Clark, Colwell, Cowger, Davidson, Desmond, Donnelly, Driscoll, Dunlap, Dutremble, Etnier, Farnsworth, Fisher, Frechette, Fuller, Gagne, Gagnon, Gerry, Gieringer, Goodwin, Green, Hatch, Honey, Jabar, Jones KW, Kane, Kasprzak, Kerr, Kontos, LaVerdiere, Lemaire, Lemke, Lovett, Mailhot, Mayo, McAlevey, McKee, Mitchell JE, Morgan, Muse, O'Neal, O'Neil, Paul, Pendleton, Perkins, Perry, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Spear, Stanley, Stevens, Tessier, Thompson, Townsend, Tripp, Tuttle,

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

NAY - Belanger DJ, Berry DP, Bodwell, Buck, Bumps, Campbell, Carleton, Cianchette, Clukey, Cross, Dexter, Fisk, Foster, Gooley, Jones SL, Jones SA, Joy, Joyce, Kneeland, Lane, Layton, Lemont, Lindahl, MacDougall, Mack, Madore, Marvin, McElroy, Murphy, Nass, Nickerson, O'Brien, Peavey, Pieh, Pinkham RG, Pinkham WD, Plowman, Sanborn, Savage, Snowe-Mello, Stedman, Taylor, Tobin, Treadwell, True, Underwood, Vedral, Vigue, Waterhouse, Wheeler EM, Winglass, Winsor.

ABSENT - Barth, Brennan, Bunker, Gamache, Joyner, Labrecque, Meres, Ott.

Yes, 91; No, 52; Absent, 8; Excused, 0.

91 having voted in the affirmative and 52 voted in the negative, with 8 being absent, the Majority "Ought to Pass" as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (H-677) 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-677) and sent up for concurrence.

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

Expression of Legislative Sentiment recognizing the Forest Hills Consolidated School "Lady Tigers" of Jackman (HLS 213) TABLED - March 31, 1997 by Representative KONTOS of Windham.

PENDING - Passage.

The Sentiment was read.

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

Representative DEXTER: Madam Speaker, Men and Women of the House. You all know how we like to brag here, especially men. You've heard me brag about my five daughters who all went through college. Well, today I can brag some more. In the little town of Jackman, which I represent, I have here the Class "D" Basketball Champions, led by their coach, Robin Griffith, who by the way was unpaid. Now, I think this is quite a feat. For those of you who have been to Jackman, when you pitch over Johnson Mountain you're in another world. I see some of you have been there. Probably one of the most beautiful spots in the world. I hope you will join me in recognizing the feat that these girls have accomplished. Thank you.

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

Representative JOY: Madam Speaker, Ladies and Gentlemen of the House. I want to rise and congratulate this team because it was one of my schools that they defeated in the championship, Southern Aroostook. I think they did a commendable job. They showed tremendous discipline all the way through the game. They knew what they had to do to win, and they did it. I certainly want to add my congratulations. Thank you.

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

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

Expression of Legislative Sentiment recognizing Crystal Carlson of St. George (HLS 438)

TABLED - May 7, 1997 by Representative KONTOS of Windham.

PENDING - Passage.

Subsequently, the Sentiment was read, passed 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-681) on Bill "An Act to Provide Court-ordered Income Withholding of Spousal Support" (H.P. 1190) (L.D. 1689)

Signed:

Senators: LONGLEY of Waldo
LaFOUNTAIN of York
BENOIT of Franklin

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

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

Signed:

Representatives: MADORE of Augusta
NASS of Acton
WATERHOUSE of Bridgton
PLOWMAN of Hampden

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 Hampden, Representative Plowman.

Representative PLOWMAN: Madam Speaker, Men and Women of the House. I rise to oppose the Majority "Ought to Pass" Report. This bill asks the Department of Human Services to become the collection agent for a private debt between two adults. While DHS certainly has a place in the collection of child support, unless one of these adults is the ward of the state, then the state has no business collecting the private debt between two adults. I ask you to defeat the pending motion. Madame Speaker, actually, I move to Indefinitely Postpone this Bill and its Accompanying Papers. Thank you.

Representative PLOWMAN of Hampden moved that the Bill and all accompanying papers be indefinitely postponed.

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

Representative THOMPSON: Madam Speaker, Men and Women of the House. I would ask that you join with me in voting against the motion to Indefinitely Postpone. Currently under Maine law in a divorce action, the court often enters what is called a conditional withholding order. The court enters a withholding order for child support. What that means is, the child support can be, the order can be sent to the employer and the child support is then deducted directly from the pay check, and forwarded to the Department of Human Services, and forwarded on to the person who is entitled to the money. Also, currently under Maine law, the same thing happens when there is an order of child support and spousal support. So, if you go into court on a divorce action and the court awards \$100 per week for child

support and \$100 per week for spousal support, then the employer deducts \$200 per week and sends it on to the Department of Human Services who forward it. In each of these occasions the employer is entitled to deduct a fee for his processing costs. But currently under Maine law, if there is only spousal support, the same law does not apply. So, what this bill is attempting to do is to say the person receiving spousal support only is entitled to the same type of process as the person who is receiving spousal support and child support. So, what happens is the court is given a second step. The court would enter what is called a conditional order of withholding. That means that in the divorce judgment, or the court would say its ordered that the employer deduct this amount of money per week, per month or whatever the case may be, but it's not entered as an order at that time. Only if the paying person, the obligor, is behind in the payments can this withholding order be put into place. So, the person who owes the money has to, in essence, default in the payment, be behind in the payments, then the person who is entitled to the money can send a notice that they are not being paid in a timely fashion. Then the court can release that withholding order and the employer will then deduct the money and send it to the Department of Human Services. The employer, for each deduction, is entitled to a \$2 service fee. It's a simple process. It's well established in Maine and I would ask that you join with me in defeating this motion to Indefinitely Postpone.

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

Representative DONNELLY: Madam Speaker, Men and Women of the House. As I understand the discussion today, we're talking about utilizing those folks who are helping collect funds under the so called "dead-beat parent" legislation for collection of spousal support. Well I don't disagree that if someone is supposed to be paying in funds upon a court order or an agreement signature. I have some concerns on the successful system that's been emulated nationally now on the dead-beat parent legislation. What kind of strain are we going to do on that system? What kinds of costs and other obligations are we going to do there? Are we going to start falling short on what was a legislative priority of previous Legislatures, and one that was counted so successfully that the Clinton administration, the President, has emulated it? My only concern in this area, of course, my major concern in this area of course is that we're going to fall short on trying to make sure that people take responsibility for their children. So, if anyone, I'll put this in the form of a question. If this came up in debate, how was it answered in Committee and if it was answered, what was the additional cost they were talking about to the system?

The SPEAKER: The Representative from Presque Isle, Representative Donnelly has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Naples, Representative Thompson.

Representative THOMPSON: Madam Speaker, Men and Women of the House. In response to the question, first of all, the bill was put in at the request of the Judicial Department because of the difficulties they have in handling these types of cases. What happens is, you get someone who is obligated to pay the money and they don't pay. Someone files a court proceeding to enforce the payment. The court can only order a payment on the back amount of money due. The person pays off the three months or four months that they owe and so the court proceeding is dropped. Then they don't pay for a couple more months and we have another court proceeding. Some of these cases, and in spousal support these days there's usually, in almost all cases now, is a very limited time period. It is very rare to get. It used to be called alimony, but it's now spousal

support, it is very rare to get a continuing order forever. There are some existing ones in the past that are there. Now it's typically a situation where someone might to pay for two or three years. What happens is they would fall behind two or three months, a court action's filed, they'd pay up, then they'd fall behind two or three months again and another court action has to be filed. So, number one, this would take off some of the burden court system. It would help the people who are supposed to be and are entitled to this money. Number three, the Department of Human Services worked with us on this bill and have no problem with handling this matter. Thank you.

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

Representative NASS: Madam Speaker, Men and Women of the House. I rise to urge you to support the pending motion, Indefinite Postponement. What we created in our child support enforcement effort is a very powerful tool. When it was developed and proposed to the 117th, I supported that. The effort then was to collect, use the State's mechanism to collect money to support children. This effort before us today is asking that we continue to use part of this mechanism to settle disputes between two adults. My belief that two adults that are in court against each other, they each have the right to have attorneys and those attorneys should settle this kind of dispute. We should not use the mechanism of the State to provide this kind of power. The child support mechanism is a very powerful mechanism. Perhaps even more powerful than when the IRS has to collect money that you might owe them. I would urge that you support the Indefinite Postponement and kill this bill. Thank you.

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

Representative WATSON: Madam Speaker, Men and Women of the House. As a member of the Judiciary Committee and having been to the public hearing and to the work session, I'll just reiterate some of the things that our chair Representative Thompson has mentioned earlier in the fact that this was brought forward by the Judiciary and with the full support of DHS. I spoke with Chief Justice Daniel Wathen about the incidences that occur where women who are awarded spousal support after a divorce may have need for this kind of legislation to be passed. He assured me that the instances are not all that common, but they are, in situations where the woman may have been totally economically dependent on her spouse for all the years of their marriage. When the court awards them a certain amount of money, again it's for a limited time period, it's viewed as rehabilitative. It's to support a woman after that divorce so that she can get some training for herself to become fully self supporting after years of dependency on another individual. If in any small way we can help that process with spouses who get behind in their payments or are reluctant to continue to pay until the woman has received the full benefits of the court's order. I think we should do everything in our part to help that process. I urge you please to defeat the Indefinite Postponement of this bill and to go on to pass this legislation. Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative PINKHAM: Madam Speaker, Men and Women of the House. What happens to the employer if he decides that he doesn't want to do this? Is there a penalty involved?

The SPEAKER: The Representative from Brunswick, Representative Pinkham has posed a question through the Chair

to anyone who may care to respond. The Chair recognizes the Representative from Naples, Representative Thompson.

Representative THOMPSON: Madam Speaker, Men and Women of the House. In response, the employer has to withhold the money or they are liable for the money, it's a court order.

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

Representative PLOWMAN: Madam Speaker, Men and Women of the House. First of all, if an action is begun in court, then the plaintiff need only continue the action and receive a garnishment order to receive wages, have the wages directly from the paycheck. Second, today will be the day that a new family court is created which should alleviate a lot of what goes on in the court system regarding child support and family support. Third, I have a very carefully written letter from the Department of Human Services who said that they would take this additional duty on. That they would need extra money to do this and they can not figure it at this point because they don't know how many cases will be coming. Fourth, the DHS provisions were put together to support children. Minors who can't get into court very easily themselves. We're talking about adding a new job to an already overburdened department as we clear up the cases in the Judicial system. While it doesn't sound like much, let's give the new family court an opportunity to work and now be starting a whole new process for the Department of Human Services at this point. If the family court doesn't work in alleviating some of the burdens in getting this through, then this can come back at another time. Thank you.

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

Representative WATERHOUSE: Madam Speaker, Ladies and Gentlemen of the House. This bill is a bad bill. The reasons stated earlier, that we have a mechanism for collecting child support. It's working well. You have to ask yourself, do we want to add another requirement, not just for the department to do, but for employers to do? This is one more responsibility we're heaping on the employer. One more stack of papers, if you will, for them to fill out. I, too, am a member of the Judiciary Committee. I was there for the public hearing and the work sessions. This is one of those issues where it does not rise to the level for a new law. We are talking about adults that can work out their problems in the court system and not have the department be a bill collector for every bill that comes down the road between people who were once married and now are not. I urge you to vote for the Indefinite Postponement. Thank you.

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

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

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

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

Representative JOY: Madam Speaker, Ladies and Gentlemen of the House. I've been going through this bill and the amendment, and there is something in here that really gives me a great deal of concern. The liability of the payor. The obligee may maintain an action for compensatory damages including attorney fees and court costs against the payor who knowingly fails to comply with this section. Ladies and gentlemen, that gives the person who is a party to the separation, or divorce in the first cast, the right to sue, not only their spouse for damages and attorney fees, etc., but also an employer who hires that spouse. Ladies and gentlemen, I think this is a very, very severe penalty. This is a companion bill to

one that I managed to get through, and with the assistance of the Judiciary Committee, get something changed in the child withholding. The employer, up until that bill went through, was liable for all of the back child support that the individual had not paid. I suspect that this one, the way that the law is written, could very well be interpreted the same way. I think that we are really laying double jeopardy on these people. I urge you to support the motion to Indefinitely Postpone this bill and all its papers. Thank you.

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

ROLL CALL NO. 287

YEA - Barth, Berry DP, Bigl, Bodwell, Bouffard, Bragdon, Buck, Bumps, Cameron, Campbell, Carleton, Cianchette, Clukey, Cross, Dexter, Donnelly, Foster, Gerry, Gieringer, Gooley, Honey, Jones SA, Joy, Joyce, Joyner, Kasprzak, Kneeland, Labrecque, Lane, Layton, Lemont, Lindahl, MacDougall, Mack, Madore, Marvin, McElroy, Murphy, Nass, Nickerson, O'Brien, Peavey, Pendleton, Perkins, Pinkham RG, Pinkham WD, Plowman, Savage, Snowe-Mello, Spear, Stedman, Taylor, Tobin, Treadwell, True, Underwood, Vedral, Waterhouse, Wheeler EM, Winglass, Winsor.

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

ABSENT - Bunker, Gamache, Meres, Ott.

Yes, 61; No, 86; Absent, 4; Excused, 0.

61 having voted in the affirmative and 86 voted in the negative, with 4 being absent, the motion to indefinitely postpone the Bill and all accompanying papers did not prevail.

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

The Bill was read once. Committee Amendment "A" (H-681) 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-681) and sent up for concurrence.

CONSENT CALENDAR

First Day

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

(S.P. 368) (L.D. 1227) Bill "An Act to Require the Department of Transportation to Improve the Conditions of Any Road That May be Turned Over to a Municipality" (EMERGENCY) Committee on **Transportation** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-318)

(S.P. 473) (L.D. 1475) Bill "An Act to Amend Certain Motor Vehicle Laws" Committee on **Transportation** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-319)

(S.P. 498) (L.D. 1560) Resolve, to Establish the Committee to Study the Development of the Charter School Initiative Committee on **Education and Cultural Affairs** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-317)

(S.P. 615) (L.D. 1814) Bill "An Act to Improve the Delivery of Mental Health Services in Maine" (Governor's Bill) Committee on **Health and Human Services** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-312)

(S.P. 652) (L.D. 1873) Bill "An Act to Increase the Debt Limit of the Vinalhaven Water District" (EMERGENCY) Committee on **Utilities and Energy** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-316)

(H.P. 300) (L.D. 364) Bill "An Act to Encourage the Use of Motor Vehicles That Use Alternative Sources of Fuel for the Purpose of Reducing Air Pollution" Committee on **Natural Resources** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-680)

(H.P. 664) (L.D. 917) Bill "An Act to Combine the Department of Human Services and the Department of Mental Health, Mental Retardation and Substance Abuse Services" Committee on **Health and Human Services** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-685)

(H.P. 879) (L.D. 1196) Bill "An Act to Amend the Victims' Rights Laws" Committee on **Criminal Justice** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-691)

(H.P. 1116) (L.D. 1559) Bill "An Act to Establish the Uniform Unclaimed Property Act" Committee on **Judiciary** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-682)

(H.P. 1317) (L.D. 1867) Bill "An Act to Protect Victims of Domestic Violence" Committee on **Judiciary** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-687)

(H.P. 1318) (L.D. 1868) Bill "An Act to Implement the Recommendations of the Harness Racing Task Force" (Governor's Bill) Committee on **Legal and Veterans Affairs** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-690)

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

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

(S.P. 137) (L.D. 416) Bill "An Act to Regulate the Use of Personal Watercraft" Committee on **Inland Fisheries and Wildlife** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-311)

On motion of Representative PENDLETON of Scarborough, was removed from the First Day Consent Calendar.

The Committee Report was read and accepted. The Bill was read once. Committee Amendment "A" (S-311) was read by the Clerk.

On motion of Representative SAXL of Portland, tabled pending adoption of Committee Amendment "A" (S-311) and later today assigned.

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

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

SENATE DIVIDED REPORT - Majority (8) "**Ought to Pass**" as amended by Committee Amendment "A" (S-314) - Minority (5) "**Ought to Pass**" as amended by Committee Amendment "B" (S-315) - Committee on **Criminal Justice** on Bill "An Act to Amend the Maine Bail Code" (S.P. 509) (L.D. 1571) which was tabled by Representative POVICH of Ellsworth pending his motion to accept the Majority "**Ought to Pass**" as amended Report.

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

Representative POVICH: Madam Speaker, Men and Women of the House. L.D. 1571 "An Act to Amend the Maine Bail Code" created the most divided report for the session for Criminal Justice. It split the other body off from this report. I'm happy to report that we're still talking to one another, we're still friends, but we disagree on this L.D. Both amendments replace the entire bill with language resulting from a collaboration from the Attorney General's office, the Maine Association of Criminal Defense Lawyers and the DAs. They support the Majority Report. The reports are identical except for the fact that the Majority Report makes a surety, and the definition of a surety is, that person who goes out there in the middle of the night, maybe aunt Betty, and puts up the money or property to bail out her nephew. The surety is responsible for ensuring that the defendant complies with conditions of bail, and subjects the bail to forfeiture if the defendant does not comply, or commits a crime while out on bail. The majority felt that it is acceptable to impose that responsibility on a person because that person, aunt Betty in this case, is free to refuse to post bail if the person knows the defendant is likely to violate the conditions of bail. That kind of defendant should probably stay in jail for public safety purposes anyway. Furthermore, the forfeiture is not mandatory. The courts retain discretion and may return bail to any security, including aunt Betty. So, aunt Betty may not, and probably won't lose her surety. But, it sends a strong message to the defendant that if you are out on bail, you can't commit another crime. In Maine today, an alarming number of people who are bailed are committing new crimes while on bail. We heard emotional testimony from a domestic violence project coordinator that abused women and children are in constant danger after the spouse is bailed. Another victim described her abuser as, that abuser considers bail as a joke. The bail code needs to be amended. Something must be done. This bill, the Majority Report, holds people accountable for their actions. So, L.D. 1571's Majority Report does a good job in fixing the bail code, does a good job for public safety and is long overdue. So, Men and Women of the House, I urge you to support the Majority "**Ought to Pass**" as amended Report. Thank you.

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

Representative THOMPSON: Madam Speaker, Men and Women of the House. This is the first I've ever spoken out against against the Criminal Justice Committee this year, I think. As a former member of the committee I have great interest in it and I think they've done some great work. However, I can't support the concept of a surety forfeiting their property when the person on bail commits another criminal offense. The bail system is set up to ensure that a defendant shows up at the next court hearing, to put simply. Posting property or money for bail is a guarantee that the person will show up. We're changing the whole concept of the bail system by saying that if your son is arrested on a charge and you put up your house for bail you no longer have to just ensure that they show up at court, you have

to ensure that you're responsible for their behavior every minute of every day that they're awaiting trial. Now, we're talking personal responsibility and we're saying that it is now the responsibility of the person who posts the bail to monitor this person 24 hours per day. First of all, it's not possible to do that. If someone is going to get into trouble, they're going to do it on their own. I just see this as a way that there may be a lot more people held in jail pending trial. It's going to be a great burden on the counties. It defeats the concept of the bail system. I'm going to be voting against this report. 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. 48 voted in favor of the same and 38 against, the Majority "**Ought to Pass**" as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (S-314) 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-314) in non-concurrence and sent up for concurrence.

UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment Friday, May 23, 1997, have preference in the Orders of the Day and continue with such preference until disposed of as provided by House Rule 502.

SENATE DIVIDED REPORT - Majority (8) "**Ought Not to Pass**" - Minority (5) "**Ought to Pass**" as amended by Committee Amendment "A" (S-267) - Committee on **Appropriations and Financial Affairs** on Bill "An Act to Continue the Operation of State Government for the First Two Quarters of the Fiscal Year Ending June 30, 1998" (EMERGENCY) (S.P. 620) (L.D. 1823)

- In Senate, Majority "**Ought Not to Pass**" Report read and accepted.

TABLED - May 20, 1997 by Representative KONTOS of Windham.

PENDING - Acceptance of either Report.

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

Bill "An Act to Improve the State's Democracy by Increasing Access to the Ballot and Other Election Processes" (S.P. 428) (L.D. 1376) (C. "A" S-210)

TABLED - May 21, 1997 (Till Later Today) by Representative SAXL of Portland.

PENDING - Passage to be Engrossed.

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

Representative GERRY: Madam Speaker, May I pose a question through the Chair to the sponsor of the bill or whoever may answer?

The SPEAKER: The Representative may pose her question.

Representative GERRY: Madam Speaker, Men and Women of the House. If we pass this bill, if there is a group out there collecting signatures to form an Independent party, do they still have a chance to turn the signatures in to become an Independent party? That's the first part of the question. The

second part is, if they do turn in the signatures in and become a political party, how does this affect the law?

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

Representative GERRY: Madam Speaker, May I pose one more question through the Chair?

The SPEAKER: The Representative may pose her question.

Representative GERRY: Madam Speaker, Men and Women of the House. Supposedly, according to the election laws, a new party that wants to get on the ballot for the next election has until, I think, December 11th. Would the Independent party still have until December 11th in order to qualify?

The SPEAKER: The Representative from Auburn, Representative Gerry has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Sanford, Representative Tuttle.

Representative TUTTLE: Madam Speaker, Men and Women of the House. The answer to that would be yes.

Subsequently, the Bill was passed to be engrossed as amended by Committee Amendment "A" (S-210) in concurrence.

SENATE DIVIDED REPORT - Majority (8) "**Ought to Pass**" as amended by Committee Amendment "A" (S-300) - Minority (3) "**Ought Not to Pass**" - Committee on **Labor** on Bill "An Act Regarding the Penalty for Failure to Allow a Terminated Employee to Review Certain Files" (S.P. 218) (L.D. 677)

- In Senate, Majority "Ought to Pass" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-300)

TABLED - May 23, 1997 (Till Later Today) by Representative HATCH of Skowhegan.

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

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

Representative JOYCE: Madam Speaker, Men and Women of the House. We had this same bill two years ago, and the Legislature in its wisdom decided that there wasn't a problem, that we didn't increase the penalties on employers in these cases. Nothing has happened in the last two years to make the problem any bigger. I would hope you defeat this. I request a division.

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

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

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

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

ROLL CALL NO. 288

YEA - Ahearn, Bagley, Baker CL, Baker JL, Bolduc, Bouffard, Brennan, Brooks, Bull, 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, Kontos, LaVerdiere, Lemaire, Mailhot, McKee, Mitchell JE, Morgan, Muse, O'Neal, O'Neil, Pieh, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Stanley, Stevens,

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

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

ABSENT - Berry RL, Bunker, Farnsworth, Gamache, Kerr, Lemke, McElroy, Meres, Paul, True.

Yes, 72; No, 69; Absent, 10; Excused, 0.

72 having voted in the affirmative and 69 voted in the negative, with 10 being absent, the Majority "**Ought to Pass**" as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (S-300) 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-300) in concurrence.

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 - May 23, 1997 (Till Later Today) by Representative KONTOS of Windham.

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

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

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) (C. "A" H-657)

TABLED - May 23, 1997 (Till Later Today) by Representative SAXL of Portland.

PENDING - Motion of Representative MARVIN of Cape Elizabeth to reconsider passage to be engrossed. (Roll Call Ordered)

A roll call having been previously ordered was taken now:

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

ROLL CALL NO. 289

YEA - Barth, Belanger DJ, Belanger IG, Berry DP, Bigl, Bodwell, Bragdon, Bruno, Buck, Bumps, Cameron, Campbell, Carleton, Chick, Cianchette, Clukey, Cross, Dexter, Donnelly, Fisk, Foster, Gagnon, Gerry, Gooley, Honey, Jones SA, Joy, Joyce, Joyner, Kane, Kasprzak, Kneeland, Labrecque, Lane, Layton, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, Marvin, Mayo, McAlevey, Murphy, Nass, Nickerson, O'Brien, Ott, Peavey, Pendleton, Perkins, Pinkham RG, Pinkham WD,

Plowman, Poulin, Savage, Snowe-Mello, Spear, Stedman, Taylor, Tobin, Treadwell, Underwood, Vedral, Waterhouse, Wheeler EM, Winglass, Winsor.

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

ABSENT - Berry RL, Bunker, Farnsworth, Gamache, Gieringer, Kerr, McElroy, Meres, True.

Yes, 69; No, 73; Absent, 9; Excused, 0.

69 having voted in the affirmative and 73 voted in the negative, with 9 being absent, the motion to reconsider did not prevail.

TABLED AND TODAY ASSIGNED

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

SENATE DIVIDED REPORT - Majority (9) "**Ought to Pass**" as amended by Committee Amendment "A" (S-301) - Minority (4) "**Ought to Pass**" as amended by Committee Amendment "B" (S-302) - Committee on **Labor** on Bill "An Act to Make the Workers' Compensation System More Equitable" (S.P. 491) (L.D. 1523)

- In Senate, 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)

TABLED - May 23, 1997 by Representative HATCH of Skowhegan.

PENDING - Motion of same Representative to accept the Majority "**Ought to Pass**" as amended by Committee Amendment "A" (S-301) Report.

On motion of Representative KONTOS of Windham, tabled pending the motion of Representative HATCH of Skowhegan to accept the Majority "**Ought to Pass**" as amended Report and later today assigned.

HOUSE DIVIDED REPORT - Majority (8) "**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) - Minority (5) "**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) - Committee on **Health and Human Services**

TABLED - May 23, 1997 by Representative MITCHELL of Portland.

PENDING - Motion of same Representative to accept the Majority "**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) Report.

On motion of Representative KONTOS of Windham, tabled pending the motion of Representative MITCHELL of Portland to accept the Majority "**Ought to Pass**" Pursuant to Joint Order (H.P. 1322) and later today assigned.

Bill "An Act to Change the Reimbursement Procedure for Law Enforcement Personnel Testifying in Court" (H.P. 404) (L.D. 549) TABLED - May 23, 1997 by Representative WHEELER of Bridgewater.

PENDING - Adoption of Committee Amendment "A" (H-639).

Representative WHEELER of Bridgewater presented House Amendment "A" (H-672) to Committee Amendment "A" (H-639), which was read by the Clerk.

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

Representative WHEELER: Madam Speaker, Men and Women of the House. I lay this amendment before you today to include counties in L.D. 549, which is an act to reimburse them for law enforcement personnel testifying in court. If you'd look at the committee amendment, on the first page in section 1-4, it says that all law enforcement officers appearing for a scheduled trial in district court, at times other than their regular working hours, at the order of the prosecuting official, and whether or not they are called upon to give testimony, must be compensated out of the general fund at a rate of \$30, which was \$10, for each day or part of a day that the officer is required to be physically in court. I put a bill in that would put the counties under the same legislation to bring them up to \$10. Low and behold, the committee saw fit to bring the municipal people up to \$30. I did not fight that. It came out a divided report out of committee. I did not wish to debate the issue on that bill, but I felt that the counties should be included in this bill, because the counties do provide income for district courts as much as any other law enforcement agency. If you'd turn, on the committee amendment, to page 2, at the top of the page in the paragraph it says in short that municipal officers may designate counties as their court officer to take care of their business in court. But, the counties can't get paid. I thought, by reading this legislation, they were included. Checking with the Fiscal & Program Review office, I found that they weren't. Some people are going to get up and say that this amendment may kill the original bill. We're only talking \$65,520 in additional money for the biennium. I think it's only fair that the counties be included in this. I think that it's another example of shifting the expense from the higher government to local property tax. The same people pay the county law enforcement activities as do the local police. I would ask your support of this amendment. Thank you.

House Amendment "A" (H-672) to Committee Amendment "A" (H-639) was adopted.

Committee Amendment "A" (H-639) as amended by House Amendment "A" (H-672) 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" (H-639) as amended by House Amendment "A" (H-672) thereto and sent up for concurrence.

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

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

SENATE DIVIDED REPORT - Majority (8) "**Ought Not to Pass**" - Minority (5) "**Ought to Pass**" as amended by Committee Amendment "A" (S-267) - Committee on **Appropriations and Financial Affairs** on Bill "An Act to Continue the Operation of State Government for the First Two

Quarters of the Fiscal Year Ending June 30, 1998" (EMERGENCY) (S.P. 620) (L.D. 1823) which was tabled by Representative KONTOS of Windham pending acceptance of either Report.

Representative KERR of Old Orchard Beach moved that the House accept the Majority "**Ought Not to Pass**" Report.

Representative CARLETON of Wells 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 Presque Isle, Representative Donnelly.

Representative DONNELLY: Madam Speaker, Men and Women of the House. As I understand it, this bill is the bill in which we'd allow state government to continue. As we know, the budget is already passed and gone, and that's not an issue for this body. It's not an issue for the other body and it's not an issue for the Governor. But, there are citizens of the State of Maine who are gathering signatures in order to have a people's veto on budget. Without this continuing resolution to come into place, the people's veto, if enough signatures are gathered, then the budget will be stopped in place. State government will not continue at that point. The only way the Governor, at that point when we're not in session, could possibly continue with the operation of state government, is by financial order. What happens then is he can only do it on a matter of public health and safety. While that issue is important, that issue is important, for as we get out of session it's critical for us to be able to assure the citizens of the State of Maine that all the necessary functions, when the Legislature is out, may continue. And, they may continue for the limited amount of time, in this bill, and they may continue only for the previous spending levels. While that's not exactly what the Legislature set up as priorities going forward, it assures the citizens of the State of Maine that necessary functions may continue. It's to avoid the blanksmanship that may occur. I hope you will not support the Majority "Ought Not to Pass" Report and go on to pass this report. Thank you.

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

Representative KERR: Madam Speaker, Men and Women of the House. What this bill, as the good representative from Presque Isle, Representative Donnelly has indicated, is to continue the operation of state government for the first two quarters. As you all know, the Governor can either call us in, or we can call ourselves in by a two-thirds vote if, in fact, these signatures are gathered. To me, if you go out and get a drivers license, does that mean you automatically go out and hire a lawyer on anticipation of getting a ticket? That's what this is about. I want you to know and understand the impact of this bill. If in fact, and it shouldn't be predicated on getting signatures, what the bill does, it provides a mechanism to ensure that government would continue to operate in the first and second quarters at the 97 funding levels. So, in areas of general purpose aid where we chose to fund more than the administration did, higher ed., the collective bargaining agreements that were passed. Those collective bargaining would have to be funded out of all others, rather than personal services. There would be less money in budget. When you're talking less money on the general fund side, it's about a billion dollars that would be frozen at the 96-97 levels. The allotments were, I should say the allotments were a little over a billion dollars in the general fund and another \$154 million in the highway fund. I believe that this bill is not necessary. We have other ways of dealing with it if, in fact, those signatures were to be garnered. The impact it would have on general purpose aid, as I've stated, the higher ed., the technical colleges, Maine

Maritime, the collective bargaining, that the Governor could call us in, and again, if not then the Legislature could call itself in and get a remedy to this problem in a very timely fashion. So, again, I would urge the Majority "Ought Not to Pass" Report and urge your support for it. Thank you.

The SPEAKER: The Chair recognizes the Representative from York, Representative Ott.

Representative OTT: Madam Speaker, Men and Women of the House. I've missed part of this debate and at the risk of being somewhat repetitive, I do want the record to reflect that I do think this bill makes good Legislative sense. We all know that we're currently in a situation where there are citizens out there who are promoting this initiative, that if it takes place, will virtually put the state government in jeopardy of being able to fund its expenditures for the upcoming biennium. I think it's fair to say at that point, if that were to happen, we would certainly be in what we often refer to as a crisis management situation. This bill gives us the opportunity to exercise the leadership for which we are all elected to serve in this body. We know that the petition is out there. We are forewarned. We are forearmed. We know the potential problems that it could cause if it was successful. I believe we have the fiscal and moral obligation to be prepared. If we adopt this measure, we can ensure that state government will continue to operate for those first two quarters that have been mentioned no matter what happens with the citizens initiative. It makes good Legislative sense to do so. I urge you to please vote against the pending motion of "Ought Not to Pass." Thank you.

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

Representative CAMERON: Madam Speaker, Men and Women of the House. I think this bill makes sense to go ahead and support. The good representative from Old Orchard said this is equivalent to getting a license and hiring a lawyer. Obviously, we wouldn't do that. But we would buy insurance. To me, that's all this is. It's buying insurance, that our state employees don't end up suffering for something that went on here between the two parties that we couldn't agree on and ultimately we ended up with this petition. I think it's highly unlikely the petition will pass, but in the event it does, I don't want it on July 30th, the approximate time the petitions signatures would have been verified, I don't want our state employees to become a pawn in this. To me it's nothing but an insurance policy. I would encourage you to go ahead and support this effort so that our actions here don't fall on the shoulders of our state employees who are innocent of all happening that take place in this room. Thank you.

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

Representative KERR: Madam Speaker, Men and Women of the House. It's more that just state employees. The whole purpose of pushing out the budget in a more timely fashion was to make sure that our municipalities would know how much they're getting for general purpose aid so they, in turn, would build their budget. If, in fact, those signatures are garnered, and I'd really hate to predicate legislation on an if, but then we have a vehicle for the Governor to call us in and address this issue. If, in fact, this legislation passed it will give us two quarters, six months, that funding will be funded at the 97 levels. Your schools and my schools where the budget has been increased, they would be funded at last years level. That to me would create a tremendous impact at the municipal level. Again, I urge you to support the "Ought Not to Pass" report. Thank you.

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

Not to Pass" Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 290

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

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

ABSENT - Bunker, Gamache, Lemke, Mack, McElroy, Meres, Winn.

Yes, 77; No, 67; Absent, 7; Excused, 0.

77 having voted in the affirmative and 67 voted in the negative, with 7 being absent, the Majority "**Ought Not to Pass**" Report was accepted in concurrence.

Bill "An Act to Regulate the Use of Personal Watercraft" (S.P. 137) (L.D. 416) which was tabled by Representative SAXL of Portland pending adoption of Committee Amendment "A" (S-311).

Representative PENDLETON of Scarborough presented House Amendment "A" (H-689) to Committee Amendment "A" (S-311), which was read by the Clerk and adopted.

Committee Amendment "A" (S-311) as amended by House Amendment "A" (H-689) 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-311) as amended by House Amendment "A" (H-689) thereto in non-concurrence and sent up for concurrence.

TABLED AND TODAY ASSIGNED

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

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

TABLED - May 23, 1997 by Representative SAXL of Portland.

PENDING - Motion of Representative VEDRAL of Buxton to reconsider failing of final passage. (Roll Call Ordered)

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

Representative POVICH: Madam Speaker, Men and Women of the House. L.D. 332 came from the commission to study poverty among working parents. The commissions vote on this

was 15 to 4. The amendment changes it somewhat, but still within the original intent. By way of explanation, permit me to give you a little historical perspective concerning this bill. Public law 1995, L.D. 1496 in the 117th Legislature, established the commission to study poverty. This was the act to improve the AFDC program. The commission that studied poverty among working parents was established to investigate the extent to which poverty exists among working families, how poverty among working or under-employed parents contributes to the need for greater public assistance expenditure and how economic development efforts and other public and private sector initiatives could reduce poverty. The commission was charged with making comprehensive recommendations. The commission addressed four broad topic areas; the economy and low wage job market, tax laws and other incentives, education and training and federal programs and state programs and policies that support families. Maine families need assistance in moving out of poverty and into fulfilling and economically productive lives. The commission made several recommendations to address and to relieve the factors the place and keep families in poverty. L.D. 332 was one of them. L.D. 332 is designed to provide economic security for working parents. The unemployment compensation program currently provides assistance to only 4 out of 10 unemployed Maine workers. L.D. 332 and its amendment directs the Legislature to establish the commission to study the unemployment compensation system to assess whether it's meeting the changing needs of the labor force in business community. It talks about solvency and the seasonality exclusion, etc. This L.D. directs the commission to report back to the Labor Committee by December 1, 1997. I urge the committee to support L.D. 332. Thank you very much.

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

ROLL CALL NO. 291

YEA - Ahearne, Bagley, Baker CL, Baker JL, Belanger DJ, Berry DP, Berry RL, Bigl, Bolduc, Bouffard, Brennan, Brooks, Bull, Chartrand, Chizmar, Clark, Colwell, Cowger, Cross, Davidson, Desmond, Driscoll, Dunlap, Dutremble, Etnier, Farnsworth, Fisher, Frechette, Fuller, Gagne, Gagnon, Gerry, Gieringer, Goodwin, Gooley, Green, Hatch, Jabar, Jones KW, Jones SL, Joyner, Kane, Kerr, Kontos, LaVerdiere, Lemaire, Madore, Mailhot, Mayo, McKee, Mitchell JE, Morgan, Muse, O'Brien, O'Neal, O'Neil, Paul, Peavey, Perry, Pieh, Plowman, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Spear, Stanley, Stevens, Tessier, Townsend, Tripp, Tuttle, Usher, Vigue, Volenik, Watson, Wheeler EM, Wheeler GJ, Winglass, Winn, Wright, Madam Speaker.

NAY - Barth, Belanger IG, Bodwell, Bragdon, Bruno, Buck, Bumps, Cameron, Campbell, Carleton, Chick, Cianchette, Clukey, Dexter, Donnelly, Fisk, Foster, Honey, Jones SA, Joy, Joyce, Kasprzak, Kneeland, Labrecque, Lane, Layton, Lemont, Lindahl, Lovett, MacDougall, Mack, Marvin, McAlevey, Murphy, Nass, Nickerson, Ott, Pendleton, Perkins, Pinkham RG, Pinkham WD, Savage, Snowe-Mello, Stedman, Taylor, Tobin, Treadwell, True, Underwood, Vedral, Waterhouse.

ABSENT - Bunker, Gamache, Lemke, McElroy, Meres, Thompson, Winsor.

Yes, 93; No, 51; Absent, 7; Excused, 0.

93 having voted in the affirmative and 51 voted in the negative, with 7 being absent, the motion to reconsider did prevail.

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 56 against, the Resolve failed of final passage and was sent up for concurrence.

Resolve, to Establish a Maine Mobility Fund Task Force (EMERGENCY) (S.P. 429) (L.D. 1377) (H. "A" H-493 and H. "B" H-597 to C. "A" S-206)
TABLED - May 23, 1997 by Representative TUTTLE of Sanford.
PENDING - Motion of Representative FISHER of Brewer to reconsider failing of final passage.

Subsequently, the House voted to reconsider.

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. 88 voted in favor of the same and 52 against, the Resolve failed of final passage and was sent up for concurrence.

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

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

Expression of Legislative Sentiment recognizing the Mt. Ararat High School Girls Indoor Track team (HLS 365)
TABLED - May 2, 1997 by Representative SAXL of Portland.
PENDING - Passage.

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

JOINT ORDER - relative to the Joint Standing Committee on Natural Resources and the Joint Standing Committee on Inland Fisheries and Wildlife jointly reporting out legislation pertaining to the use and regulation of personal watercraft and addressing noise, wildlife habitat and environmental issues associated with watercraft to the Senate (S.P. 656)

- In Senate, Read and Passed.

TABLED - May 15, 1997 by Representative SAXL of Portland.
PENDING - Passage in concurrence.

On motion of Representative ROWE of Portland the Joint Order was indefinitely postponed in non-concurrence and sent up for concurrence.

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

REPORTS OF COMMITTEES

Divided Report

Majority Report of the Committee on **Education and Cultural Affairs** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-688) on Bill "An Act Concerning Authorization of Educational Technicians" (H.P. 890) (L.D. 1207)

Signed:

Senators: PENDLETON of Cumberland

CATHCART of Penobscot

SMALL of Sagadahoc

Representatives: RICHARD of Madison

BRENNAN of Portland

DESMOND of Mapleton
SKOGLUND of St. George
WATSON of Farmingdale
BAKER of Bangor
McELROY of Unity
STEDMAN of Hartland
BELANGER of Caribou

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

Signed:

Representative: BARTH of Bethel

Was read.

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

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

Representative BARTH: Madam Speaker, Men and Women of the House. I've been trying to think of what I can say that will turn this around. So, anyway, here goes. I just have a problem with certification. Certification does not mean that you will be a good teacher or that you will be a good Ed tech. It is nothing, as far as I'm concerned, but a way of keeping out of our schools, potentially good people who could do a good deal in educating our youth. Therefore, I hope that you'll join me and turn this around. Thank you.

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

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

Representative RICHARD: Madam Speaker, Men and Women of the House. Just a brief report on what this particular bill does. This is regarding education technicians. There are many definitions for education technicians. This does ask the commissioner to set up some guidelines on what we mean by education technician. It does require an authorization, not a certification but an authorization, for education technicians. We did find, during the hearing on this, that different call some people tutors and they call some people education technicians. We thought that it would be best if we could clarify what we mean by the term education technicians all over the state so that these people with this title would all be having the same kinds of responsibilities. This does give an authorization, not a certification, but an authorization.

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

Representative GOOLEY: Madam Speaker, Men and Women of the House. I'd just like to read to you what one superintendent of schools said recently, my superintendent up in Farmington. He said it's just another hoop for people who are poorly paid to have to jump through. Did anyone calculate the cost that incurred by requiring Ed techs to be certified? Someone has to assume responsibility at the local level to provide the oversight and record keeping. This was another unfunded mandate as far as one superintendent is concerned. Thank you.

The SPEAKER: A division has been ordered. The pending question before the House is the motion to accept the Majority "Ought to Pass" report. All those in favor will vote yes, those opposed will vote no.

A vote of the House was taken. 96 voted in favor of the same and 23 against, the Majority "**Ought to Pass**" as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (H-688) 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-688) and sent up for concurrence.

Divided Report

Majority Report of the Committee on **Taxation** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-686) on Bill "An Act Regarding the Taxation of Goods Purchased in Connection with the Operation of a High-stakes Beano or High-Stakes Bingo Game" (H.P. 1307) (L.D. 1855)

Signed:

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

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

Signed:

Senators: RUHLIN of Penobscot
DAGGETT of Kennebec
MILLS of Somerset

Representatives: BUCK of Yarmouth
CIANCHETTE of South Portland
LEMONT of Kittery

Was read.

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

The Bill was read once. Committee Amendment "A" (H-686) 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-686) and sent up for concurrence.

ENACTORS

An Act to Provide Retirement Benefit Options for Fire Marshals and Motor Vehicle Investigators (H.P. 1134) (L.D. 1590) (C. "A" H-618)

An Act Regarding the Relocation of a Child by a Parent Having Primary Physical Custody (H.P. 1178) (L.D. 1669) (C. "A" H-589)

An Act Addressing Sexual Exploitation of an Abuse Victim by a Law Enforcement Officer (H.P. 1211) (L.D. 1711) (C. "A" H-624)

An Act to Amend the Laws Regarding Legal Notices (H.P. 1302) (L.D. 1845) (C. "A" H-519)

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

An Act Relating to Compensatory and Punitive Damages Under the Maine Human Rights Act (H.P. 1213) (L.D. 1713) (C. "A" H-592)

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

On motion of Representative CAMPBELL of Holden, 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. 292

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

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

ABSENT - Bunker, Gamache, McElroy, Meres.

Yes, 77; No, 70; Absent, 4; Excused, 0.

77 having voted in the affirmative and 70 voted in the negative, with 4 being absent, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

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

The House recessed until 2:00 p.m.

(After Recess)

The House was called to order by the Speaker.

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

ORDERS

On motion of Representative GAMACHE of Lewiston, the following Order: (H.O. 28)

ORDERED, that Representative Christina L. Baker of Bangor be excused May 15 and May 16 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Alvin L. Barth, Jr., of Bethel be excused May 16 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Duane J. Belanger of Wallagrass be excused May 19 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Scott W. Cowger of Hallowell be excused May 21 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Wendy Pieh of Bremen be excused May 19 for legislative business.

AND BE IT FURTHER ORDERED, that Representative Shirley K. Richard of Madison be excused May 13, May 14 and May 15 for personal reasons.

Was read and passed.

REPORTS OF COMMITTEES

Divided Report

Majority Report of the Committee on **Health and Human Services** reporting "**Ought Not to Pass**" on Bill "An Act to Maintain the Augusta Mental Health Institute and the Bangor Mental Health Institute" (H.P. 1021) (L.D. 1413)

Signed:

Senators: PARADIS of Aroostook

LONGLEY of Waldo

MITCHELL of Penobscot

Representatives: MITCHELL of Portland

BROOKS of Winterport

FULLER of Manchester

KANE of Saco

PIEH of Bremen

QUINT of Portland

JOYNER of Hollis

BRAGDON of Bangor

SNOWE-MELLO of Poland

Minority Report of the same Committee reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-692) on same Bill.

Signed:

Representative: LOVETT of Scarborough

Was read.

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

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

Representative O'BRIEN: Madam Speaker, Ladies and Gentlemen of the House. As sponsor of this bill, I would just ask for your indulgence for just a few moments. I feel the need to speak on this issue. It is one of the most extremely important issues in my district and I would dare say that it is also to the constituents in your districts. I was warned that to pursue this bill, early on in the session as a freshman legislator, it may be political suicide. As a matter of fact, when the bill was brought forward to the committee, the commissioner of Mental Health told us that of all the bills she has ever been opposed to, she has the strongest opposition to this bill. But, needless to say, we continued with it. I was asked by a group in the Augusta community to put this legislation forward. It's called the citizens advisory group on mental health. It is a very diverse group of citizens in the Augusta area. The group is composed of professionals, just concerned citizens and consumers of mental health. The group has been meeting for nearly two years now, weekly. They are very, very concerned about what's happening in this area. I am very impressed with the knowledge and dedication. So, they asked me to put this forward. It's been changed several times, but they have some really important

things to say. This group, as am I, is very concerned about the direction that we, as a state, are heading when it comes to our most vulnerable citizens, the severely mentally ill. Those with long-term mental illness, or acute mental illness. This legislation is certainly not meant, and some have asserted this to be an anti-community services bill. Absolutely not. What we are saying is that there will always be the need for institutional care for the acutely and long-term mentally ill. We always need to maintain something. Although we are working towards community services, and that is a very lottable goal, we are not there yet. There's a lot that needs to be done. I going to tell you a few little vignettes and I will really attempt to make this brief.

We are being told that the department never turns away people in need of serious services. I would say, let me tell you few stories. One is, and I have the permission of the family of this individual, because the family is extremely concerned about this individual. This person is the one that knocked over the bust of Percival Baxter downstairs last year. I received a call from his mother, a few months ago on a Sunday afternoon, very, very distraught. She said that her son had committed a felony. He had broken into someone's home in Sidney, and held the owner of the home at knife point, and was seen walking down the street with a dead cat around his neck. He was brought to KVMC for evaluation. He was told, absolutely, his mother was told he absolutely needed to go into the forensic unit at AMHI. He was also told that there was no room for him at AMHI. There was no room at JBI. There was no room for him anywhere. There was no room at the inn. The mother was told "If you have any strings to pull, pull them." That was the first red light to me. We did a lot of calling that night. I called several in this body and at the other end of the hall. We called people from the Executive branch. We called public safety and low and behold, a bed was found. I went to bed that night thinking that maybe this was an isolated incident. I no longer believe that it was an isolated incident. Recently, on the Criminal Justice Committee, we had testimony in regards to medicating prisoners, and a legal analysis, I believe from the department, said our problem is AMHI won't take these mentally ill patients any more. Our problem is that they are being turned away. Red light number two. Then on the front page of the KJ, the other day, Friday I believe, or Saturday I believe, it said that AMHI was cited for turning away patients. I ask you, where it's being told again and again from the department, this is not happening. But, I'm hearing from the people that are really purport, and I believe know the situation. I believe that they are being turned away. I believe that there are some serious problems going on.

My view, as the view of many others, is that if you down-size enough, then you can justify. If you lower the numbers enough, it will justify closure. I would ask you, though at this point, I feel that the Human Services Committee has looked at this. They have had a sub-committee. They are looking very, very diligently at this. I believe that since this legislation has come out, there have been other bills that are dealing with this issue. So, I would ask that you support the "Ought Not to Pass" report. I just felt that I had to get up and say this. I would ask all of you to keep your eyes very open to what's going on with our severely, acutely mentally ill, and again, join with me in the "Ought Not to Pass" report. Thank you Madame Speaker.

The Majority "**Ought Not to Pass**" Report was accepted and sent up for concurrence.

Divided Report

Majority Report of the Committee on **Criminal Justice** reporting "**Ought Not to Pass**" on Bill "An Act to Require That

Handguns Sold in the State Be Equipped with Child-proof Trigger Locks" (H.P. 1154) (L.D. 1618)

Signed:

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

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

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

Signed:

Representatives: MUSE of South Portland
FRECHETTE of Biddeford

Was read.

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

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

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

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

Representative POVICH: Madam Speaker, Men and Women of the House. L.D. 1618 "An Act to Require That Handguns Sold in the State Be Equipped with Child-proof Trigger Locks" is a bill that invites acceptance, because, certainly we're not against kids and we don't want kids being accidentally killed by firearms. But, this bill is more symbolic that effective. Because, it does not require a person to actually use a trigger lock. It has no enforcement provision. There are better ways to prevent firearm accidents, including education. The locks, we were shown, are dangerous when used on loaded firearms. When the firearm is not loaded, then there's no harm and no danger. It requires businesses in the state to take responsibility for individuals when the individuals should be responsible for themselves. So, Men and Women of the House, I urge you to pass the Majority "Ought Not to Pass" 11 to 2 report and defeat this bill. Thank you.

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

ROLL CALL NO. 293

YEA - Ahearne, Bagley, Barth, Belanger DJ, Belanger IG, Berry DP, Berry RL, Bigl, Bodwell, Bolduc, Bouffard, Bragdon, Brooks, Bruno, Buck, Bull, Bumps, Cameron, Campbell, Carleton, Chartrand, Chick, Cianchette, Clark, Clukey, Colwell, Cowger, Cross, Davidson, Desmond, Dexter, Donnelly, Driscoll, Dunlap, Dutremble, Etnier, Farnsworth, Fisher, Fisk, Foster, Fuller, Gamache, Gieringer, Goodwin, 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, Lindahl, Lovett, MacDougall, Mack, Mailhot, Marvin, Mayo, McAlevey, McKee, Morgan, Murphy, Nass, Nickerson, O'Brien, O'Neal, O'Neil, Ott, Paul, Peavey, Pendleton, Perkins, Perry, Pieh, Pinkham RG, Pinkham WD, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Savage, Saxl JW, Saxl MV, Shiah, Sirois, Skoglund, Snowe-Mello, Spear, Stanley, Stedman, Stevens, Taylor, Tessier, Thompson, Tobin, Treadwell, Tripp, True, Tuttle, Underwood, Usher, Vedral, Vigue,

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

NAY - Baker CL, Baker JL, Chizmar, Frechette, Gagne, Gagnon, Gerry, Mitchell JE, Muse, Shannon, Townsend, Volenik, Wright.

ABSENT - Brennan, Bunker, Madore, McElroy, Meres, Plowman.

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

132 having voted in the affirmative and 13 voted in the negative, with 6 being absent, the Majority "**Ought Not to Pass**" Report was accepted and sent up for concurrence.

Divided Report

Majority Report of the Committee on **State and Local Government** reporting "**Ought to Pass**" Pursuant to Joint Order (H.P. 993) on Bill "An Act to Revise the Salaries of Certain County Officers" (EMERGENCY) (H.P. 1341) (L.D. 1890)

Signed:

Senators: NUTTING of Androscoggin
GOLDTHWAIT of Hancock
LIBBY of York

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

Minority Report of the same Committee reporting "**Ought to Pass**" Pursuant to Joint Order (H.P. 993) on Bill "An Act to Modify the Salaries of Certain County Officers" (EMERGENCY) (H.P. 1342) (L.D. 1891).

Signed:

Representative: GERRY of Auburn

Was read.

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

Representative GERRY of Auburn requested a division on the motion to accept the Majority "**Ought to Pass**" Report.

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

A vote of the House was taken. 105 voted in favor of the same and 12 against, the Majority "**Ought to Pass**" Report was accepted.

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.

ENACTORS

An Act to Define the Permissible Duties of Part-time and Full-time Law Enforcement Officers (H.P. 938) (L.D. 1285) (C. "A" H-623)

An Act to Make Certain Changes to Post-conviction Review (H.P. 1090) (L.D. 1533) (C. "A" H-621)

An Act to Implement the Recommendations of the Department of Human Services Study Group on Prosecution of Crimes against the Elderly (H.P. 1214) (L.D. 1714) (C. "A" H-622)

An Act to Allow the Maine Harness Racing Commission to Issue Conditional Licenses (H.P. 1315) (L.D. 1866) (Governor's Bill) (C. "A" H-608)

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

An Act to Modernize Maine's Cigarette Tax Laws (H.P. 1150) (L.D. 1615) (C. "A" H-599)

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

On motion of Representative GERRY of Auburn, was set aside.

The same Representative requested a division on passage to be enacted.

The Chair ordered a division on passage to be enacted.

Representative VIGUE of Winslow 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 Winslow, Representative Vigue.

Representative VIGUE: Madam Speaker, Men and Women of the House. What I would like to know is what this does. There is none of us here in this corner that has any idea what's going on, so I'd appreciate it if somebody would tell us.

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

Representative TRIPP: Madam Speaker, Men and Women of the House. I'm sorry. We've been running up and down with the BIW hearing and sorry I was out back. This bill makes significant changes to Maine's cigarette tax laws. It's a bureau bill that comes to us in Taxation. It eliminates unnecessary definitions, creates new licensing provision with increased fees, provides for the importation of unstamped cigarettes by individual or personal use, provides both seizure and forfeiture of contraband cigarettes and poses specific record keeping requirements on cigarette dealers. So, basically, it's a technical change in our law that currently stands.

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

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

The SPEAKER: The Representative may pose his question.

Representative MACK: Madam Speaker, Men and Women of the House. I heard him say that there were fee increases. How much are the fee increases?

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

Representative JOY: Madam Speaker, Ladies and Gentlemen of the House. The amendment (H-599) says increase in license fees will increase general fund revenues by \$8,190 in fiscal year 97-98 and \$9,000 in fiscal 98-99. I'm not sure if the dollar amount of the individual increase is indicated in the bill or not, but revenue will again increase in fiscal year 2000 and 2001 by an estimated \$7,500. Also, along with it, there is an increase in the penalty for certain crimes, from class D to class C crimes, resulting in a shift of costs from the counties to the State. Sentences of more than 9 months for class C crimes must be

served in a State correctional institution at the cost of \$53,033 per sentence, based on an average length of stay of one year and 10 months. Thank you.

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. 294

YEA - Ahearne, Bagley, Baker CL, Baker JL, Berry DP, Berry RL, Bigl, Bolduc, Bouffard, Brennan, Brooks, Bruno, Bull, Bumps, Cameron, Chartrand, Chick, Cianchette, Clark, Colwell, Cowger, Davidson, Desmond, Dexter, Donnelly, Driscoll, Dutremble, Etnier, Farnsworth, Fisher, Frechette, Fuller, Gagne, Gagnon, Gamache, Goodwin, Green, Hatch, Jones KW, Jones SL, Kane, Kerr, Kontos, LaVerdiere, Lemaire, Lemont, Mailhot, Mayo, McElroy, McKee, Mitchell JE, Morgan, Muse, O'Brien, O'Neal, O'Neil, Paul, Peavey, Pendleton, Pieh, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Stanley, Stevens, Tessier, Thompson, Townsend, Tripp, Tuttle, Underwood, Vigue, Volenik, Watson, Wheeler GJ, Wright, Madam Speaker.

NAY - Barth, Belanger DJ, Belanger IG, Bodwell, Bragdon, Buck, Campbell, Carleton, Chizmar, Clukey, Cross, Dunlap, Fisk, Foster, Gerry, Gieringer, Gooley, Honey, Jones SA, Joy, Joyce, Joyner, Kasprzak, Kneeland, Labrecque, Lane, Layton, Lemke, Lindahl, Lovett, MacDougall, Mack, Marvin, McAlevey, Murphy, Nass, Nickerson, Ott, Perkins, Perry, Pinkham RG, Pinkham WD, Savage, Snowe-Mello, Spear, Stedman, Taylor, Tobin, Treadwell, True, Usher, Vedral, Waterhouse, Wheeler EM, Winglass, Winn, Winsor.

ABSENT - Bunker, Jabar, Madore, Meres, Plowman.

Yes, 89; No, 57; Absent, 5; Excused, 0.

89 having voted in the affirmative and 57 voted in the negative, with 5 being absent, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

An Act to Allow Agricultural Workers to Bargain Collectively (H.P. 1177) (L.D. 1654) (C. "A" H-550)

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

On motion of Representative HATCH of Skowhegan, was set aside.

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

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

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

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

REPORTS OF COMMITTEES

Divided Report

Majority Report of the Committee on **State and Local Government** reporting "**Ought Not to Pass**" on Bill "An Act Regarding the Self-governance of Biddeford Pool" (H.P. 640) (L.D. 865)

Signed:

Senators: GOLDTHWAIT of Hancock

LIBBY of York
 Representatives: BUMPS of China
 LEMKE of Westbrook
 GIERINGER of Portland
 SANBORN of Alton
 DUTREMBLE of Biddeford

Minority Report of the same Committee reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-698) on same Bill.

Signed:
 Senator: NUTTING of Androscoggin
 Representatives: AHEARNE of Madawaska
 FISK of Falmouth
 BAGLEY of Machias
 GERRY of Auburn
 KASPRZAK of Newport

Was read.

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

Representative DUTREMBLE of Biddeford moved that the Bill and all accompanying papers be indefinitely postponed.

Representative AHEARNE of Madawaska 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 PRO TEM: The Chair recognizes the Representative from Saco, Representative Kane.

Representative KANE: Mr. Speaker, Men and Women of the House. As a representative of Saco, I have significant thoughts on this public issue. I have a great deal of sympathy for the Biddeford Pool folks who have labored for several years in an effort to resolve the impasse with the city of Biddeford. But, I still have major concerns about the validity of their case. There is no question that the whole issue has been mishandled. Both sides have miscalculated and mistreated one another to an extent that the real issues of the case, I think, have been lost. We witnesses, last week, a case of "how to do it right" when we review the Frye Island - Standish issue. They followed established legislative guidelines. They negotiated. They resolved their conflicts and they were able to come to this body with a compromise arrangement, and made it very easy for us to do the right thing as well. I believe that the most constructive action that this body can take would be to pass the motion to Indefinitely Postpone and to require the parties to follow the same guidelines that the Legislature has established, and that Frye Island complied with. If they are unable, together, to resolve the impasse, they should commit themselves to binding arbitration in order to accomplish their objectives. I don't believe that the Legislature ought to put itself in a position of being the arbitrator in this kind of a situation. Thank you Mr. Speaker.

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

Representative LEMKE: Mr. Speaker, Men and Women of the House. A couple days ago we had a bill before us that dealt with secession. I supported that bill. However, there were fundamental differences, and are fundamental differences, as the good Representative Kane has already noted. Primarily, there was agreement, finally, on the local level relevant to the prior bill. That does not exist today regarding Biddeford Pool. Secondly, the prior bill dealt with an island in a lake for which there is no precedence at present in the State of Maine. It did not deal with shore front property either on lakes or along the coast. Those are basic difference. Frye Island did not, in my opinion, establish a precedence. If we were to grant secession

to Biddeford Pool, it would definitely establish a precedence. Now, I do want to say that the folks from Biddeford Pool worked long and hard on this. They presented a great deal of testimony to the State and Local Government Committee. But in the final analysis, if we were to grant today secession to Biddeford Pool, then many of you in your districts, it's fair to say, would be facing your own Biddeford Pools in the future. And the future would come quite quickly in a number of towns and municipalities through the State of Maine. Now, there is a Minority Report for a village corporation which was something that was not agreed upon on the local level. A key advocate for Biddeford Pool stood up in committee and said that he proudly was for secession, up or down, then subsequently, changed his position. But, even within Biddeford Pool there is disagreement over the alternative Minority Report, and definitely within Biddeford Pool itself there is considerable disagreement of opinion on secession. So, I have to say that we have to look very long and hard before we create a significant historic precedence in this House which would, unfortunately, I believe at this time and as structured, create a situation which would literally balkanize the State of Maine on the basis of economics, class and culture. That is not something that I would urge you to support. I urge you to support the motion pending for Indefinite Postponement of this Bill and all Accompanying Papers.

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

Representative FISK: Mr. Speaker, Ladies and Gentlemen of the House. This bill had two public hearings. It had four or five work sessions. I think it had two sub-committee hearings and perhaps even an ad hoc committee meeting. If you will, this was State and Local Governments budget bill for the session. In a nutshell, the committee felt the Biddeford Pool residents presented a very credible case, but we were very, very apprehensive about secession. But, the committee did want to do something, and therefore, we agonized what the process might be, and decided that a village corporation is something that we should try to tackle. Given the contentious history between the city of Biddeford and the people of Biddeford Pool, the committee was put in a difficult position to really draft this entire compromise. I have to commend the chairs, Senator Nutting and Representative Ahearn, for what they have done. We went through many work sessions to craft this amendment which is the Minority Report of six.

Now, I'd just like to preface my remarks by saying that when the bill came before our committee, I too, had some reservations and probably a disposition against secession. But, as I listened to the arguments on both sides, I increasingly felt that the residents of Biddeford Pool had assembled a very comprehensive and compelling case. I'd like to present some of it to you. I would like to just say that I know no one from Biddeford Pool initially. I don't have an uncle that owns property in Biddeford Pool and as a matter of fact, I've never even been to Biddeford Pool. But, I was one that became a strong supporter, either of secession or the village corporation for this committed group of citizens. These are some of the reasons that I feel that you should really consider the Minority Report for village corporation. Let me begin by saying what this bill is not. This bill is not about taxes. Only 8 percent of Biddeford's property taxes, which Biddeford would more that recover by Biddeford Pool's payment for some city services and Biddeford's increasing tax base from inspected new industrial growth. Both sides openly testified that this was not about taxes, it was about control. If you look at Long Island and Portland, and that secession, Portland's taxes did not increase. Second fact that this is not about, it's not wealthy versus poor. This may have been a valid perception several generations ago when it was primarily a summer colony.

Now we have teachers, fishermen and retirees on fixed incomes that are part of this year-round population. Thirdly what it is not, it's not a mandate. There is no fiscal note. Biddeford Pool will pay for any cost in putting this issue out to public vote. Before I go on, I would mention that this is all they ask to do, is allow it to get to public vote.

Now, I'd like to give you the reasons why I became a supporter of village corporation. First, the 117th State and Local Government told these two groups to go back and try to work out a compromise. They did not do it, and therefore the four members of the Joint Standing Committee on State and Local Government from the 117th Legislature who charged the town to find a resolution ended up sponsoring L.D. 865. Second, there is a 75 year history of deeply rooted problems. A long history on indifferent behavior by the city towards Biddeford Pool residents and their concerns. Thirdly, they're classified as proven futility. The village corporation was being developed when the Biddeford City Council voted 10 to 1 not to support the concept. Members of the Biddeford Pool attended meeting after meeting and there was progress with the city manager when the city council simply pulled the plug. Subsequently, when the committee tried to bring the two groups together to coalesce a village corporation. The city of Biddeford did it apprehensively. In effect, Biddeford Pool residents can not effect policy and have not been given a chance to. Number four, there's a uniqueness to this community. This is not a disgruntled neighborhood. It is an area removed and different from the city of Biddeford with different concerns and different needs. Number five, and perhaps one of the most important aspects, is the environment. Biddeford Pool residents have had to report arbitrary violations to the city's ordinances and have had to go to court. The DEP, in order to force the city to adhere to state and its own city ordinances. Besides this historical problem with the city, despite rather, this historical problem with the city, Biddeford Pool's protection of the environment has been exemplary. Which includes the protection of class A wetlands, important bird staging areas as well as creating the Rachel Carson refuge. Number six, the city rejected the village corporation and offered no alternative plans. Representatives from the city, including the mayor, missed most of the meetings to find a solution as it was charged by the 117th Legislature. A twelfth hour, which was in the second work session of State and Local Government proposal, was put forth by the city lobbyists with little input from city officials and none from the representatives of Biddeford Pool. The proposal was deemed unacceptable masking continued control from the city. Seven, Biddeford Pool residents have proven in many ways and instances that they are very capable of governing themselves. Their level of organization is excellent. Eight, financial fairness about the secession was not questioned. Biddeford Pool will pay their fair share of existing tax bonds as well as for police services and education. Our attempt to put together a compromise, our committee, originally the village corporation by Biddeford Pool had asked for 44 percent of the taxes to the city to manage themselves. We granted them only 31 percent and accepted it. Nine, small towns can govern themselves effectively. There are over 100 Maine towns with less population than Biddeford Pool. Long Island's secession from Portland has been successful, as have other village corporations. Then, ten, Biddeford Pool has done all that's asked of them and more, given the present State statute governing secession. They're very committed. They're an organized group that has an excellent presentation and gave an excellent presentation of their case. They did their homework. In this body last week a number of members stood and commented that Frye Island had met their obligation under the State statute and that we should grant their right to govern themselves. Biddeford Pool has done that five fold. It's

important that I would point out, the statute does not require both sides to agree. I repeat, it does not require them to agree.

In concluding, the Biddeford Pool residents have spent over five years in the process and presented a very compelling case. The city of Biddeford has not, nor have they genuinely tried to work out alternative resolutions as requested by the 117th Legislature. Secondly, Biddeford Pool has repeatedly proved that they will do a better job in protecting this special area for future generations. The residents of Biddeford Pool have more than met their burden pursuant to the State statute and the request of the 117th Legislature and thus L.D. 865 deserves your serious consideration for passage, if not, then the amended Minority Report. I'd like to make one final point. The officials from the city of Biddeford continually frustrated the committee with attitude that they really did not want to work or accept a village corporation. Frankly, I feel that their strategy from day one was that this body would not vote for it and so there was no need to seriously address it. I strongly urge you to reject that and vote against the pending motion and accept the Minority Report for village corporation. Thank you very much.

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

Representative AHEARNE: Mr. Speaker, Ladies and Gentlemen of the House. I hope you vote against the pending motion because this bill is no longer about secession. I repeat, this bill is no longer about secession. This bill is now about, as my good friend, my colleague from Falmouth discussed, about a village corporation. Just one clarification about the guidelines. It was during the 116th Legislature that we formulated these guidelines. I served on the State and Local Government Committee at that time. By no means did we allow these guidelines to be set, as if every group that comes before the committee were to meet each and every one of these guidelines, that somehow that is the magic window and boom, they get to go. That's not the case. Merely the guidelines provide the committee with information so that we can have to make a very long tough decision on what to do. By no means is it a guarantee that we will support the bill. And for all these bills that have come before the State and Local Government Committee in the past two terms I served on the committee, all of them have met all the statutory, all the guidelines. By no means did we agree that the other bills in the last Legislature come out for a vote. What is a village corporation? Just very briefly, village corporations are allowed within Maine statutes. They have the same powers and duties as municipalities with regards to ordinances related to buildings, fallen ice and snow, pensions, cable TV, traffic, parking, motor vehicles and ice. They have the same powers as a municipality with regard to land use regulation. They may take and hold land for playgrounds, parks and appoint park commissions. They may appoint a building inspector. They may establish a library if the town does not have a library. They may establish a refuse disposal district. They may even establish a shellfish conservation program.

Currently there are six, which in the near future there will be five village corporations. Now, what is in committee amendment "A" that we would hope that the House, this body, would accept if we would vote against the pending motion? In section one it merely outlines the territory and creates the village corporation which, of course, is subject to acceptance by the voters in the territory.

Section two, the powers. It sets forth the powers of the corporation as follows, build, maintain, plow and provide signs for roads, streets, ways and sidewalks. Build, repair and maintain a system of storage and surface water drainage. Establish and maintain police services. Adopt, amend and enforce land use ordinances including zoning, a comprehensive plan, a sub-

division, shoreline zoning ordinances. Approval of changes to the city of Biddeford, ordinances relating to traffic, parking and the harbor.

Section three, property, authorizes the corporation to acquire and hold real and personal property but does not grant eminent domain power.

Section four, transfer of tax revenues to the corporation. Requires the city of Biddeford to transfer 31 percent of the property tax revenue collected from the village corporation territory. The percent is adjusted, if necessary to insure the amount transferred keeps up with increases in this CPI. In the first of the corporation existence, the city is also required to transfer an additional 2 percent of revenues to enable the corporation to establish a reserve fund for emergencies and unforeseen expenses. This section provides a penalty against the city for failure to make timely transfers and requires the corporation to pay reasonable administrative expenses incurred by the city in transferring revenue.

Section five, fiscal year, provides that the fiscal year is the same as the fiscal of the city.

Section six, borrowing, authorizes the corporation to borrow money under the same terms and conditions as a municipality. The city is not liable for debts of the corporation.

Section seven, officers, provides the administrative and governed infrastructure of the corporation to include a village administrator and an elected three or five person board of overseers. It requires the overseers to give notice to the city of proposed adoption of amendments or ordinances or bylaws.

Section eight, parks, requires the corporation to oversee and maintain the Vines Landing Park, which must be available to all citizens of Biddeford as a public park.

Section nine, disaster relief, requires the city to apply for disaster relief funding for essential infrastructure repair for the corporation territory in the event of a major natural disaster and requires the city to assist the corporation as long as the assistance does not require addition, un-reimbursed expenses.

Section 10, voters, provides that persons who reside within the corporation territory, who are legal residence of the city of Biddeford, are voters in the village corporation. Election of officers, requires officers to be elected at the first meeting at which the village corporations charter is accepted.

Section 11, meetings for acceptance of charter, allows the act to be accepted as a village corporation charter within two years after approval by the Governor. Allows five named persons to call a meeting to vote on acceptance of the charter and specifies that future meetings after elections of officers must be called in the same manner as town meetings are called.

Section 12 is the effective date and provides that the act take effect for purposes of allowing a vote on acceptance of the charter and begins the corporation 30 days after acceptance and requires the city to transfer a prorated portion of the tax revenue due to the village corporation plus the 2 percent supplemental amount.

Section 13 is a report which requires the board of overseers of the corporation to report to the Legislature three years after incorporation regarding expenditures of the corporation, experience with the city of Biddeford and any other related matter. The proposal, if we were to reject this pending motion, it is no greater that any of the existing village corporations today. No more, no less. It is reasonable. It's a compromise. This committee worked long and hard on this issue. This is a process that I jumped into in my first term back in the 116th Legislature. I doubt it will be the last time we will see this issue before this body. But, I believe it's a worthy compromise. I think it's worthy to vote for and I ask you to reject the pending motion so we can accept the compromise and the village corporation.

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

Representative VIGUE: Mr. Speaker, Ladies and Gentlemen of the House. I served in the 115th, 116th and the 118th with Representative Dutremble. He was also past mayor of Biddeford a number of times. He understands exactly what is going on there, he has lived the problem. As past mayor of this community, he deserves our support. I urge you to support State Representative Dutremble in postponing this bill and all its papers.

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

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

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

Representative MAYO: Mr. Speaker, Men and Women of the House. The first question would be, is the prohibition of non-residents of Biddeford, against voting in the village corporation, when they pay taxes to the village corporation, is that constitutional? I read in here that if you are not a resident of Biddeford, you can not vote in the village corporation. That would be my first question. My second question would be, to the best of anybody's knowledge, has a village corporation been established by legislative fiat, and not upon the request of the proposed corporation?

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 Saco, Representative Kane.

Representative KANE: Mr. Speaker, Men and Women of the House. This is not an answer to the question so I don't want to preempt anyone that plans to answer it. In order to understand the complexity of the situation it's important to keep in mind that the city of Biddeford has an illustrious history as a textile manufacturing city. Biddeford Pool has been, in many respects, the jewel of the city of Biddeford. It's a city that has gone through a series of ups and downs and has been through a substantial period economic decline in the last few years. It's attempting, currently, to put its best face and best foot forward as it picks itself up and attempts to rebuild and grow economically. Biddeford Pool is an integral part of the south image of city of Biddeford. To strip that pool away from the city leaves it with a significant gap. I hope as you think about this complex issue, you look at it in its totality. It is far more that just the facts that have been laid on the table in this debate. I hope you'll keep in mind the history of this city and the significance of the pool area to the history. The other thing that the city of Biddeford is concerned about in terms of precedent, Biddeford Pool is only one of several of the ocean, the beach front enclaves that it has, Goose Rocks, Granite Point. It's concerned, as a legitimate concern, is this the first step in the erosion of the jewel of the city. Please keep this in mind as you contemplate the vote. Thank you Mr. Speaker.

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

Representative LEMKE: Mr. Speaker, Men and Women of the House. The good Representative from Bath asked two questions which I think the proponents of secession, or I should say the equivalent of secession, the village corporation, should answer adequately. To date there has been no answer and I think that speaks eloquently in itself. Men and Women of the House, several remarks have been made by other members of the State and Local Committee who are on the Minority Report that should be addressed. Good Representative Fisk mentioned that there were two public hearings on this bill. Well, yes and no.

I had a problem with that because this came in as a straight secession bill, up or down. Somewhere in the middle of our long and interminable meetings it became a village corporation bill without what would be considered a public hearing or going through that. I had a problem with that we were going beyond our parameters to that, number one. And number two, we were going beyond the parameters of our committee to be acting as arbiters in a local dispute which was insoluble. I believe we were going beyond our purview to do that. I frankly believe that for this Legislature then to give that sanction to that would also be beyond the proper purview of this Legislature. The good Representative from Falmouth also mentioned that there was a history of "deeply rooted problems" and that "Biddeford Pool was removed and different from the rest of Biddeford." I think when he said that he was right in stating the problem, but he was wrong in stating the solution. When you have these kinds of problems on the local level, and you have a failure of agreement or to move toward agreement on the local level, that in itself is a very strong argument to vote against the Minority Report.

Long Island was mentioned. Long Island is an island Ladies and Gentlemen. Unfortunately, Biddeford Pool may not physically be an island, but in many ways it has been and is an island of a couple hundred people from the 23,000 people of the rest of Biddeford. That is something that has to be resolved. It has to be resolved on the local level. Local control has to operate. It is not within our poor powers to add or detract on this particular issue. The good Representative Ahearne said that "this is no longer about secession" because now we have a Minority Report of a village corporation. I would submit to you that it still is about secession, but it's secession by another means. This has always been about secession. It's about secession today. I will say there's one thing that I do agree with the good Representative from Madawaska, and that is that we spent long and hard hours on this. So long and so hard that one good lady called me up and asked "are you on the Biddeford Pool Committee?" I said I feel like I'm on the Biddeford Pool Committee. We have expended more time on Biddeford Pool than the budget of the State of Maine. After all of that time and after all of that talk and everything else, we are still at an impasse.

Unlike the south, I shall not rise again. But, I will leave you with this thought, that if you vote for this today by voting against the pending motion, you will set a precedent for secession throughout the State. Very possibly in your districts. Think about that long and hard when you vote. We do not want to balkanize the State of Maine. We want to bring the State of Maine together. Ladies and Gentlemen, this is not the way to start. This is not the way to do that. So, I urge you to vote, again, for the indefinite postponement put forward by the good Representative and former Mayor, and long time, total time, resident of Biddeford, Representative Dutremble, who by the way, once played baseball against my father. They both won and they both lost. I urge you to support Representative Dutremble.

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

Representative JOYCE: Mr. Speaker, Men and Women of the House. Unfortunately, I agree with Representative Lemke. These issues should be decided on a local level, but it hasn't happened. It hasn't happened in the last 75 years. I normally discourage my constituents from coming to Augusta to solve their problems, but due to the leadership backing that we face every day in Biddeford City politics, my constituents have no choice but to come up here and to have us solve this issue. A year ago, after the City Council voted down the village corporation compromise that their own negotiators offered during

those meetings, it was too late for the Legislature to do anything about it. The city promised they would continue meeting throughout the summer to come up with another solution. That was over a year ago. Not one meeting has been held. My constituents aren't up here because the city has refused to give them everything that they ask for. They're up here because the city has refused to even sit down and talk with them. Biddeford Pool has already shown a willingness to compromise. They started out with secession two years ago and now we're at a village corporation. That is the compromise. This isn't just one step towards secession. They truly and willingly want to try this village corporation. I think that some of them are enthusiastic about it. It gives them enough autonomy from the city yet it keeps them still a part of the city. The city is not going to loose money like they put out in the press releases in their scare tactics. They're only going to get 31 percent of their tax dollars back to take care of police, fire, safety, public works and whatever else is written into the corporate charter. So, however you feel about village corporation, this is for us to decide. The City of Biddeford has had a dismal environmental record. Are completely unaccountable to anything. All you have to do is pick up the *Portland Press Herald* at least once a week and you will see some controversy created by political leaders in the City of Biddeford on the front page. This is for us to decide here and now. Thank you.

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

Representative SAVAGE: Mr. Speaker, Men and Women of the House. I agree with what Representative Joyce just said. I think this is an issue that we will have to decide here in Augusta. I served on State and Local Committee last session. We gave the City of Biddeford deadlines to accomplish some of those problems that Biddeford Pool had. They ignored us. They didn't meet any of the deadlines. This went on for two years while I served on that committee. That was the real reason why we established the provisions that we did in statute to allow a community to secede. These problems are deep seeded. They're ongoing. They won't be resolved within the two communities. They never will be a mutual agreement like there was with Frye island. The City of Biddeford is not going to let their most valuable, taxable property go. I think we do need to make that decision right here in this House. Thank you.

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

Representative GIERINGER: Mr. Speaker, Men and Women of the House. After reading volumes of information on the secession issue of Biddeford Pool as well as testimony from both sides, I can't help but wonder if the time and energy expended had focused on a resolve, would our committee's involvement been necessary. It seems to me that we evaluated volumes and volumes of information, and believe me, it was long. Four or five sessions and workshops. It seemed that we were getting no place. But I do feel, I want to let folks know how I feel about it. First consider 23,000 Biddeford residents versus 190. Less than 1 percent of Biddeford Pool. That's 1 percent, 190, that's less than 1 percent of the total of Biddeford Pool's population. Consider over 40 Biddeford Pool residents signed a petition against the secession. Consider the negative publicity for Biddeford and it's long-term affects. Consider the penalty of 23,000 Biddeford residents. Consider all neighboring communities within Biddeford could demand secession siting poor services, school systems, poor roads, poor drainage and on and on and on. Consider the potential precedent it would set for other towns and cities. Consider Biddeford Pool residents will have the use of the infrastructure of Biddeford Pool, of Biddeford's roads, hospital, fire department, police department,

schools, libraries, human service facilities and on and on and on. Consider their obligation for the latter services. Consider a tour of the beach area and observe the beautiful environment that Biddeford Pool residents can enjoy throughout the year. Consider the fact that other residents of Biddeford have very limited access to the beautiful beach area. Considering most communities in the country are combining their efforts to improve municipal and educational programs. Let's not destroy the future foundation of Biddeford and its people. Consider that the divisions caused by Biddeford Pool controversy prevent unity among all Biddeford citizens on efforts to improve municipal and educational programs. It seems like we're considering a lot, but I'll finish it right here. I'm convinced that the existing problems between the city and Biddeford Pool can be resolved through a concerted effort on part of both parties. However, we need a mediator or ambassador of good will to coordinate and help resolve the existing and future problems. The mediator would submit a periodic progress report to the Committee on State and Local Government and to the State Legislature for the City of Biddeford. Preferable to them. Such a procedure would hopefully promote unanimity among all concerted parties. Now, we talked about the secession. We talked about a village corporation. What do we want and what do they want. We want to be fair to the people of Biddeford. By being fair to the people of Biddeford please consider what has been said by Representative Lemke, by Representative Kane, myself, Representative Dutremble and others in the area. I do want to commend the people of Biddeford Pool for the outstanding job that they've done. They've accumulated more information, very helpful information believe me. I'm a little upset with City of Biddeford's officials. I believe they could have helped out more. I think they could have resolved many of the problems. Maybe there is a problem of too high taxes on the shorelines. That's something that should be looked into as well. But, in any event, vote, follow the lights of Representatives Kane, Lemke, Gieringer and Dutremble. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Biddeford, Representative Frechette.

Representative FRECHETTE: Mr. Speaker, Men and Women of the House. As you all know, I'm not a frequent speaker or debater on the floor. I speak today on an issue that effects the very fabric of our society, every municipality in our state and every person in this room. I also speak today as holding a dual position, I'm not only a State Representative, but I'm also the president of the city council of the City of Biddeford. The council has devoted countless hours and days to appease a very vocal minority of residents of Biddeford Pool. The city council, the city manager and municipal employees have made every effort over the past two years to respond to the concerns of Biddeford Pool. In every instance in which we have satisfied a particular concern, another surfaces. I have concluded that residents of that area will not be satisfied until they have completely seceded from the city and that the village corporation proposal is nothing but the beginning of the process. Since this bill was first introduced in 1995, the City of Biddeford has spent over \$340,000 in the Biddeford Pool area. Including construction of Vine's Landing on Lester B. Orcutt Boulevard. The cities plan was not the best. The pool came up with their own concept and a majority of that plan was set up by the city and that's how it stands today. We replenished and replanted the frontal dunes at the Biddeford Pool beach. Including fixing the sea wall that was damaged by a storm which Biddeford Pool residents played a major role in. The city was originally going to go with an old wooded wall if I remember right, and we ended up having DEP come down. We had a meeting at the Biddeford Pool bath house where the wall was located. That's how everything got

accomplished through that. I think most parties were appeased, although I don't think everybody was happy about it. We had the paving of the main road into the Biddeford Pool area, the Mile Stretch road. We've been constantly upgrading the fire equipment at the Biddeford Pool fire station and we have assigned a full time officer, a police officer, for the coastal area as part of a COPS program. He's designated to patrol the Biddeford Pool area along with the other two coastal areas, Fortunes Rocks and the Hills Beach area. The supporters of the legislation will say that the city has neglected this area, particularly on environmental issues. While we have not been perfect, the city has responded to their concerns by creating the position of manager of city services to assure that our environmental laws and ordinances are enforced. We built one of the first waste water treatment plants in the state and we are about to undertake a \$13 million upgrade to meet the communities needs for the next 20 years. We have received commendations from the Department of Environmental protection for the manner at which we have maintained the dunes and responded to other environmentally sensitive areas.

I would also like to share with you the history of L.D. 865. During the Legislative session, which underscores our frustration in dealing with not only the legislation, but with the ever changing position of the Biddeford Pool secessionists. The initial hearing on this legislation was March 3rd, and the work sessions were held on March 10th and 21st, April 1st, 10th, 28th, and May 15th. Our city council scheduled special meetings on April 15th and April 22nd to respond to the State and Local Government's inquiries. During each of these work sessions the committee attempted to forge a compromise acceptable to the city and Biddeford Pool, but for a number of reasons we were not able to do so. The final act of this drama occurred in the committee's work session on April 28th when the Senate Chair of the committee asked the secessionists whether they wanted an up or down vote on secession. They replied, "we understand we are taking great risk asking for a vote on secession, but this is where we make our stand, and this is our declaration of independence. And it is with great pride that I will ask you for a straight vote, up or down." The committee then voted 10 to 3. Ten members voted "Ought Not to Pass" and 3 voted "Ought to Pass." According to secessionists wishes the committee did proceed to vote 10 to 3, but when the city left the committee room, it believed that this issue, after six lengthy meetings and two special city council meetings, had finally been resolved. In an effort to accommodate some of the secessionist's concerns, however, I met that evening with our Mayor and City Manager to discuss our proposal to create a coastal area planning board and a board of appeals. As well as the expansion of the harbor and waterfront commissions to five members, the assured that the Biddeford Pool would have membership on the commission.

You can imagine my surprise when learning from press reports that on April 30th the State and Local Government Committee voted to reconsider the April 28th vote, which was done without notifying the city or its representatives. The Minority Report before us today to form a village corporation for Biddeford Pool, which incidentally was adopted without a public hearing, is clearly unacceptable to the city since it give jurisdiction to the village corporation of over 45 percent of the coastal area of the city, which includes the harbor, most of the pool frontage, Mile Stretch Road and the city's only public beach. It is obvious to anyone who have been involved in this process that the Biddeford Pool village corporation proposal is nothing more than a thinly disguised attempt to secede. The bill contains practically all the powers that are afforded a municipality including the power to borrow money to build, prepare, maintain and plow roads, streets and so forth. I would like to conclude my

testimony this afternoon in front of this House, by commenting on the process leading to the imposition by the Legislature of a village corporation over the objections of the affected municipality. I am informed that in every instance in the past 100 years in which a village corporation was created, it was done so with the agreement of the municipality in which the corporation was located. If this Legislation imposes a village corporation on the City of Biddeford it will be the first time in the history of the Legislature that a small vocal minority of residents, in this case less than 150 registered voters, are authorized to create a municipality against the wishes of the overwhelming majority of the citizens of the municipalities in which the village is located.

Please join me today in voting to Indefinitely Postpone this Bill and Papers. I also, as I've been listening to the debate, wrote several pages of notes on my note pad here. I'm not going to go through all of them, but I've heard some things here today saying that the city's attitude was not the best. Well this is not a bill about the City of Biddeford's leaders and their attitudes. This is an issue about the city as a whole. You can bet that if my residents, the people I represent, my constituents and any member of this city, besides the coastal area, the Biddeford Pool, had come forward and said "we think a village corporation is a good idea, go for it", then I would be standing here supporting the village corporation. The residents have not said that. The residents of Biddeford Pool have worked very diligently. I commend them, they have worked very hard. They have lobbied the halls here more days than, I think, any other lobbyist has. On many occasions they've had at least three, and in some cases they've had five, six and even more people than that. During the caucus today I made a comment when I addressed my Democratic Caucus. I said of the people that have talked to me, that all the life-long residents of Biddeford Pool were opposed to this. I was wrong when I stated that. What I wanted to say was that a majority of the people that have come to me that are residents of Biddeford Pool. Some of them have lived there for quite a many years. Some have lived there longer than I've probably been alive. They're the ones that have come forward and said we can't support this. I know that everybody has received phone calls. Many people have received letters. There are over 51 people that signed a petition, that are residents of Biddeford Pool, that do not support this. That is why I stand here today and ask you to support the Indefinite Postponement of this Bill and its Papers. Thank you.

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

Representative JOYCE: Mr. Speaker, Men and Women of the House. If this Legislature were to impose the will of 150 people on the entire city of 22,000 plus residents we would be setting a precedence. Clearly a lot of people haven't read this bill or the committee amendment. We're not imposing the will on anybody. All we're doing is giving the residents of Biddeford Pool the right to vote on this issue. If the majority of the residents down there want to form a village corporation, they will vote in favor of it and then they will proceed along the guidelines that were set up in this committee amendment. We're not imposing anything on the people. This list right here in front of me of all these people who against village corporation, 160, I don't know what it is. I know most of these people. Well, they have a chance to vote on it. We're not imposing our will on them. It also says, we the undersigned stress that we have not had a chance to publicly debate the need for, or nature of any change in government. Well, I don't agree with that. I'll give them the benefit of the doubt. Maybe they haven't. Maybe they felt they haven't. Well, the other thing this committee amendment says is they have two years to take a vote, they

have the public hearing to take the vote, and decide whether to go towards the village corporation.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Biddeford, Representative Dutremble.

Representative DUTREMBLE: Mr. Speaker, Ladies and Gentlemen of the House. As a life-long resident of the City of Biddeford and a former mayor of that city, I want to share with you my thoughts on this legislation and to urge you to accept the postponement of this bill. I remember the first time that I saw the beach at Biddeford Pool. It was in 1938. I was 15 years old and I had my first part time job delivering groceries to the Pool area. At that time, the population of Biddeford Pool was mostly year round residents. The relationship between the people in Biddeford Pool and the rest of the city was cooperative and friendly. That positive relationship still existed 10 years later when I was a school bus driver with the route that included Biddeford Pool. There were many children that were year round residents at the Pool who were on my route. The Pool was once more neighborhood of the city with no special problems and no special demands. Ten years later that was still true at that time. I was a salesman for various cosmetic and novelty items to local stores. Among my customers were Boucouvalis Brothers Market and Goldtwite Market in Biddeford Pool. My relationship with those customers was the same friendly relationship that I had with other local retailers. Beginning in the early 60's, 1960, a number of out of staters had begun to buy a large portion of the property of Biddeford Pool. Soon we began to experience several attempts by the people of Biddeford Pool to keep out and off the beach the people of the City of Biddeford which did not own property at Biddeford Pool. For example, at the beginning of the mile stretch, so called the mile stretch, a person installed two large concrete blocks to stop people from using the beach and our parking area. The city had the right of way to the beach, but the city was forced to take action to have the blocks removed. A few years later at Fortune Rock, a person called DOT without informing the city official to request that no parking signs be placed on both sides of the street in an effort to keep people away. When the city officials discovered this, they met with DOT. I was a county commissioner at that time and I was called in. The sign was removed.

One of the worst examples of how the once friendly environment had changed was in 1972 when the mayor of Biddeford and his family went to Biddeford Pool Beach. After they arrived, they were told to leave by some of the Biddeford Pool people who claimed that the beach was a private beach. Because he recognized that the Pool beach had always been open and available to all the citizens of Biddeford, and that it was an important public natural resource, the mayor took necessary steps to take the beach by eminent domain. The city paid \$260,000 for approximately five and a half acres as compensation for the beach. In 1974, I succeeded Mayor Boucher as mayor of the City of Biddeford. I've worked with our city council to try to reach a compromise with the Pool Beach Association regarding the use of the beach. We spent a great deal of time and worked very hard on this compromise. The proposal was that the city would return to the Pool Beach Association and would instead take the beach that was adjacent to Saint Joseph Academy. In exchange, the Pool Association would transfer the \$260,000 that it had received from the city to Saint Joseph Academy, but just shortly before the agreement was to be finalized, the councilmen decided one afternoon to visit both of the beach sites. When they tried to enter the Pool Beach, one of the out of state seasonal property owners, out of state plate, told them that the beach was private and no strangers was allowed. Needless to say, the negotiations ended there. The city kept the beach that they had acquired through

emanate domain. The final price was settled in court. The city paid the association a total of \$500,000 for the beach.

Since that time, the city had worked hard to improve the environment of the Pool area and of the city as a whole. For example, 10 or 11 years ago, a new treatment plant was installed in the Biddeford Pool and it paid by the taxpayers of the city of Biddeford. And just like Mr. Frechette said, the roads are all paved except a couple. One dead end street and a small one. As former mayor, I can tell you that the city officials of Biddeford treasure the Biddeford Pool area and have tried to do their best for it. This has been a true despite the change in the relationship between the Pool and the city and the change in the population in the Pool that I described earlier. Even though the relationship may not have been as positive after the events of the early 70s things were pretty quiet. In 1989, the city conducted a reevaluation of the property of Biddeford Pool as is true for most property valuations. The property values over time had gone up not only in the Pool, but throughout the city. It was then that the Biddeford Pool residents once again began to raise complaints about the city's treatment of the Pool area. Upset that, like the rest of us, they had to pay higher taxes. My taxes more than doubled at that time. The Pool area residents kept complaining and introducing legislation to secede from the city. It is important to understand that the people who are supporting this bill, for most parts, not all them, are not the permanent year round residents. Some, yes. They are people from out of state. There are letters I've received from New Jersey, Texas and there were others from out of state seasonal residents and who do not worry about the overall economic well-being of the city and its citizens. In fact, there are only about 175 voters in Biddeford Pool. A percentage of those voters have signed a petition saying they want to remain with the city. They don't want to secede. They don't want a village corporation. The City of Biddeford is not a rich city. Many of its citizens are elderly and the city suffers from the same economic problems that most of our cities and towns face. Biddeford Pool is important to the economy to the City of Biddeford and to its citizens. It is a part of our heritage. It is a part of our city. It is public resource that our citizens, especially our children and elderly, look forward to using during the summer months to enjoy the beach. I beg this Legislature not to deny those individuals the opportunity for the sake of catering of some owners who don't know what it means to give as well as to take. And to live in the spirit of cooperation with neighbors. I request a roll call Mr. Speaker.

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

Representative FISK: Mr. Speaker, Men and Women of the House. It's difficult to rise again because the able representative from Biddeford, I know how much he loves his city, how important this is to him. But, I think you need to know that the bill itself, Biddeford Pool does not wish to commandeer their beach. They had concerns that the two lanes and roadway that's before their homes, the city might just take one lane and make it parking spots all along the front of their residences. So the concerns go both ways. One of the things that we reached in the village corporation was an agreement that things would not change. That they would be accepted as they are now, and if things were to change, both parties had to agree upon this. We felt that that was a very reasonable compromise. A couple of other points in terms of, I believe it is the representative from Bath, Representative Mayo indicated about the voting procedure. Certainly if Biddeford voted in this, 20,000 voters against 350, the Biddeford Pool would never get, or be able to affect policy. I think that it's kind of a mute point. One other point too is that when we listened to the Frye Island debate there were a lot of people who really spoke about local rule. In fact the city

manager of Biddeford had, at one point and time in his comments, said the Biddeford Pool is eminently capable of managing themselves. Lastly I would just say in fairness to those people of Biddeford Pool who spent four years into this, Representative Ahearne listed all that needed to be done. The state statute clearly defines all that needed to be done. The residents of Biddeford more that met their obligation. I feel it would be mildly unfair if they were not granted the same rights that Frye Island had particularly as hard as they worked on this. Again, I would urge you to defeat the pending motion and then go on the vote for the committee Minority Report. Thank you.

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

ROLL CALL NO. 295

YEA - Baker CL, Baker JL, Barth, Belanger DJ, Belanger IG, Berry DP, Bigl, Bodwell, Bolduc, Bouffard, Brennan, Brooks, Bruno, Bull, Bumps, Cameron, Campbell, Carleton, Chick, Chizmar, Clark, Clukey, Colwell, Cowger, Cross, Davidson, Donnelly, Driscoll, Dunlap, Dutremble, Etnier, Fisher, Foster, Frechette, Fuller, Gagne, Gagnon, Gamache, Gieringer, Goodwin, Gooley, Green, Hatch, Honey, Jabar, Jones KW, Jones SL, Kane, Kneeland, Kontos, Labrecque, LaVerdiere, Lemaire, Lemke, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, Mailhot, Mayo, McAlevey, McElroy, Mitchell JE, Murphy, Muse, O'Brien, O'Neal, O'Neil, Ott, Paul, Peavey, Perry, Pieh, Poulin, Povich, Quint, Richard, Rines, Rowe, Samson, Sanborn, Saxl JW, Saxl MV, Shannon, Shiah, Spear, Stanley, Stevens, Taylor, Tessier, Thompson, Tobin, Townsend, Tripp, Tuttle, Usher, Vedral, Vigue, Volenik, Waterhouse, Watson, Wheeler EM, Wheeler GJ, Winglass, Winn, Wright, Madam Speaker.

NAY - Ahearne, Bagley, Berry RL, Bragdon, Buck, Chartrand, Cianchette, Desmond, Fisk, Gerry, Jones SA, Joy, Joyce, Joyner, Kasprzak, Lane, Layton, Marvin, McKee, Morgan, Nass, Pendleton, Perkins, Pinkham RG, Pinkham WD, Plowman, Powers, Savage, Sirois, Skoglund, Snowe-Mello, Stedman, Treadwell, True, Underwood, Winsor.

ABSENT - Bunker, Dexter, Farnsworth, Kerr, Meres, Nickerson.

Yes, 109; No, 36; Absent, 6; Excused, 0.

109 having voted in the affirmative and 36 voted in the negative, with 6 being absent, the Bill and all accompanying papers were indefinitely postponed and sent up for concurrence.

The Speaker resumed the Chair.

The House was called to order by the Speaker.

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

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

Representative GIERINGER: Madam Speaker, Men and Women of the House. Thank you for your consideration and your humble support. Memorial Day is a day of pride in honor of our nations veterans who gave their lives to preserve our freedom and liberty. As a World War II veteran involved in combat in Europe, Italy, southern France and many combat missions, I am especially proud of all Americans who served our country in all parts of the world under all conditions. As a medic,

I can recall as if yesterday, young men dying in foreign lands never to see their loved ones again. It was frightening and sad but gave us the inner strength to carry on for them and our country. Let us take a moment of silence in this chamber to honor those who gave the ultimate, their lives. Let's never forget them on this special day. God bless them always. Thank you.

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 Provide Relief from Barking Dogs" (S.P. 373) (L.D. 1232) has had the same under consideration, and asks leave to report:

That the Senate Recede from its action whereby the Bill was engrossed as amended by Committee Amendment "A" (S-138).

That the Senate Recommit Bill and Accompanying Papers to the Committee on **Agriculture, Conservation & Forestry** in non-concurrence.

That the House Recede and Concur with the Senate.

Signed

Senators: KILKELLY of Lincoln
PARADIS of Aroostook
SMALL of Sagadahoc

Representatives: CAMERON of Rumford
BERRY of Livermore
BELANGER of Wallagrass

Came from the Senate with the Committee of Conference Report read and accepted and the Bill and accompanying papers recommitted to the Committee on **Agriculture, Conservation and Forestry**.

The Committee of Conference Report was read by the Clerk and accepted.

Subsequently, the House voted to Recede and Concur.

On motion of Representative DAVIDSON of Brunswick, the House reconsidered its action whereby it Receded and Concurred on An Act to Authorize a Physician's Assistant or a Nurse Practitioner to Sign Papers Transferring a Patient for Evaluation for Emergency Involuntary Commitment (S.P. 83) (L.D. 263) (C. "A" S-227; S. "A" S-229).

On further motion of the same Representative the House voted to Recede.

Senate Amendment "A" (S-322) to Committee Amendment "A" (S-227) was read by the Clerk and adopted.

Committee Amendment "A" (S-227) as amended by Senate Amendment "A" (S-322) thereto was adopted.

Senate Amendment "A" (S-229) was read by the Clerk.

On further motion of the same Representative, Senate Amendment "A" (S-229) was indefinitely postponed.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (S-227) as amended by Senate Amendment "A" (S-322) thereto in non-concurrence and sent up for concurrence.

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

SENATE PAPERS
Divided Report

Majority Report of the Committee on **Appropriations and Financial Affairs** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-329) on Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$10,000,000 to

Address Federal and State Accessibility and Public Safety Issues" (S.P. 612) (L.D. 1813) (Governor's Bill)

Signed:

Senators: MICHAUD of Penobscot
CLEVELAND of Androscoggin
BENNETT of Oxford

Representatives: TOWNSEND of Portland

STEVENS of Orono
BERRY of Livermore
KERR of Old Orchard Beach
KNEELAND of Easton
WINSOR of Norway
LEMAIRE of Lewiston
POULIN of Oakland

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

Signed:

Representatives: OTT of York
MARVIN of Cape Elizabeth

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-329).

Was read.

Representative KERR of Old Orchard Beach moved that the House accept the Majority "**Ought to Pass**" as amended Report.

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

Representative MARVIN: Madam Speaker, Ladies and Gentlemen of the House. Many of you may think that how the Legislature puts together their bond packages is that they base it on the total list of what they have and then they all agree on certain ones that they'd like to have included, at least that's how I always thought that we did our business. Well, part of that assumption is correct. We as a committee have agreed to put out 90 percent of the bonds that we are retiring for the biennium. This session we're retiring \$110 million from the general fund and \$40 million from the highway fund. This means that our numbers for the biennium for the amount we can send out to the voters, if we follow that 90 percent rule, are \$101 million for the general fund and \$36 million for the highway fund. Already, this committee has voted out \$3 million for Baxter School, \$13 million for environmental cleanup, \$5 million for vocational high school and now this \$10 million for various accessibility issues. We also have pending \$56,850,000 in transportation bonds. The total of this is \$87,850,000. That leaves us only \$39 million in general fund bonding and \$14 million in highway fund spending. I know it's late, you're starting to glaze over here, all these numbers, but let me say that again. It leaves us \$39 million in general fund bonding and \$14 million in highway fund spending for the remainder of the biennium. Now, we need to keep in mind, what did we carry over? Twenty-five million dollars for three regional psychiatric hospital, \$5 million for Muskee School at USM, \$17 million for R&D, \$14 million for State House improvements, \$25 million for and east-west highway, \$8 million for marine structure and technology and \$10 million for criminal justice academy as well as additional highway fund issues. I think it might even be a fair bet to say some other will come forward before we're all done. My point is this. As always, we have far more worthwhile projects that we money to pay for them. I would suggest that we stop right where we are and get all our choices out on the table. These choices seem to change on a daily basis. I, for one, need to know what all the choices are before I'm prepared to vote in favor of any other bond packages. It's time we learn exactly where our money is scheduled to go, and then move forward. I urge the members of

this house to adopt my "I need to know the choices before I make my priority list" attitude and vote against the pending motion. Thank you.

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

Representative KERR: Madam Speaker, Men and Women of the House. There has been no agreement on whether or not we should stick with the 90 percent rule on the committee. I think there's an intent that we'd like to be within that area. We have not taken a vote on that issue. The bond package that you will be voting on for \$10 million, I should explain to you where these dollars will be spent. Two million dollars will be spent on the State House. Six million dollars will be spent at the University of Maine for accessibility and public safety issues. The remainder, \$1.5 million will be spent on adaptive loan program. What it does is this program is going to offer business in this state an opportunity to borrow money to meet the federal law, the ADA approval, so these businesses can go out and borrow at a cheaper rate to comply at the federal law. And also, for those individuals that need this equipment, to be able to purchase it. So, I'd urge your support of this bill L.D. 1813. Thank you.

The SPEAKER: The Chair recognizes the Representative from York, Representative Ott.

Representative OTT: Madam Speaker, Men and Women of the House. Representative Marvin, I think, gave you the statistics on what our bond picture is starting to look like. My signing out on the Minority "Ought Not to Pass" Report is, I think, the same as hers based on principle. That we need to know what our final package is going to be. I heard her as I came in this chamber read the sum of the figures on the amounts that it would total if we were to pass all of the carry over bonds that we decided we're going consider in the next session. I didn't hear her give you a total, but in my figures it adds up to \$101 million worth of carry over bonds that we're going to consider again in the next session which I think would far exceed any 90 percent that we're going to adhere to. Again, my objections to this passage of a worthwhile bond proposal that would provide handicap accessibility, not only for those individuals who are handicap and need help, but also to encourage businesses to provide accessibility and to improve the handicap aspects and the health and safety aspects of our state buildings. But, I think in principle we have to look at the total package that we're going to be called upon to vote. To me, we've not reached that point where we should be considering passing out a \$10 million issue at this time. I urge you to also consider voting against the Majority "Ought to Pass" Report. 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. 53 voted in favor of the same and 36 against, the Majority "Ought to Pass" as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (S-329) 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-329) in concurrence.

Divided Report

Majority Report of the Committee on **Business and Economic Development** reporting "Ought to Pass" as amended by Committee Amendment "A" (S-326) on Bill "An Act

to Establish the Maine Economic Improvement Fund" (S.P. 637) (L.D. 1854)

Signed:

Senators: JENKINS of Androscoggin
MacKINNON of York
RAND of Cumberland

Representatives: VIGUE of Winslow
MURPHY of Kennebunk
FARNSWORTH of Portland
SIROIS of Caribou
SHANNON of Lewiston
WRIGHT of Berwick

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

Signed:

Representatives: BODWELL of Brunswick
CAMERON of Rumford
MacDOUGALL of North Berwick
MACK of Standish

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-326).

Was read.

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

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

Representative VIGUE: Madam Speaker, Ladies and Gentlemen of the House. What this bill does is it establishes the Maine Economic Improvement Fund to be administered by a board of trustees at the University of Maine System. The MEIF will provide funding for targeted research and development in five areas. The Maine Science and Technology Foundation has also long held a view that it is the role of the state government to invest in its own science and technology just as much as they invest in their own bridged and infrastructure. L.D. 1854 calls for establishment of a task force to review and summarize current policies and programs within the state to support research and development in the targeted five technological areas. As a member of the staff support for the task force, the MSTF, Maine Science and Technology Foundation, is able to fulfill one of its missions and that is to facilitate investments in science and technology that will stimulate science and technology driven jobs and economic growth. The goal is to expand economic opportunities in Maine using university based research and development capabilities as a tool. The objective in the five technological areas, one would be composite materials engineering, two would be information technology, three marine science aquaculture, four, environmental technologies and five bio-technologies. It would create a strong environmentally friendly research and development industry in Maine capitalizing on availability of federal and private sector funds for investment in research and development. It would expand the partnership between business and industry and higher education. It would increase Maine's appeal as a place for business and industry investment. It would create high quality technology based jobs for Maine people. Ladies and Gentlemen, we are presently 50th in the investments that we made in research and technology allowing us to grow into the 21st century. We are on the verge of being overtaken by none other than Puerto Rico. So, Ladies and Gentlemen, I would urge to support L.D. 1854. Hopefully we can bring this to a fruitful ending. I urge you to accept the Majority "Ought to Pass" Report. I thank you.

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

Representative CAMERON: Madam Speaker, Ladies and Gentlemen of the House. Everything my good chair has told you is exactly right, that is what the bill does. I find myself in a somewhat uncomfortable position being opposed to this. We are at the tail end when it comes to the amount of money we spend on research. My concern and my resistance comes from the fact that this is potentially \$40 million in the biennium. That's a huge amount of money. When we had the public hearing there was not a single business that testified before us in favor of this. I asked where they were, the response I got was "well we didn't have time to tell them about it." That was not a satisfactory answer to me. I think that they should be participating in this and they should be contributing into part of this. We're looking to spend \$40 million out of the surplus that we hope we're going to have, that we don't know if we're going to have. All of us have heard all kinds of ideas on how to spend that surplus. I don't want to create an expectation that we're going to do something that ends up we can't do. This is something that should have come before us at the beginning of the session and had time for everybody to talk about and digest it. It's a huge amount of money. It should have been in the budget. It's my resistance, my opposition comes from the process, Ladies and Gentlemen. I'm as concerned about jobs in the state as anyone else is. The things the Representative Vigue talked about are exactly right. These are good potential jobs, but this isn't the right way to do it. I know where the bill is going. I understand, but I wanted to be sure you all understood what we're doing here today. When we had the work session we passed this thing in less than 10 minutes. I think it's unfortunate that we spend the people's money with that little bit of thought. Forty million dollars is a huge amount of money. We don't know what the projects are going to be. We only know in some general categories of what they'll potentially be. In my mind, to spend, to commit to spend \$40 million with that kind of forethought and research is irresponsible. As I've said before, I'm really uncomfortable opposing this because our committee has worked well together and we've tried to come out with pretty much unanimous reports. I don't like to see this happen at the end of the session. There are no hard feelings about, but I just think this is the wrong way to go about what we should be doing. This is an issue that should not be presented by a couple of representatives. It should be an issue that is researched and come back and tell us exactly what we're going to be doing and who we're trying to help. You've got a lot of information on your desk this morning, and I won't dispute any of it. My whole issue is about the process. Forty million dollars in the biennium with no input from the people who presumably are going to benefit from it and 10 minutes in a work session. Thank you very much.

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

Representative MACK: Madam Speaker, Right Honorable Men and Women of the House. As my right honorable colleague from Rumford said, something was odd on it. This would be a \$40 million bill. The funds would come from retirement funds and also raiding the rainy day fund for \$20 million. I don't think that's the best approach. Also, giving this money, a lot of it, to the University of Maine System without a good plan laid out, I have questions with also. This would give research and development money into a few areas. But, there are many different areas that research and development money could be spent on. I think a better approach is another bill that's pending, and an amendment that will be coming to this, to use research and development tax credits to give an incentive for businesses to invest in research and development. The reason research and development is not going on as much in Maine is not because the government is not spending enough money. It's

because our State's business climate is not comparable to other states. Ask yourself, is it worth taxing the few successful businesses we have to give that money to businesses and research projects that are a big question mark. That we don't know how they're going to perform. Is that the type of investment that's good for the people of Maine? I would urge you to vote against the pending motion and to support the "Ought Not to Pass" and a possible amendment that will come later to have tax credits to let industry decide for themselves what the best areas of research and development are and to encourage them to do that here in Maine. And, again, remember the fiscal note, \$40 million, half of that coming from the rainy day fund that we should save up. Thank you.

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

Representative WRIGHT: Madam Speaker, Men and Women of the House. I think this is an idea whose time has come. We hear, again and again, that we don't have the opportunity for our young people to stay in the state. They are flooding out of the state. All you have to do is go to the Kittery bridge, and those aren't all tourists heading south. Those are our young men and women, the best and the brightest. Yes, this will give money to the college, the technical schools and the universities. What will it do? This will help build Maine's economy that will keep these people in the state. Some people argue that private industry should be doing this. National Science Foundation found that 73 percent of all the new patents cite research and development papers being funded by governments and non-profit organizations, not business. Businesses are putting their money in their own pockets. They're waiting for us to come forward on this. Some of the areas that are going affected by this are marine science, biotechnology and information technology. These are the up and coming businesses of the future. Yes we do have forest products. We do have agriculture. What we need is to jump ahead of the game. We can't rely on the same businesses over and over. Many of these business are things where you don't need huge amounts of money to get your businesses started. All you need to do is have an idea and a little bit of funding behind it. Earlier this session, at the economic summit we had over at the Augusta Civic Center, it was stated that most of the new industries settle within 90 minutes drive of where those ideas are formulated. And that's universities and college systems. I agree that this is a gamble, but it's one that we have to take. If we want to keep Maine moving, if we want to be ahead of the curve I say let's pass this and get going.

On motion of Representative KONTOS of Windham, tabled pending the motion of Representative VIGUE of Winslow to accept the Majority "**Ought to Pass**" as amended Report and later today assigned.

REPORTS OF COMMITTEES

Divided Report

Majority Report of the Committee on **Appropriations and Financial Affairs** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-696) on Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$8,000,000 for Reconstruction, Renovations and Safety Improvements at the Governor Baxter School for the Deaf" (H.P. 60) (L.D. 85)

Signed:

Representatives: TOWNSEND of Portland
 STEVENS of Orono
 BERRY of Livermore
 KERR of Old Orchard Beach
 MARVIN of Cape Elizabeth

KNEELAND of Easton
 OTT of York
 LEMAIRE of Lewiston
 WINSOR of Norway
 POULIN of Oakland

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

Signed:

Senators: MICHAUD of Penobscot
 BENNETT of Oxford
 CLEVELAND of Androscoggin

Was read.

On motion of Representative KERR of Old Orchard Beach the Majority "**Ought to Pass**" as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (H-696) 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-696) and sent up for concurrence.

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

Divided Report

Eight Members of the Committee on **Labor** on Bill "An Act to Enhance the Collection of Unemployment Benefit Overpayments" (H.P. 1080) (L.D. 1517) report in Report "A" that the same "**Ought to Pass**" as amended by Committee Amendment "A" (H-693)

Signed:

Senators: CATHCART of Penobscot
 TREAT of Kennebec
 MILLS of Somerset

Representatives: STANLEY of Medway
 BOLDUC of Auburn
 SAMSON of Jay
 HATCH of Skowhegan
 PENDLETON of Scarborough

Three Members of the same Committee on same Bill report in Report "B" that the same "**Ought to Pass**" as amended by Committee Amendment "B" (H-694)

Signed:

Representatives: JOYCE of Biddeford
 TREADWELL of Carmel
 RINES of Wiscasset

One Member of the same Committee on same Bill reports in Report "C" that the same "**Ought to Pass**" as amended by Committee Amendment "C" (H-695)

Signed:

Representative: CLARK of Millinocket

Was read.

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

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

Representative HATCH: Madam Speaker, Men and Women of the House. This particular bill is a department bill. It came from the department. It deals with overpayment of unemployment and their efforts to collect on that overpayment. Sometimes an overpayment is made by the department in error.

That's not what we're trying to collect. We're trying to collect moneys that through fraud or abuse has been given to the employee. Also in this bill it was put in, and we sort of laughed over it, but, if an employee who owes payments to the unemployment compensation division should come into the possession of some winnings from the lottery, those would also be able to be attached. We talked about it to a great length and decided that this was a good bill even though we did have a few chuckles over lottery winnings. I don't know about you, but I buy a ticket every week and I haven't won so far so we probably wouldn't have a chance. The fiscal-note on this from the Lottery Commission, the Department of Labor and the court system, if they had to go to court in regards to this, is actually no fiscal note. They can absorb it within their budgets already.

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

Representative TREADWELL: Madam Speaker, Ladies and Gentlemen of the House. The three different positions on this bill are very close. There's not that much dividing us. The major difference between the amendment "B" which I have my name on is that it would allow the unemployment compensation fund to recover any overpayments for nondisclosure, misrepresentation or erroneous payments. The ones that voted on this amendment felt that any payment that was over and above what the employee was entitled to is an overpayment and it should be recovered. That was basically where we were coming from. I think it's only just that it should be recovered for the fund.

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

Representative CLARK: Madam Speaker, Men and Women of the House. I don't go against my committee chair that often, but when I do it's a good one. The gist on report "C" is to take out the lottery part of the bill. I feel that if you win the lottery you should be able to claim it for yourself and not repay an amount disclosed by the unemployment. Also, this amendment lowers from \$500 to \$100 the amount in the debt with respect to which a withholding order may be issued. I wish that you would vote against committee amendment "A". Thanks.

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

Representative PENDLETON: Madam Speaker, Ladies and Gentlemen of the House. I spent 25 years working with the unemployment division chasing around people that have been overpaid due to misrepresentation and fraud and also trying to collect on overpayments who were made in error by the department. I feel the report "A" is the correct report to be voting on in this case and I would encourage everybody to follow mine and Representative Hatch's light. Thank you very much.

Representative TREADWELL of Carmel requested a roll call on the motion to accept Report "A" "**Ought to Pass**" as amended.

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

ROLL CALL NO. 296

YEA - Ahearne, Bagley, Baker CL, Baker JL, Barth, Belanger DJ, Belanger IG, Berry DP, Berry RL, Bigl, Bodwell, Bolduc, Bouffard, Bragdon, Brennan, Brooks, Bruno, Bull, Bumps, Cameron, Carleton, Chartrand, Chick, Chizmar, Colwell, Cowger, Cross, Davidson, Desmond, Dexter, Donnelly, Driscoll, Dunlap, Dutremble, Etnier, Fisher, Fisk, Foster, Frechette, Fuller, Gagne, Gagnon, Gamache, Gerry, Gieringer, Goodwin, Gooley, Green, Hatch, Honey, Jabar, Jones KW, Jones SL, Kane, Kerr,

Kontos, Labrecque, LaVerdiere, Lemaire, Lemke, Lemont, Lovett, MacDougall, Madore, Mailhot, Mayo, McAlevey, McElroy, McKee, Mitchell JE, Morgan, Muse, O'Brien, O'Neal, O'Neil, Paul, Peavey, Pendleton, Perkins, Perry, Pieh, Pinkham RG, Plowman, Povich, Powers, Quint, Richard, Rowe, Samson, Sanborn, Savage, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Spear, Stanley, Stevens, Taylor, Tessier, Thompson, Tobin, Townsend, Tripp, True, Tuttle, Usher, Vedral, Vigue, Volenik, Watson, Wheeler GJ, Winglass, Winn, Wright, Madam Speaker.

NAY - Buck, Campbell, Cianchette, Clark, Clukey, Jones SA, Joy, Joyce, Joyner, Kasprzak, Kneeland, Lane, Layton, Lindahl, Mack, Marvin, Murphy, Nass, Nickerson, Ott, Pinkham WD, Rines, Snowe-Mello, Stedman, Treadwell, Underwood, Waterhouse, Wheeler EM.

ABSENT - Bunker, Farnsworth, Meres, Poulin, Winsor.

Yes, 118; No, 28; Absent, 5; Excused, 0.

118 having voted in the affirmative and 28 voted in the negative, with 5 being absent, Report "A" "**Ought to Pass**" as amended was accepted.

The Bill was read once. Committee Amendment "A" (H-693) 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-693) and sent up for concurrence.

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

ENACTORS
Emergency Measure

An Act to Exempt Nonprofit Ambulance and Fire Emergency Services from the State's Sales Tax (S.P. 189) (L.D. 607) (C. "A" S-260)

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. 113 voted in favor of the same and 4 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Promote Parity in the Regulation of Insurance Sales by Federally and State-chartered Financial Institutions (S.P. 439) (L.D. 1385) (H. "A" H-595 to C. "A" S-234)

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. 113 voted in favor of the same and 3 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Revise Certain Provisions of Fish and Wildlife Laws (S.P. 520) (L.D. 1604) (H. "A" H-619 to C. "A" S-281)

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

On motion of Representative BELANGER of Wallagrass, 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-659) which was read by the Clerk.

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

Representative BELANGER: Madam Speaker, Men and Women of the House. This amendment addresses what I think is a contradiction in definition on L.D. 1604. In the bill, under hunting equipment, there were two subcategories that define hunting equipment. The issue I have is that crossbows were defined as hunting equipment and it's illegal to use crossbows to hunt with. This amendment would simply just redefine the definition as specifically under archery equipment that is permitted under the hunting laws governing archery including, but not limiting to re-curved bows and compound bows. Under firearms their are also some firearms that are not legal to hunt with. My definition just defines firearms under hunting equipment that are lawful under the hunting laws. Thank you.

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

Representative DUNLAP: Madam Speaker, Men and Women of the House. We discussed this at length in committee, why the crossbow was included as hunting equipment. This language arose from an incident where some people were illegally hunting and killing small game with a potato gun, because a potato gun does not necessarily fit the strict definition of what a firearm is. It was not illegal to hunt with it. We put the crossbow language in there because if it's not included somewhere in the statute then it can not really be prohibited. That's why it was included as hunting equipment, so that it would be clearly defined as something that could be prohibited to hunt with. With that clarification, Madame Speaker, I would move that this amendment be Indefinitely Postponed.

Representative DUNLAP of Old Town moved that House Amendment "A" (H-659) be indefinitely postponed.

The Chair ordered a division on the motion to indefinitely postpone House Amendment "A" (H-659).

A vote of the House was taken. 51 voted in favor of the same and 61 against, the motion to indefinitely postpone House Amendment "A" (H-659) did not prevail.

Subsequently, House Amendment "A" (H-659) was adopted.

On motion of Representative DONNELLY of Presque Isle, tabled pending passage to be engrossed as amended by Committee Amendment "A" (S-281) as amended by House Amendment "A" (H-619) thereto and House Amendment "A" (H-659) and later today assigned.

An Act to Clarify the Application of the Sales Tax on Hay, Horses and Horse Farms (S.P. 445) (L.D. 1419) (C. "A" S-261)

An Act to Modernize Maine's Financial Institution Franchise Tax (H.P. 1282) (L.D. 1819) (Governor's Bill) (C. "A" H-601)

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

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

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

On motion of Representative AHEARNE of Madawaska, 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. 297

YEA - Ahearne, Bagley, Baker CL, Baker JL, Belanger DJ, Berry DP, Bigl, Bodwell, Bolduc, Bouffard, Bragdon, Brennan, Bruno, Buck, Bull, Bumps, Cameron, Campbell, Carleton, Chartrand, Chick, Chizmar, Cianchette, Clark, Clukey, Colwell, Cowger, Davidson, Desmond, Driscoll, Dunlap, Dutremble, Fisher, Fisk, Foster, Frechette, Fuller, Gagne, Gagnon, Gamache, Gerry, Gieringer, Goodwin, Gooley, Honey, Jabar, Jones KW, Jones SL, Jones SA, Joy, Joyce, Joyner, Kane, Kasprzak, Kerr, Kneeland, Labrecque, Lane, LaVerdiere, Lemaire, Lemke, Lemont, Lindahl, Lovett, MacDougall, Madore, Mailhot, Marvin, Mayo, McAlevey, McElroy, McKee, Morgan, Murphy, Muse, O'Neal, Ott, Paul, Peavey, Perkins, Perry, Pieh, Pinkham RG, Plowman, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Savage, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Snowe-Mello, Spear, Stanley, Taylor, Tessier, Tobin, Tripp, Tuttle, Underwood, Usher, Vedral, Vigue, Volenik, Wheeler EM, Wheeler GJ, Winglass, Winn, Winsor, Wright.

NAY - Barth, Belanger IG, Berry RL, Brooks, Cross, Dexter, Donnelly, Etnier, Green, Kontos, Layton, Mack, Mitchell JE, Nass, O'Brien, O'Neil, Pendleton, Pinkham WD, Povich, Skoglund, Stedman, Stevens, Thompson, Townsend, Treadwell, True, Waterhouse, Watson, Madam Speaker.

ABSENT - Bunker, Farnsworth, Hatch, Meres, Nickerson, Poulin.

Yes, 116; No, 29; Absent, 6; Excused, 0.

116 having voted in the affirmative and 29 voted in the negative, with 6 being absent, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

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

The House recessed until 6:30 p.m.

(After Recess)

The House was called to order by the Speaker.

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

**CONSENT CALENDAR
First Day**

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

(S.P. 532) (L.D. 1637) Bill "An Act to Authorize the Appleton, Camden, Hope, Lincolnville and Rockport Community School District to Construct School Facilities" (EMERGENCY) Committee on **Education and Cultural Affairs** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-328)

(S.P. 590) (L.D. 1760) Bill "An Act to Adopt the Multistate Tax Compact" Committee on **Taxation** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-325)

(S.P. 649) (L.D. 1871) Bill "An Act to Authorize the Public Utilities Commission to Establish Reasonable Registration and Reporting Requirements and to Study Market Power Issues Associated with Electric Industry Restructuring" (EMERGENCY) Committee on **Utilities and Energy** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-327)

(H.P. 413) (L.D. 558) Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$8,500,000 to Fund Capital Expenses for Vocational High Schools" Committee on **Appropriations and Financial Affairs** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-697)

(H.P. 1125) (L.D. 1581) Bill "An Act to Improve the Child Development Services System and Encourage Collaboration in Early Childhood Programs with School Administrative Units" Committee on **Education and Cultural Affairs** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-703)

(H.P. 1200) (L.D. 1700) Bill "An Act to Simplify the Process for Applying for State Services for People with Disabilities" Committee on **Health and Human Services** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-702)

(H.P. 1216) (L.D. 1716) Bill "An Act to Establish Family Development Accounts" Committee on **Health and Human Services** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-704)

(H.P. 1276) (L.D. 1806) Bill "An Act to Amend Maine's Involuntary Commitment Laws" (Governor's Bill) Committee on **Judiciary** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-710)

(H.P. 1289) (L.D. 1834) Bill "An Act to Improve the State's Child Support Enforcement and Overpayment Recovery Laws" Committee on **Judiciary** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-700)

(H.P. 1290) (L.D. 1835) Bill "An Act to Implement Federal Welfare Reform Mandates for State Child Support Enforcement Laws and Recovery of Overissued Food Stamps" Committee on **Judiciary** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-699)

(H.P. 1299) (L.D. 1842) Bill "An Act to Authorize Department of Transportation Bond Issues in the Amount of \$40,500,000 to Match Available Federal Funds for Improvements to Municipal and State Roads and State and Local Bridges" Committee on **Transportation** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-709)

(H.P. 1306) (L.D. 1849) Bill "An Act to Clarify the Charitable Status of Nonprofit Hospital and Medical Service Organizations, to Permit Their Creation of Health Insurance Affiliates and Their Conversion to Stock Insurers and to Ensure Regulatory Equity" Committee on **Banking and Insurance** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-701)

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

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

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

SENATE PAPERS

The following Joint Order: (S.P. 665)

ORDERED, the House concurring, that Bill, "An Act to Provide That the Operator of a Limousine Is Not Responsible for Securing in a Seat Belt a Passenger Transported for a Fee," (H.P. 303) (L.D. 367), and all its accompanying papers, be recalled from the Governor's desk to the Senate.

Came from the Senate, read and passed.

Was read and passed in concurrence.

Ought to Pass Pursuant to Joint Order (S.P. 648)

Report of the Committee on **Legal and Veterans Affairs** reporting "Ought to Pass" Pursuant to Joint Order (S.P. 648) on Bill "An Act Concerning Acceptance of Campaign Contributions during Legislative Sessions" (S.P. 662) (L.D. 1882)

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**.

Representative DONNELLY of Presque Isle presented House Amendment "A" (H-649) which was read by the Clerk.

On motion of Representative SAXL of Portland, tabled pending adoption of House Amendment "A" (H-649) and later today assigned.

SENATE PAPERS
Divided Report

Majority Report of the Committee on **Education and Cultural Affairs** reporting "Ought to Pass" as amended by Committee Amendment "A" (S-332) on Bill "An Act to Enhance Parental Involvement in Developing Educational Programs for Students with Disabilities" (S.P. 344) (L.D. 1121)

Signed:

Senators: PENDLETON of Cumberland

CATHCART of Penobscot

SMALL of Sagadahoc

Representatives: RICHARD of Madison

DESMOND of Mapleton

SKOGLUND of St. George

BARTH of Bethel

McELROY of Unity

STEDMAN of Hartland

BELANGER of Caribou

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

Signed:

Representatives: BRENNAN of Portland

BAKER of Bangor

WATSON of Farmingdale

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-332).

Was read.

On motion of Representative RICHARD of Madison the Majority "Ought to Pass" as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (S-332) 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-332) in concurrence.

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

Non-Concurrent Matter

Bill "An Act to Amend the Maine Workers' Compensation Act of 1992 as It Relates to Compensation for Total Incapacity" (H.P. 257) (L.D. 321) on which the Bill and all accompanying papers were indefinitely postponed in the House on May 22, 1997.

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" (H-616) in non-concurrence.

Representative JOY of Crystal moved that the House Adhere.

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

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

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

Representative HATCH: Madam Speaker, Men and Women of the House. I just want to encourage you to vote against the pending motion and move on to Recede and Concur. This particular bill deals with only a small limited number of individuals who have lost legs and arms in accidents. I would ask you to vote against the motion to Adhere.

Representative HATCH of Skowhegan moved that the House Recede and Concur.

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

Representative JOY: Madam Speaker, Ladies and Gentlemen of the House. I think that there is a pretty big price tag on this bill. This is the "double payment" bill if I remember correctly from our hearing. You get a lump sum payment up front and then you get your disability payments along. So it doubles the payments on these types of situations. Madame Speaker, I request a roll call.

Representative JOY of Crystal requested a roll call on the motion to Recede and Concur.

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

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

Representative PENDLETON: Madam Speaker, Ladies and Gentlemen of the House. What Representative Joy said is correct. However, there is another provision of this bill that makes it quite expensive for at least one insurance firm in the state because they've already set up their actuarial costs for this particular item. During the last debate it was mentioned that there was one gentleman that had lost both legs and an arm. This individual is entitled to 800 weeks of benefits under the current formula at \$441 per week. His costs to this insurance company for this one accident is somewhere in the vicinity of \$340,000 that he would have to be paid right now because this bill has a retroactive clause in it that takes it back to January 1, 1993. There are other people that have been injured that would also be taken in this time period. Their costs are not that great because their injuries are not that severe. There is only, as I believe, one other real severe injury within that time period. Because of the retroactive clause this is very expensive. This particular gentleman, in 15 years, would be paid \$340,000 but

another \$340,000 would have to be paid right now. For a number of these it doubles the payment. No amount of money is ever going to remove the fact that this person lost his legs and arm. However, we must look at the entire system in its total. If we start passing bills with retroactive clauses in them it's going to affect all of these companies doing business in the State of Maine. It's going to affect the actuarial costs that these companies will be assessing out to the employers. It's not good for business. It would be a real problem. So, I would like to thank you very much.

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

Representative GOODWIN: Madam Speaker, Men and Women of the House. In the three years since the '92 conversion it's only going to cost \$1.5 million to pay 18 gentlemen and women who have lost limbs. Three Hundred forty-two thousand dollars, I can tell you I would not want to accept it for two legs and an arm. Under no circumstances would I make that trade. We need to do something for injured workers. This is just a method to do it. It's not going to cost business. You will find that over half of the 18 people were injured working in paper mills and they are self insured. It has nothing to do with the rate of insurance for the rest of the state. These are injuries that need to be compensated. I ask the House to do the right thing. I thank you Madam Speaker.

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

Representative VIGUE: Madam Speaker, Ladies and Gentlemen of the House. This comes back to where we were previously. This opens what we had completed in 1992. Ladies and Gentlemen, we should not. I insist, do not in any way, tamper with what we did in 1992. It is just starting to work. We have not, as yet, paid off the residual market which is going to take us 10 years and we're trying to find ways of spending additional moneys. Ladies and Gentlemen, this affects our livelihood, our businesses and our companies in the State of Maine. I would urge you to vote the same way you did the last time and oppose the pending motion. Thank you.

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

Representative VOLENIK: Madam Speaker, Men and Women of the House. I personally am sick of always worrying about what we're going to do for business. Why don't we think about what we're going to do for the employees and the citizens of this state as far as their health care and their safety are concerned. I'm certainly going to vote the opposite way.

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

Representative VIGUE: Madam Speaker, Ladies and Gentlemen of the House. If it wasn't for business there'd be nothing that we could do for the injured worker or for the people that need the help. Businesses allow us to do all of these things. It allows us to take care of the poor, the people that need it for health coverage and everything that's taken care of through our ability to make and provide a living. So let's not knock the one thing that provides us with the money to provide for our people. I urge you to oppose the pending motion. Thank you.

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

Representative CAMERON: Madam Speaker, Men and Women of the House. You may recall when we talked about this bill the other day that I was a little upset about it. I want to apologize to you for my reactions. That having been said, I don't feel any different than I felt before. I only apologized because I never intend to use that as an excuse to fix another problem. I feel I did that the other day, but, I still feel the same way about

the bill. There's nothing in this thing that will make anybody feel any better. It doesn't replace what you've lost. I don't care how much money the insurance pays, there is no amount of money, no amount of money that can fix the problem. I would ask you to stick with the vote that you made last week which would be to vote against the pending motion. Thank you very much.

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

ROLL CALL NO. 298

YEA - Ahearn, Bagley, Baker CL, Baker JL, Berry RL, Bolduc, Bouffard, Brennan, Brooks, Bull, Bunker, Chartrand, Chizmar, Clark, Colwell, Cowger, Davidson, Driscoll, Dunlap, Fisher, Fuller, Gagne, Gagnon, Gamache, Goodwin, Green, Hatch, Jabar, Jones KW, Kane, Kontos, LaVerdiere, Lemaire, Lemke, Mailhot, McKee, Mitchell JE, Morgan, Muse, O'Neal, O'Neil, Paul, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Saxl JW, Saxl MV, Shannon, Shiah, Skoglund, Stanley, Stevens, Tessier, Townsend, Tripp, Tuttle, Usher, Volenik, Watson, Winn, Wright, Madam Speaker.

NAY - Barth, Belanger DJ, Belanger IG, Berry DP, Bigl, Bragdon, Bruno, Buck, Bumps, Cameron, Campbell, Carleton, Chick, Cianchette, Clukey, Cross, Desmond, Dexter, Donnelly, Dutremble, Etnier, Fisk, Foster, Frechette, Gerry, Gieringer, Gooley, Honey, Jones SL, Jones SA, Joy, Joyce, Joyner, Kasprzak, Kerr, Kneeland, Labrecque, Lane, Layton, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, Marvin, Mayo, McAlevey, McElroy, Murphy, Nass, Ott, Peavey, Pendleton, Perkins, Perry, Pieh, Pinkham RG, Pinkham WD, Plowman, Sanborn, Savage, Sirois, Snowe-Mello, Spear, Stedman, Taylor, Thompson, Tobin, Treadwell, True, Underwood, Vedral, Vigue, Waterhouse, Wheeler EM, Wheeler GJ, Winglass, Winsor.

ABSENT - Bodwell, Farnsworth, Meres, Nickerson, O'Brien, Poulin.

Yes, 66; No, 79; Absent, 6; Excused, 0.

66 having voted in the affirmative and 79 voted in the negative, with 6 being absent, the motion to Recede and Concur did not prevail.

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

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

ROLL CALL NO. 299

YEA - Barth, Belanger DJ, Belanger IG, Berry DP, Bigl, Bragdon, Bruno, Buck, Bumps, Cameron, Campbell, Carleton, Chick, Cianchette, Clukey, Cross, Desmond, Dexter, Donnelly, Dutremble, Etnier, Fisk, Foster, Frechette, Gerry, Gieringer, Gooley, Honey, Jones SA, Joy, Joyce, Joyner, Kasprzak, Kerr, Kneeland, Labrecque, Lane, Layton, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, Marvin, Mayo, McAlevey, McElroy, Murphy, Nass, Ott, Peavey, Pendleton, Perkins, Perry, Pieh, Pinkham RG, Pinkham WD, Plowman, Sanborn, Savage, Sirois, Snowe-Mello, Spear, Stedman, Taylor, Thompson, Tobin, Treadwell, True, Underwood, Vedral, Vigue, Waterhouse, Wheeler EM, Wheeler GJ, Winglass, Winsor.

NAY - Ahearn, Bagley, Baker CL, Baker JL, Berry RL, Bolduc, Bouffard, Brennan, Brooks, Bull, Bunker, Chartrand, Chizmar, Clark, Colwell, Cowger, Davidson, Driscoll, Dunlap, Fisher, Fuller, Gagne, Gagnon, Gamache, Goodwin, Green, Hatch, Jabar, Jones KW, Jones SL, Kane, Kontos, LaVerdiere, Lemaire, Lemke, Mailhot, McKee, Mitchell JE, Morgan, Muse,

O'Neal, O'Neil, Paul, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Saxl JW, Saxl MV, Shannon, Shiah, Skoglund, Stanley, Stevens, Tessier, Townsend, Tripp, Tuttle, Usher, Volenik, Watson, Winn, Wright, Madam Speaker.

ABSENT - Bodwell, Farnsworth, Meres, Nickerson, O'Brien, Poulin.

Yes, 78; No, 67; Absent, 6; Excused, 0.

78 having voted in the affirmative and 67 voted in the negative, with 6 being absent, the motion to Adhere did prevail.

Non-Concurrent Matter

Bill "An Act to Encourage the Use of Motor Vehicles That Use Alternative Sources of Fuel for the Purpose of Reducing Air Pollution" (H.P. 300) (L.D. 364) which was passed to be engrossed as amended by Committee Amendment "A" (H-680) in the House on May 27, 1997.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-680) as amended by Senate Amendment "A" (S-337) thereto, in non-concurrence.

The House voted to Recede and Concur.

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:

SENATE DIVIDED REPORT - Majority (9) "**Ought to Pass**" as amended by Committee Amendment "A" (S-301) - Minority (4) "**Ought to Pass**" as amended by Committee Amendment "B" (S-302) - Committee on **Labor** on Bill "An Act to Make the Workers' Compensation System More Equitable" (S.P. 491) (L.D. 1523) which was tabled by Representative KONTOS of Windham pending the motion of Representative HATCH of Skowhegan to accept the Majority "**Ought to Pass**" as amended Report.

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

Representative PENDLETON: Madam Speaker, Men and Women of the House. I rise in opposition to the acceptance of the Majority "Ought to Pass" report. The Majority and Minority Reports on this bill are very similar. The Minority Report, initially, was the report for 1523 and the Majority Report came as the result of an amendment to 1474 in which 1474 was completely reported out "Ought Not to Pass." The Minority Report came over to the 1523 which we have before us today. The Minority Report and the Majority Report both do the same thing in a way. They both develop a mission statement that's codified into the law for the Workers' Compensation Board. They both hire five new advocates to assist the injured employee all the way through the hearing process. It has been known for some time that the individuals that are proceeding through workers' comp on their own were having difficulty navigating the system. Some people were dropping by the wayside. Some people were failing in their efforts when they got through. This amounted to probably 300 to 400 people per year in the end. It was recognized early on and the board established an advocate program on a temporary basis which was to sunset this October, this coming October. This will put into law and add the advocacy program which will carry it all the way through the hearing process. These people will be trained and will be knowledgeable about workers' compensation.

The second part of the two bills that is the same is each one would hire a lawyer. There would be the trainer or the assessor

for these advocates. The third part of the bill that's the same is that both bills would hire two individuals to act as auditors, to go out and audit and verify the accounts of the employers on the amount of money that they are paying for workers' comp, and that the individuals are being treated fairly when they have an injury and they're on workers' comp. The fourth area is that both bills increase the cap at the Workers' Compensation Board by \$600,000. Currently, the Workers' Compensation Board is capped at \$6 million for their personal service costs and all other costs. They're at their limit. \$600,000 will finance the five new advocates, the lawyer and two auditors. Now we go into the diverse part of it. The Minority Report says that both parties shall be represented by an advocate up to mediation. If at mediation the employers side decides to go forward with a lawyer, beyond that point, then if the employee hires a lawyer the standard of prevail comes into the law. If the employee prevails then the employer would be responsible for all legal costs. The Minority Report does not carry that portion of the bill. The Minority stays strictly with the employee working with the advocate through the system with no legal council from a lawyer. The whole intent of the Minority bill is to encourage the use of the advocate and keep the compensation process out of the legislation. For this reason, I urge you today, to vote for the Minority "Ought to Pass" on 1523, not the Majority. Thank you very much.

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

Representative BOLDUC: Madam Speaker, Fellow Members of the House. I am very happy to rise in support of the Majority Report on L.D. 1523 "An Act to Make the Workers' Compensation System More Equitable." More equitable is the key phrase here because the whole thrust of this legislation is to move toward a system for resolving workers' compensation disputes which is more fair to injured workers than the current system which can be tremendously unbalanced and disadvantageous to injured workers. The Joint Standing Committee on Labor heard testimony from numerous employees throughout the State of Maine. We have all received phone calls from employees indicating their difficulties under the current law. Employees are having a great difficulty obtaining legal representation. Even when they can obtain it, the cost for council results in a decrease of their benefits below those intended by the Legislature. The workers' compensation system itself is a compromise in which in exchange for giving up the right to sue, injured workers receive a reduced level of benefits rather than full replacement of the income which they have lost. This compromise is fair if the other components of the workers' compensation system are realized. Those components include prompt payment without fault and without dispute. Unfortunately in many cases, and very often in those cases where the most severe disabilities occur, payment is not prompt and without dispute. The injured worker is faced with delays and the costs of delays. In addition, he is faced with the unavailability of council in some cases. In other cases the injured workers are faced with costs of legally advancing their claims, costs which further reduce the benefits which the injured worker and his family receive. This is not what we envisioned in workers' compensation.

What we envisioned is prompt payment without controversy, not payment at a reduced level. To further reduce those benefits through controversy and legal expenses is dramatically unfair. This bill attempts to address that problem and puts in place a tiered system for achieving fairness. It continues to emphasize voluntary dispute resolution. The majority of cases, fortunately, are resolved without dispute and without involvement of the workers' compensation dispute resolution process. Those tend to be the very short-term injury cases where benefits are paid for

only a brief period of time. Medical expenses are covered, the employee returns to work and the injury's resolved. Some cases, however, do require the attention of the Workers' Compensation Board. The first level of dispute resolution there involves troubleshooting. A troubleshooter from the Workers' Compensation Board will become involved, not on behalf of either party, but simply to make sure that both parties have access to medical records and other factual information and to allow them to resolve the dispute between them. That fortunately is also successful in a significant number of cases and no further activities are required.

When trouble shooting is not successful, however, a case can move to the second level of dispute resolution within the Workers' Compensation System that is known as mediation. At that level advocates are involved to assist injured workers. A mediator brings the parties to gather so that the injured worker and the insurer can meet to exchange information and discuss the case with the guidance of a mediator who will attempt to direct both parties to an understanding of the law as it applies to the claim and attempt to achieve a voluntary resolution of the dispute. The mediator has no authority to order a resolution but can try to achieve a voluntary resolution during the mediation process. Mediation is successful in a number of cases. Nothing in the bill before you will change the Workers' Compensation System as it applies to the troubleshooting and mediation levels except that we believe the Majority Report will encourage greater voluntary dispute resolution because it minimizes the additional leverage which an insurer has after mediation and the uneven playing field which works to the insurer's advantage after mediation.

What the Majority Report does is bring fairness to the post mediation phase by requiring that an insurer, at the conclusion of an unsuccessful mediation, indicate whether it will be represented by council at the formal hearing stage. If the insurer elects to involve attorneys at the hearing stage, the injured worker will have the right to obtain council. If the injured worker wins at the hearing stage the legal costs for processing the case at the formal hearing will be paid by the insurer. Only then and only for that element of the case will legal fees be paid, only after mediation has failed, only after the insurer decides to bring council into a case and only after the employee wins benefits provided by law, but denied to him or her up through mediation stage. We believe this is a fundamental fairness which is consistent with many other provisions of the law in Maine and also at the federal level. A recent example which we've dealt with here is the Maine human rights act, title 5, MRSA section 46-14, provides that attorneys fees can be paid for individuals bring claims under the Maine human rights act if they are successful. Also, certain provisions of the Maine employment act provide the same thing.

In criminal cases, of course, council is provided for a defendant whether or not he or she wins. Federal statutes provide for attorney's fees in civil rights cases, under the civil rights act of 1964, under anti-trust acts, under the employment retirement income security act and under dozens of other federal laws including, most importantly, the national law covering workers' compensation for employers involved in the long shore and harbor workers industries. It is ironic that employees of Bath Iron Works who are governed by federal law have attorneys available to them in bringing a claim if they win, but they do not have council available under state law. There is no justification for that difference. We believe the Majority Report will encourage more responsible behavior by the insurance companies in Maine and provide an advantage to those insurance companies which thoroughly review their cases and comply with the requirements of Maine law on a timely basis.

We think responsible carriers will be able to take full advantage of the opportunity to resolve cases voluntarily and will be able to take advantage of the advocate system which will be available to both employees and employers in those cases where formal hearings become necessary. Thus we see the Majority on L.D. 1523 as an opportunity for insurers to save money. To the extent there are secondary costs claimed here, those costs can only be described as benefits due to Maine working families which are not being paid now and which would be paid if full representation were available to injured workers.

We do not believe that the advocates we are retaining to proceed to formal hearing should be asked to stand up against insurance lawyers. We do not believe that would be fair. We think it would be a distortion of the playing field and a sham at the representation to put five state employees up against experienced defense councils who number between 1 and 200 in the State of Maine who are retained by insurance companies to proceed to formal litigation. Those lawyers have decades of experience and very substantial resources behind them as well as limited case loads. We do think that advocates against insurers would be a fair match. But, if insurers decide they want to bring lawyers in, they have to understand that they will now gain an advantage by doing so. We believe that by achieving fairness at the formal hearing stage we will encourage resolution at the earlier stages because no longer will insurance companies be able to look ahead to the formal hearing stage where they will enjoy a tremendous advantage as they do now. We see this as a very modest change and a change which, if properly utilized, will reduce litigation, achieve earlier payment and, together with the compliance provisions of the bill, help us to be more comfortable with the idea that Maine workers are receiving the benefits which our laws provide.

I ask for your support on this bill. I will say that the assault that this bill has suffered at the hands of those who stand to gain from the present system has created an environment of fear and of misunderstanding as to the effects of this bill. It is unfortunate that the business community of this state has been misled and flat out lied to by some opponents of this bill. It is our responsibility as Representatives of this state to see past the forest of stereotype and slogan and into the light of fact and of logic and of truth. I challenge the Chief Executive and the other body to follow this lead and to begin a serious effort at addressing the injustices which exist under the present system. Five years has been long enough to conclude what those injustices are. I encourage us to act on this. I am a student of political philosophy and I often draw inspiration from authors of social theory. One of my favorite quotes is from Dante when he wrote that divine justice weighs the sins of the cold-blooded and the sins of the warm hearted on a different scale. Better the occasional faults of a government living in the spirit of charity than the consistent omissions of a government which is frozen in the ice of its own indifference. I believe the time for indifference on this issue should come to a close and the time for action is now. Thank you very much.

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

Representative FISK: Madam Speaker, Men and Women of the House. Others this evening have and will speak on specific reasons why we do not want to return to prior 1992 days when Maine had the highest workers' comp costs in the nation. Issues such that litigation has decreased, that safety has improved, their insurance companies have returned and that self insurance has taken hold. I'd like to briefly speak and ask you for a minute here to try to put yourself in position of a small business person.

As a small business person I have owned the Portland Athletic Club for 12 years. This is a business that has 85

employees. I am proud to say that we have not had one workers' comp claim in those 12 years. Our insurance company and our professional association gave us ways to improve our member and workers' safety, and we implemented it. But from 1986 to 1993 our workers' comp insurance rate went up year after year. I kind of looked at it like car insurance. If you have a good driving record and you keep your car in good running condition and you have no accidents, you should expect improved rates. When I gave this analogy to my insurance agent I was told if we didn't have such a good record that we would not have received even the rates that we got. There should be no misconception here that these rates can easily be absorbed by Maine business. They can't without a real affect. This is not a state of L.L. Beans, Unums and Bath Iron Works. It is a state in which 95 percent of all main jobs are created by small businesses. Small business? Small business like the one that Representative Sanborn owns that modifies busses for handicap use. Small business like the restaurant like The Sierra that Representative Bodwell owns. The Log Cabin that Representative Bunker owns. Americana Motel and Surf Restaurant that Representative Kerr owns. Small business like the Talent Tree Staffing Services the Representative Cianchette owns and Andy's Handy Store owned by my friend and seat mate who is not here Representative Buck. The Silver Needle Nursery owned by Representative Tobin. A hotel and construction company owned by Representative Campbell.

Ask these colleagues of yours if we train to pre-1992 workers' comp conditions will help create jobs. In the same vain, and not hurting these small businesses and their ability to create jobs, I would like to point out that I hold here some letters. Not one of these letters are from workers or lawyers. All these letters are from small business owners. They are not form letters. They're individually thought out written letters imploring us not to change workers' comp laws, particularly this bill 1523. I would like to take a moment just to read just one of these who is a constituent of mine from Falmouth. "Dear Representative Fisk, at H & H Rigging, Inc. our business consists of relocating businesses throughout Maine. Before the 1992 blue ribbon commission workers' compensation reform we were moving many businesses out of state. Reise Corporation, Nicol's Corporation, Snowe Canning and many others. I, as president of H & H Rigging asked CEOs, presidents of corporations and owners of small business why they were leaving Maine. Reason number one was the high cost of workers' compensation. Now we're involved in moving many new businesses like General Electric, Bangor expansion, Corning Costars New Equipment, expansion of National Semi-Conductor plus many more. H & H Rigging, Inc. as a direct result of workers' compensation reform has been able to continue safety training and to provide year-round jobs for 11 people with an average hourly rate of \$15 per hour plus personal insurance, vacations and many more employee benefits that we could not have had prior to the 1992 reforms. I, as president of H & H Rigging, Inc., urge that you understand the system is very fragile and that change could be disastrous to the economy of this great State of Maine. Again I state this only because of the change in 1992, we have been able to stay in Maine. Prior to the 1992 reform, H & H Rigging was seriously considering relocating our business in another region. Thank you for realizing that we have a very delicate situation in our workers' compensation system." Men and Women of the House, I would strongly urge you to defeat the pending motion and vote for the compromise Minority Report. Madam Speaker, I'd ask for a roll call.

Representative FISK of Falmouth 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 Millinocket, Representative Clark.

Representative CLARK: Madam Speaker, Men and Women of the House. I'm happy to support the Majority Report of L.D. 1523. I stand to do so not only as a Representative from Millinocket, a mill town where all my constituents face the risk on the job injuries in the woods or in the mills, not just as a Democrat who believes that our working people ought to have a fair shot at justice in our society, but also as a son of an injured worker. A son who lived through the months during which my father was out of work, disabled without income and without workers' compensation benefits because of work injury. I was eight years old at the time and I know it meant a lot to my family to watch my dad suffer lying on the floor because of a back injury which not only prevented him from working, but prevented him from enjoying his family and home life for many months. During those months not only did he suffer the physical consequences of his injury and pain, but he also suffered an income loss from being out of work and being wrongly denied workers' compensation benefits. At that time, he was able to attain an attorney and through council he was able to attain the benefits which the law provided. If he had to pay for that council he might have not only been able to attain an attorney because he would not have been able to afford it. If the law which is currently in effect in Maine today had applied to my father when he was injured we might have never have overcome the consequences of that injury. My dad's personal life, work life, family life and public life may have been very different. My own life might have been very different had the opportunity for fair representation and a just resolution of that case not been available. The Majority Report does not go back to the law which applied at that time. In many ways I wish it did. However, it nearly defines circumstances in which an employee will have the right to attain council and if, through the use of council at formal hearings, the employee obtains benefits provided by our law for previously wrongfully denied, the cost of litigating the claim will not be borne by the worker and his family. The cost will be borne by the insurer which improperly denied those benefits to begin with. Only after the insurer has failed throughout the voluntary dispute resolution process to pay benefits, only after the insurer has elected to bring in the lawyers on the other side of the case and only after the employee wins benefits in that formal litigation and only for that part of the case. Frankly, in many ways, we wish that we could do more, but this committee proposal is a fair compromise which provides protection if the insurance company decides to bring in an attorneys, and only then. So, I strongly encourage you to join me in supporting L.D. 1523 for Maine workers and their families.

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

Representative VIGUE: Madam Speaker, Ladies and Gentlemen of the House. As far as being compassionate, I'm as compassionate as anyone and I don't feel that I have to apologize when it comes to protecting an injured worker. My problem here is not with protecting or helping the injured worker. The problem is with allowing lawyers back into the system. If we don't learn from history then we will once again create a major problem for the people of the State of Maine. I see it coming, 37 separate L.D.s. Ladies and Gentlemen, I recall very well my initiation into this place when everybody was working on workers' comp. It wasn't one individual, everyone was working the same way as you are hearing tonight. Thirty-seven L.D.s to affect workers' comp. It was so messed up that there was no way that we or anyone in the body, or both bodies, could correct it. We

had to move outside of the system to correct it. So, we went outside and we created the Workers' Comp Blue Ribbon Commission. Only then could we correct the problems that we had created through the legislative bodies that we have here. We created the problems Ladies and Gentlemen because we would put in legislation from every little bit, every little corner. It got so complicated and so messed up there was no one that could even understand it. I remember while they were working initially on the bill they were lined up in the Hall of Flags, the committee was working on it. At the time John Martin was acting as Chair and the committee was writing different changes in the law. He would then hand it to Charlie Pray. Charlie Pray at the time was the President of the other body. Charlie would go the verandah where who was sitting there but a couple of lawyers. One of them came from Topsham and if you'd like I'll give you his name. Supposedly he wrote the law, the workers' compensation law exactly as it was at that time. There's no way in the world that he was going to allow any changes. Any substantial changes did not occur. It kept getting worse. We were the worst in the country. I went to Chicago and the first thing they flashed on the board was Maine's worst in the nation record of workers' compensation. How did we earn this lovely title?

Ladies and Gentlemen, we're starting on that avenue again this evening. If you do it, I won't be here to watch you, but you can remember what I told you this evening. You will find the same problem because believe me every lawyer in this body will vote for this because it's a great retirement plan. We need to smooth a few edges to the comp system. We need a solution that is equal to the measure of the problem. Only 2 to 3 percent of all claims end up at formal hearings with the employees not having legal council. We need to provide help to that small percentage, that they feel they need assistance. If we adopt prevail it will apply to everyone. So, think about it. The cost of prevail has been projected to be between \$10 million and \$15 million. I would rather work on it, find a solution to the five advocates plus one lawyer, come up with a solution and the next time around I'll be gone and you can say "Hey, he's gone. Let's pass it." I'll tell you Ladies and Gentlemen it has been working. My companies are telling me it is working. My city of Waterville is telling me "Do not touch the system." My town of Winslow is telling me "Do not touch the system." If you want to play with the system, go back and check with your people back home. You'll find out they'll tell you exactly what I'm telling you. Don't touch the system. It's barely starting to work. You owe right now, you owe collectively \$110 million. Now, you don't think so, go back and talk to a few businesses and see what portion belongs to them. That's the amount that we charge to the businesses. We amortized it over 10 years. You don't believe me, ask all the lawyers, ask the District Attorney, the Attorney General. They all know exactly is going on.

Ladies and Gentlemen, if we touch any form of workers' compensation we are going to have to pay the price in the long run. We are going to restrict the amount of growth of the business that want to stay in this state and we'll get rid of the ones that are still here. Ladies and Gentlemen, I ask you to oppose the pending motion and support the Minority Report. Thank you.

The SPEAKER: The Chair recognizes the Representative from Holden, Representative Campbell.

Representative CAMPBELL: Madam Speaker, Men and Women of the House. Representative Fisk told you a little bit about some small business people here in the body and I want to tell you a little bit about my experience. He mentioned that I own a hotel and have a construction company, I do. Let me tell you a little bit about the first construction company that I had. In 1972, I started a very, very small company designing FHA house plans,

\$35 per set. I had two employees. I got into independent study, became one of the leading solar energy contractors in the state and in the nation, got some national awards and that's what got me through my first recession. In 1979 and 1980, we were building \$200,000 and \$300,000 houses that were energy efficient, the most energy efficient homes in the state. Soon after that I was fortunate enough to have come through the recession and created a little bit larger construction company. We did everything from recreational housing on the coast to Sugarloaf. We were doing warehouses, freezers and residential decks. I had a cabinet shop. I had an insulation business, not insurance, not to be confused with insulation. Coming in to the next recession, the '89-'90-'91 we'd been able to do probably about \$7 million per year. I had 55 employees. Going in to 1990 the volume started to taper off. I'd worked the whole year in 1990 and started my major construction in October, and to date I had done \$485,000 of work. That year we finished with \$7 million. In 1991, after the affects of the slow start, I was faced with the very same situation not starting that work until late in the year. Even though I had signed contracts of \$5 million I couldn't get to those contracts.

I want to give you four reasons why. Number one was government over-regulation. Local, state and federal over-regulation. I had a 130 acre mobile home park adjacent to a mobile home park in Bangor which was designed to have residential 1 house lots. Acre - acre and a half house lots with double wides. Mobile home, yes. It took me two years and three months and \$150,000 to get it through the city council in Bangor. The second factor, everyone heard of the banking over reaction. The rolling recessions around this country starting in the south, coming to Connecticut and going to California. Well, that was a little too much. The requirements by the FDIC as they came to New England was we'll show them. We'll expect more and we'll document more. The third factor was the environmental regulations. We all heard about the DEPs and the like in that time of our history. But, the fourth was workers' comp. At that point we were sustaining about \$7 million and I only tell you that because our overhead was \$600,000, not wages, and our comp cost was \$120,000. 12 years prior I had one claim. We were building a Dexter Shoe store and we all know how heavy those logs are. Someone scouted us out and within the first week he filed a claim. That hung on for some time. The other claims were things in the eye, go to the emergency room and they'd take care of it. No real substantial claims.

In 1991, I closed that company because of those four major issues. I bring it to this only to explain to you there were 55 employees that were out of work. Eddie Gorham and I were on the Technical College System Board. That Friday night we were at graduation Wednesday after I'd closed the company. He felt just as bad about it as I did. Those were 55 healthy workers out of business. Now I'm back on the horse as Representative Fisk said I do have a construction company, but I employ 3, 3 people. I'll do just about enough to satisfy me but if we do anything, other than the Minority Report, there is no way I'll employ more than 3. I'm satisfied. I don't have to have that machine I have to oil. One other point, you've been circulated an article in the paper. When I first became Representative I wanted to do all I could to all my constituents. I had a workers' comp informal meeting at the city council in Brewer. That went well. I had a request to do one in Bangor by an interested party who wrote an article. That one in Bangor brought together the representatives from the system as did the one in Brewer. We had the executive director of the comp, Jim McGowan, the director of MEMIC, John Leonard, very informative. Now I see, I've been accused of being, let me read it, "What insurance company or big business got to him?" We all know how that feels. Votes here aren't

bought. Votes come from experience. I won't say it's a misrepresentation, but I question the validity of the quote. We all work very hard here, every one of us. Sometimes people hear what they want to, not what's said. One thing that I'd like to have you do when you cast your vote is remember those 55 workers. They're without jobs. One of the biggest factors was workers' comp. I think we have to work on behalf of the injured workers.

This bill, the Minority bill, the Pendleton amendment, codifies the advocates. That was going to sunset in October. They're doing a good job. They haven't had time to do the best yet, but not only will that codifies but we'll add 5 more advocates. We'll add a staff attorney. We'll also better define the mission of the board, which we all know haven't been working to their capacity. I guess that's what I can say about that. This is for the workers. This is on behalf of the workers. These advocates will flow from the beginning to the end. They will know more about this system that the attorneys on the outside. I would ask you to support the Pendleton amendment. Thank you.

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

Representative SAXL: Madam Speaker, Men and Women of the House. What if the small business community and the State of Maine only complied with Maine law 34.4 percent of the time? I tell you what Ladies and Gentlemen of the House, that is what the workers' compensation insurers of the State of Maine are doing to injured workers today. Thirty-four point four percent compliance with the law dealing with the seven day and 14 day rule. What does this failure of compliance by the workers' compensation insurers in the State of Maine do? It forces workers, injured workers, to settle claims they wouldn't otherwise have to settle because of the financial pressure. Those who have the pride or the will not give in are forced onto public assistance. Injured workers in the State of Maine today aren't getting the benefits they deserve because insurance companies comply with the law 34.4 percent of the time. You might say "the board doesn't have the tools it needs." Well, in Wisconsin, a much larger state than the State of Maine with a very similar workers' compensation system, they comply with the law better that 80 percent of the time. They make those payments on time to injured workers in the State of Maine. Now a lot of people have said there have been a lot of changes since the reforms of '92-'93. Some of them have been good. There's not one person in this room who doesn't log increase worker safety, but there are a lot of people in this room who don't like that fact that injured workers are being forced to go back before they're better in order to save workers' compensation rates. Not one person in this room wants workers' compensation costs to go up for small businesses, but there are a lot of people in this room who would like 34 cents out of every dollar they took into their business to go into the pockets for administration and profits and that's the case.

During 1996, 34 cents of every dollar taken in on premiums from workers' compensation insurers goes into the pockets of insurance companies in the State of Maine. That money isn't paid back to small employers who are struggling to pay their workers' compensation costs. That money isn't going to injured workers who aren't being paid their settlements on time, who aren't being paid their disability on time. That money is going to big insurance companies that are, some from Maine, but many from places far, far away. Today when you think about your vote I think it's essential to think back on what workers' compensation insurance was designed to be. Workers' compensation is simply this. It's a social compact between injured workers and their employers. In exchange for workers' compensation, employers are not liable under court suits in the State of Maine. An injured worker doesn't sue their employer and get huge, amazing

settlements of millions and millions of dollars. In exchange for that, an injured worker is guaranteed to get their disability and to be made healthy. It's a social compact.

Last year in this body the good Representative from Bridgeton, Representative Waterhouse brought forward a bill to exempt employers of 5 and under from the workers' compensation system. The NFIB, the National Federation of Independent Business, not a wild-eyed, crazy bunch of liberals, opposed that bill. Do you know why? Because it would expose those business of 5 employees or under to incredible risk! Workers' compensation is a balancing of risk. It says the employer is free from lawsuits and the employee can be made whole. Can be made healthy. Can have the disability insurance that they deserve. The Majority Report has been maligned throughout the state. I think we need to debunk a few of the myths. First of all, this report would allow something that the Minority Report wouldn't allow. It would allow the superintendents of the Bureau of Insurance to do simply this. To investigate and penalize insurers for improper claims handling practices or repeatedly contesting claims without cause. In other words, people who get paid on their seven day and 14 day rule in the law as it stands today would be complied with. That's in the Majority Report. It's not in the other report. The other thing that's a big myth that's going around here today is that this would bring lawyers back into the system. Well let me tell you! Over \$5 million was spent by employers last year on attorneys. Let me tell you another thing. That doesn't even come close to counting the lawyers that are on staff at insurance companies throughout the State of Maine and throughout the country that have been bring big-gun attorneys into these settlements. This legislation says that the only time an attorney can be brought into the system is at the very final stage and only if the employer or the insurance company decides to bring an attorney in there to. It's about leveling the playing field. It's not about special advantages. It's not about increasing costs. It's about doing the right thing.

Now, Ladies and Gentlemen of the House, we have heard that this will cost the state some real money. Do you know where the fiscal note comes from? It comes from the claims that aren't being paid to injured workers in the State of Maine today. It doesn't come from increased lawyers fees. It doesn't come from unfair treatment of small businesses. No. It comes out of the hides of men and women working in the State of Maine today. This is not necessarily about the injured workers that you and I see and have heard a lot from this year. It's about the people that haven't been injured yet. It's about you. It's about me. It's about our colleagues when we're not in this body. It's about doing the right thing so that the social compact that we established so long ago, that compact which protects small business people and protects injured workers it there when we need it. Thank you.

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

Representative PLOWMAN: Madam Speaker, Men and Women of the House. In July, almost three years ago, my husband and I opened our own company. The first thing we had to do was write a \$14,000 check so that five of us could go unlock the door and be covered by workers' comp, five people. And I'm exempt and so is my husband because we're shareholders. I have a unique perspective. I've worked for attorneys who represent injured workers and I have worked attorneys who represent insurance companies. I did that for a long time. I also have a unique perspective because I'm the person that negotiates workers' comp rates, or all the insurance rates for our company. Three years ago I paid \$8,000 more per year than I do now and we now have 13 employees. I dare say

we break the law all the time because not one of my men has ever lost an hour, not one hour if they're injured. If you change this today and all of this goes back, and you decide next year that maybe that wasn't a good idea these costs dock every employer for at least the next three years on their experience rating. I've seen cases come through, and worked for fine attorneys, I would never ever insinuate that I did not work for fine honorable men, but I've seen the bills that have come through. I've seen a case settled, finally after all of the litigation, and I've seen the application for maximum medical improvement come in, which means the injured worker has gotten as good as their going to get, and file a lump sum settlement offer. I've seen the checks go out to the attorney for the plaintiff in 10 percent chunks. If it's settled at \$100,000, that four or five days worth of work is worth \$10,000.

One law firm in the State of Maine collected in the high six, almost seven figure range in 10 percent only, 10 percent lump sum settlement fees. Five years ago less that 30 cents on the dollar went to benefits for an injured worker. Injured workers were getting cheated then. They were up in arms because when they saw the money that was going out and the money that was coming to them, it was outrageous. It wasn't going to the worker. When we started our company, that \$14,000 was part of our retirement. The people we hired was a man who had been laid off from Nissen Bakery. He had worked there for 20 years. He has a job. He didn't have much future in Bangor, Maine, believe me. We hired a woman who was under-employed. She now works full time. We hired two other people who were under-employed and we've continued to hire people that will work for us and do a good job. We have very few injuries. We have a great safety program. I hate to say it but the times that there are injuries it's people who aren't following the safety program that you have to get on to, "put your glasses on," "you were supposed to be using this." You have to remind them and follow people around and make sure that they are being safe. I doubt very many of you have seen the workers' comp that I've seen.

I do have constituents who've called and asked for my help and you can call and say "hey, get real." You know what, that's all it takes sometimes. Yes there's a problem. There is an offer on the table as to how to move this problem along. It's a sensible, common sense offer. It's not devastating. I tell you, if I have to go back to paying \$8,000 more for the same employees, never mind my eight more that I've hired since then, I will have to lay off several people. And I just tried to do a rough guesstimate, but there are 13 who work for us, 11 households, 11 children. We paid, last year in sales tax, over \$65,000 to the State of Maine. We have a payroll of \$250,000 on which we pay employee taxes, Medicaid, FICA. We pay half of their health insurance. I can cut that, I don't have to give them health insurance. Where do you want to start rebounding? At what point is the rebound too much when you start going after small companies? Cause, that's what we are. I'm sorry, we're small companies. We can't take the increases. You think that we're making money hand over fist. Well, my second mortgage doesn't say that. My second mortgage was the cash flow last January, February and March. That paid my guys. And they don't mind that I call them my guys so please don't be upset on their behalf. We're pretty close. I don't understand why everybody thinks we're out to screw the worker. We're not. I don't understand why you think we're getting rich, because we're not. We take our saving, people just like me, savings, retirement, we put it on the line to hire people and give people jobs. All we ask is that when you do something you move slowly, you think about what it does and you measure the rebound.

Four years ago my husband worked for a company that required that he show up at a meeting every month with a list of

the people he would lay off. Everybody had to show up. He laid off several men who had company vehicles, so he had to take them home. As he drove into the door yard and the screen door comes flying open and the little kids come running out, "daddy, daddy, daddy, what are you doing home so early?" Can you imagine? The man's walking away from the man who just laid him off, he's walking into his house to tell his wife he doesn't have a job. The vehicle that he used to get around in is gone. He has no prospects of being hired. It happened every month with this company, trying to save the company. The workers' comp was over \$35 per hundred. So, if you paid somebody \$20,000 per year you can hopefully figure out how much it cost just to buy workers' comp insurance. The rebound effect was to have a whole lot of people laid off and going home. I dare say, I wouldn't have wanted to have been the wife that night, or two months later when there's still no job. There's a rebound effect. Measure it, take it into consideration and think it through. Can we do this moderately or do we have to go after it with a chain saw? When you do, and you decide you have got to do the chain saw, I hope that you'll let me speak to you off the record and every other business owner next year so we can tell you how Cary and his family are doing and did they get a job yet, and does he have health insurance for his child who is very ill or has Vern been able to find a job now that he is 47 years old and we hired him when he was only 44 or Dean who's 56, can he get a job if I have to lay him off? These are all very important people. They're just as important to me as they are to their families.

I feel a personal sense of responsibility that we take care of them. Taking care of them means giving them a job paying them well. I beg that you go ahead and reject this. Move moderately and thoughtfully. I think the people of the State of Maine deserve it. I too am getting a little tired of being characterized as a big, bad employer. I dare say that there are people I serve with who feel just as close to their employees as I do, and just as responsible. For all of the money that insurance companies make, I'd like to know, first of all, have you ever been there when they have an awards banquet and hand out safety bonuses back to the companies? It's done. Have you ever been around when a company offers safety bonuses to their employees? Many of you are aware of it. We've come a long way. People have worked hard and spent a lot of time getting this reform in. You want to tweak it? Great. Tweak it, but don't go overboard. Thank you.

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

Representative MURPHY: Madam Speaker, Men and Women of the House. I think tonight we're hearing about an incredible complex, emotional and far reaching issue. I don't think any member of this House envies the members of the Labor Committee. I have no personal stories to relate to you, but my comments are directed to the members of this House who are sitting through their first workers' comp debate. If I can share a tool with you, a historical tool that I've always used in analyzing workers' compensation bill. It's number one, find the lawyers. Look for the lawyers within the proposal. Two, try to discover what they're getting paid. I should say as a disclaimer that some of my best friends are lawyers. Some of them have even been into our home. But, when lawyers get into the workers' comp system, they're like pac-men, running amuck. Driving up the cost of the system and most importantly, devouring the awards that have been won by the injured worker. I'm concerned, looking at this Majority Report, that there doesn't appear to be a cap on attorney fees. I believe there is a cap under the current law for fees in a case prior to completion. Madam Speaker, if I could pose a question?

THE SPEAKER: The Representative may pose his question.

Representative MURPHY: What is the cap under current law, and is it removed in this Majority Report?

The SPEAKER: The Representative from Kennebunk, Representative Murphy has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Bath, Representative Mayo.

Representative MAYO: Madam Speaker, Men and Women of the House. I believe that the current cap is 30 percent and in the Majority Report there would be no cap, in answer to the good Representative from Kennebunk. While I'm on my feet, if I may Madam Speaker.

The SPEAKER: The Representative may proceed.

Representative MAYO: Madam Speaker, Men and Women of the House. Thank you. I was a small business owner in the State of Maine for 35 years, selling my businesses in 1994. In the late '80s I, like most small businesses in the in this state, experienced workers' comp premiums going up anywhere from 20 to 30 percent per year. That continued into the early 1990's. After the reforms of 1992 I was lucky to experience one year of a fee climb before selling. However, the current owner of the two funeral homes has indicated to me that his workers' comp premiums have continued to decrease. A couple of other things that I'd like, while I'm on my feet, to bring to the attention to the Men and Women in this body. Maine, even with the 1992 reforms, is still in the national top third in workers' comp cost. Rolling back the reforms and increasing costs will put Maine at a tremendous disadvantage regionally, nationally and globally. It will insure that we do not continue to increase the number of small businesses in this state who are employing people, who are paying health insurance, and we will see the curve start back down again. We've heard a lot tonight, and I suspect we'll hear a lot more, about the lawyers in this system, and so forth. Today I would remind you that 85 percent of all the claims are settled without the need of a formal hearing. Nor are the employees being denied legal representation at hearings. Of the 3,207 cases ruled on by the board in 1996, 2821 employees were represented by attorneys. That is an 88 percent factor. Eighty-eight percent of the employees were represented. Today, as the result of the changes in 1992, doctors and now lawyers are making the medical decisions upon which the workers' compensation decisions are made. In 1990, legal bills were a staggering \$50 million according to the information compiled by the Workers' Comp Board. Without the 1991-1992 reforms, we would have spent nearly one quarter of a billion dollars within the last five years. Ladies and Gentlemen, I would go on. I think others plan to speak. I hope they will not belabor the point, but I would urge you here tonight to not accept the Majority "Ought to Pass" as amended report, but to go on to accept report "B" so that we may continue the reforms of 1992. It is too early to make major, major changes in this particular piece of legislation. Thank you.

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

Representative CARLETON: Madam Speaker, Men and Women of the House. Workers' compensation is a particularly personal matter for me because I'm one of 11 or 12 people who were in this House at the time that the workers' compensation reforms were enacted in 1992. As you are very well aware, the State shut down over workers' compensation in 1991 and it has caused harm to the body of politics which almost can not be measured. I'm one of perhaps two or three people, now present in this body, who were on one of the committees of jurisdiction for workers' compensation. In 1991, I was appointed to the Banking and Insurance Committee which, at that time, had co-equal jurisdiction with the Labor Committee over workers' compensation issues. I learned a lot. More than I ever cared to

know about workers' compensation. It's not part of my legal practice. I didn't know much about it before but I sure learned an awful lot about workers' compensation in that two years, that awful two years. I learned that this no fault system, this compact, this social compact, which is supposed to supply no fault, pay the medical bills and get somebody back to work, had turned into a complex monster. There was a culture there of adversity and the adversarial relationships between the parties. I don't know who to blame for that. I do know that the culture was bad. The culture was bad. People, there was not an incentive to try to work things out, to compromise, to get things working so that an injured worker got the medical bills paid and got back to work. It was almost a game. I think, looking back on it, that the prevail standard was the major cause of that problem. Where you have a system where if a claimant prevails even partially they get their whole attorney fees paid. There is a built-in incentive to do more than is necessary to build up the hours, to contest points which should be settled, to go on and on and to contest and to create an adversarial situation. That is exactly what happened prior to 1992, men and women of the House. We need a culture, in workers' compensation, where people try to cooperate. We need people to work things out. That is not what I saw prior to 1992. I think we are making some progress with that. I don't ever want to see that come back because I think we will destroy the system again and we will do irreparable harm to the economy of this state in doing so. Thank you.

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

Representative JOYCE: Madam Speaker, Men and Women of the House. In regards to the compliance report that Representative Saxl spoke of a while ago, I think there's some more information that you need to know. The data and all the averages in that report are completely inaccurate. The data's inaccurate and the data collection procedures are inaccurate. The executive direction of the Workers' Comp Board sat in the Labor Committee room and admitted it to us. The averages that you read in that report are over a four and a half year period starting in 1993. Those averages are completely irrelevant for what we're looking for. 1993 was the first year that this system was in affect and there is problems with it. What we should be looking at is the trends, the averages on a quarter by quarter basis or a year by year basis. We should see how the system has been getting better. Madam Speaker, may I pose a question?

The SPEAKER: The Representative may pose his question.

Representative JOYCE: One concern about this, the Majority bill that I have is, probably only a member of the Majority Report can be able to answer it, is the retroactivity part of this bill. What is the reason that these changes need to be retroactive to December 31, 1992? A person with common sense would assume that you would want to open up any injuries, any cases that have occurred since then. Another question is if that is the case, what is the point of opening up cases that have already been closed and settled?

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

Representative TREADWELL: Madam Speaker, Ladies and Gentlemen of the House. I'd like not to belabor the debate here too much longer but I think I have some information that should be presented. The National Council of Compensation Insurers (NCCI) which are the acknowledged experts in actuarial matters. They work for 38 states in the United States providing information on workers' comp insurance. It is estimated the cost of amendment "A" to be approximately \$10 million per year as a

starter. This increase is caused by several factors and very few of them are related to benefits that would be paid to an injured worker. They would come from an increase in the cost of handling cases with attorney involvement including medical and legal expenses which are over and above the benefits currently being paid. They would also include additional benefits that are paid during or while a litigated case is pending, which would be to the benefit to the employee. The additional increased cost because there are more issues that are raised by the attorney in these litigated cases and increased costs due to reduced effectiveness of the return to work programs which are working quite well right now, as a matter of fact, but if we get the lawyers involved in it the return to work programs are going to be probably nonexistent. Litigation causes both parties to take an advocacy position and it impedes the return to work. The employee's attorneys are compensated as a percentage of the settlement and as you heard it's capped right now at 30 percent and the plan that we're contemplating right now would have no cap on that. It could go as the lawyer feels that he can charge. So, I think that it's important to note that there is a cost to amendment "A."

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

Representative BUMPS: Madam Speaker, Men and Women of the House. I will be brief. Last week we acted on legislation to restructure the electric utility industry and the media heralded that action as one of the most important and far reaching pieces of legislation that any of us will vote for in our political careers. Well, tonight I would suggest to you that this bill L.D. 1523 is by far the most important piece of legislation that we will act on in this session. I would strongly urge you to vote against the pending motion so that we can go on to accept the Minority Report which is a proposal that was crafted with broad, bipartisan support and now has the endorsement of the Chief Executive. By rejecting the motion before us, we will then have the opportunity to support a proposal that truly benefits injured employees. Several of you were here in the Legislature in 1991 and even those of us who weren't can certainly remember the devastating business climate that existed prior to the 1992 reforms in workers' compensation. Employers recall spiraling insuring costs and most employees remember a system that was protracted and unfair. A return, even in part, to a system such as the pre-1992 workers' compensation program would likely cause an irreparable setback in business growth and economic development that has been building since 1993.

Briefly, I would like to direct your attention to comments made by a long-time workers' compensation attorney in an article that was circulated last week. Remember that these remarks were made by someone who stands to gain financially if the bill before us were to pass. I quote "I've been in the private practice of law in Maine for 23 years. During all of that time, I have regularly represented injured workers in compensation matters in this state and continue to do so. I am intimately familiar with the system as it existed prior to 1992 and also know up close and personal the system as it exists today. Of this and other workers' comp bills," he goes on to say, and again I quote "I think adoption would represent a serious public policy mistake for this state. The 1992 act properly attempted to reduce insurance costs by reducing attorneys fees and reducing costs for medical treatment. On that basis, the 1992 act was an unqualified success. Workers' compensation insurance premiums have been reduced substantially since January 1, 1993 and the insurance market has become much more competitive as carriers who had previously declined to write policies in the State of Maine have now reentered the market. Although workers' compensation law is a complex field, it is a very narrow area of

the law. Well trained and experienced employee assistance could provide a level of service to injured workers which for all practical purposes would be equivalent to the quality representation afforded by lawyers. Over the past five years, we have seen the use of employee advocates without any form of prevail and how that can work. I would submit, as many attorneys have admitted, that a well trained advocate, who works daily in the system, will have an expertise uncommon even among lawyers to assist injured employees."

Please, before you vote on this critically important piece of legislation, consider the severe implications of returning our currently improving workers' compensation system to its broken past by reinstating prevail in any form. Please, vote against the pending motion and go on to support the Minority Report. Thank you.

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

Representative JABAR: Madam Speaker, Men and Women of the House. I want to start by admitting that I am a lawyer. I thought I'd start my talk by telling a few lawyer jokes tonight. I have a good friend, a Representative on my committee, who have given me a great many of them the last few months. We've taken a lot of hits today and I'd like to address a few of the issues. I come at this from a different perspective since I have been an attorney who has represented injured workers. I've also represented small businesses, as a matter of fact I was involved in a dispute where a small business person, a company, actually had a dispute with the insurance company for paying claims that they didn't think should be paid. Now there is no question that in 1992 there was need for reform. I can debate with you all night as to why the reform. Everybody wants to blame the attorneys, but it is a lot more complex than that. I'm sure many of you know the insurance company would pay claims they shouldn't be paying and then turn around and pass the bill off to the employer and say, "this is your premium." They would not even be concerned about returning people to work. They would just simply pay the benefits and then go back to the employer and say "there's nothing I can do, now your premiums have gone up." There obviously were abuses by many employees who took advantage of this and many attorneys who drove the system by taking advantage of the employee and the employer and the insurance companies. So, there's no question that in 1992 we needed reform and I will never argue with you that we didn't. However, it's important to keep in mind what happened in 1992.

There is a quote I think all of you received on your desk from an attorney who was in the Legislature and who worked with the then Governor, Executive McKernan, Sumner Lipman, and believe me Mr. Lipman is not going to retire on his workers' compensation cases. He is a respected attorney. He does a great deal of trial work and was very intimate in the passing of the workers' comp legislation that was put through in 1992 that is now the law. This person, this attorney pushed through that litigation because he believed in it. He was supported by the Governor, at the time McKernan. He now, in an editorial in the *Capital Weekly*, has several things to say what happened. I'll just read to you just a couple of quotes. "When the 1992 act was passed everyone knew that the insurance industry and employers were handed the reigns to run the system and they had the potential to abuse it. We have now seen the results." It goes on to say, "the pendulum has swung too far and now we see an abuse of the system by insurance carriers and employers." Then close to the closing paragraph he says, "the imbalance in the system hopefully will cause the pendulum to swing back quickly." One of the things I've learned very quickly, my first year here, that when you get a bill you just don't come to this Legislature and say, "gee, I have a great idea, I'm going to

pass it." You work the will. You work with the opposition and you try to come forward with a bill that isn't necessarily what you want, but it is an attempt to have a compromise. I submit to you in 1992 when the bill was passed there weren't very many compromises then. The bill was passed intact. And now just as Sumner Lipman has indicated, it is time to make some adjustments.

I do not agree with those of you that have said making some adjustments are going to drive us back the way we were prior to 1992. Nobody wants to go back to that. There are needs for adjustments. Right now the insurance industry is paying over 20 percent for defense. That's attorneys, medical consultants and investigators. That's the same percentage they're paying for weekly benefits to employees. They're paying as much to fight the claims as they are to pay the claims for weekly benefits and that used to only be 12 percent and now it's gone up to 20 percent. Everybody has horror stories. I can tell you come horror stories. These so called IMEs. I talked to a doctor, and I'll give you the name afterwards, who does IMEs. I asked him, I said, "doctor what do you charge for an IME?" He said "\$1,000." I said "how many do you do?" "Oh, I do four per day." Okay, I said, "How many days per week do you do this?" "Four days per week." Well that's \$16,000 per week. My next question is a logical question. "How many weeks per year do you do this?" "Forty weeks." This doctor, and it's on record and I can show you the deposition, takes in gross \$640,000 per year. He has no surgery to concern about. No great deal of patients to concern about. All he needs is a secretary who can transcribe his report that he sends to the insurance company. I said "what percentage of your cases come from the insurance industry?" "95 to 98 percent." These are the types of cases that employees are now having to deal with on their own.

Before I conclude I want to talk a little bit about the prevail rule. I never could understand why insurance companies didn't put attorneys out of business when the prevail rule came into existence. As an attorney if you don't get more than they're offering you, you loose. And, if the employer offers you a job that you can handle and your employee does not go back to work, you lose, he loses his benefits. That's the way the law is now. That's the way it has been since 1987 since we've had the prevail rule and yet case after case the insurance industry attorney would fight the case and because the attorney for the injured worker would win he would be paid. If he takes a case that has no merit, if he takes a case that he loses he gets zero. I don't care how much his bill is, he gets zero. So the logical question is why didn't the insurance companies put these lawyers out of business by simply paying the cases you're supposed to pay and don't give them anything to fight. Just winning part of the case isn't enough, it isn't enough. If they offer you 51 percent of your comp and you only recover 50 percent, that may be close, but you don't get paid for that unless you get more than the insurance company offered you. Now, some of the insurance companies did get smart and they did do that. They did offer just over what was the prevailing rate. That put attorneys in a tough spot. The prevail rule we have today in this bill says that and more. You can't even get a prevail if the insurance company decides not to use an attorney, so that isn't even available. We've also heard statistics saying that it's going to cost \$13 million to put in the prevail rule. Let me ask this rhetorical question. If the prevail rule only pays for cases that are legitimate and are properly payable, then what we're saying is this is \$13 million worth of cases that are legitimate cases that right now aren't being paid. What other logical conclusion can you come to when you ask that question? If you're only going to pay those cases that are legitimate, those are the only cases that are going to prevail, then it has to follow that those are \$13

million worth of cases that are not now being paid that should be paid.

Again, in conclusion, I don't think we should go back to where we were before. I don't believe that all of the safeguards that Senator Mills has put in here and the others on committee amendment "A" which, again gives the insurance industry control of the situation. Number one, they can keep lawyers out of it by simply using the advocates. Number two, they just have to pay the legitimate cases and leave the attorneys stuck with the cases that are worthless. They can control the situation. That's all this particular law does. If you want to get the lawyers out of it then get all of the lawyers out of it. We keep talking about lawyers and they only talk about the employee lawyers. Believe me, the defense attorneys, they get paid win or loose. So you want to talk about driving up costs and doing depositions and taking interrogatories. They don't care because they're going to get paid by the hour. The injured workers' attorney, he can be brought through all of these depositions not knowing whether or not he is going to win. So if you want to get lawyers out of it, get all of the lawyers out of it. This bill here is an attempt to do that because all insurance companies have to do is say "we're not using any lawyers" and then what is the employee going to do. So this bill is not going to take us back to 1992. It is a minor adjustment and again it still puts everything in the control of the insurance company and I remind you to read what one of the authors of the 1992 act said in the papers just recently, this was in April 17, 1997, and he certainly has no vested interest in this, for him to make this strong a statement. Thank you.

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

Representative TRUE: Madam Speaker, Ladies and Gentlemen of the House. I really wasn't going to speak tonight, however as recently as 48 hours ago, I talked with another framer of the 1992 law. He sat in this chair, Peter Hastings, and he was a lawyer. He has said over and over to me, "if you can do anything, don't let them change a thing. Now is not the time." And again you can take on any case and pick and choose your people. Pick and choose the things you want to read that has been in the newspaper to maybe fortify your case. Living where I do, and I could have brought 20 or 25 notes from the businesses up there along the border and I told you last week about one, Ceramco, that came to Maine, built two places and is now going back to New Hampshire because Maine is not friendly to business. I don't know, I haven't had a chance to talk to him, whether he thought there were going to be changes in this particular law. I believe, personally that, and many of my constituents have written to say how much better would be if they would be heard sooner. It is my understanding in reading this that the advocates under the Minority section would naturally speed up these cases. I ask you please not to change things not. This is not the time. I want to commend Representative Bolduc for quoting Dante. I think it was appropriate. He did a great job in talking about what he had to say. I'm not sure whether you all understood it. I see he is not in his seat or I would ask his to perhaps read Shakespeare, a very short part. If you remember in one of his writings where he said, "You know, there must be something rotten in Denmark." Thank you.

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

Representative VIGUE: Madam Speaker, Men and Women of the House. Madam Speaker, I hope that by quoting you I do not offend you, but I have to read a quote from a May 2nd press release. "Speaker of the House hailed the rejection of the prevailed standard." And you went on to say "the stability created by the reforms in 1992 have been good for business expansion and job growth." Madam Speaker, that was an awful

lot of truth and I will commend you for that. I think that you are absolutely right. I think the time is not right to open this up and to bring the prevail back into the system. I saw it work and I have to question my good friend from Waterville that it did not work. I think that we have to continue on the road that we have gone and give it more time. I think what we should do is to vote as if your local businesses, colleges, your city or your town was watching you and knew exactly how you were going to vote. This makes for a really different picture if everyone is to vote according to what the people back home are going to see and how you vote. So I would urge you to oppose the pending motion and to vote for the Minority Report.

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

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

Speaker MITCHELL: Madam Speaker, Men and Women of the House. I'd also like to thank the Representative from Winslow, Representative Vigue for giving me the opportunity to come down and talk to you in a corner that I have missed a great deal. I think you all know that I've listened to hours and months of debate on every issue that's come before this body. I have bit my tongue and made comments in off-the-record remarks and in the hall, but tonight I can no longer do that. I began my stint this term, I started my eight year of this term before I'm term limited out, and the much tailhead reforms we've heard Representative Carleton speak of and others, because I'm one of those, in fact, I chaired the Banking and Insurance Committee that has been spoken of. I worked through that session and now I'm ending my last term speaking to you about this issue. It is not where I'd like to be. There are many other issues that I would like to come down and talk with you about. I'm also a realist. I know it's very difficult to take on the insurance lobby, the Chief Executive and the Chambers of Commerce and people who have made up their minds, sometimes before listening to all the facts. But, I'm also an idealist and I know that I have to look in the mirror every morning when I get up and it's always a pretty bad sight. I want to be able to look in that mirror and to be able to know that I used my time in this House to do the right thing.

I really appreciate my young friend, Representative Bolduc, and I want to assure you that I will not be frozen in the ice of my indifference. I hope that all of you will begin to challenge your assumptions. I've been asked to make a lot of graduation speeches and I always quote, not Dante or Shakespeare, but I've been quoting Alan Alda. Because Alan Alda made a fantastic graduation speech for his daughter. What I remember most in that speech, he said "challenge your assumptions. Your assumptions are your windows on the world. Scrub them off a bit or you won't be able to see. If you don't challenge your own assumptions, you won't challenge the assumptions of others." I'm asking you tonight to challenge some assumptions. The real news tonight is what we agree on. In spite of all the rhetoric and all the debate, what we disagree on is one item in this bill. I want you to think with me for a minute at all the things that we agree on. One, we do not want the cost of the workers' compensation system to go back up. There's not a person in this room who came to Augusta saying "let me go down there and raise the rates of workers' compensation." We all want businesses to succeed.

The Taxation Committee is sitting downstairs working on issues concerning Bath Iron Works. We've worked all session on tax credits for economic development. This Legislature is

committed to healthy business climate. Whether you're a Republican or Democrat, you've voted on bill after bill to make business grow and prosper in this state. We don't believe the current system is fair to workers. Representative Pendleton began this debate by saying it's not fair, so therefore the Minority Report adds more public advocates to represent the injured worker. So we agree that the system as it currently exists is not fair. The other interesting point, and I hesitate to say this after my good friend from Waterville, Representative Jabar, who spoke so convincingly, I would give anything if I could speak about this system with his eloquence and his first rate knowledge of what happened. We want to get lawyers out of the system. Now, the administration of this state was quoted as saying "we want them out. There are too many in the system and we don't want them back in the system." They never left. They only left for one side. They only left for the injured worker. The Majority Report simply says we'll get them all out. Let those public advocates that the Minority Report thinks are so capable and so good, let them represent the insurance companies too. Aren't they good enough for the insurance companies? I ask you. If they're good enough for the injured worker, why are they not good enough for the insurance companies of this state. If you can answer that question to me I will admit that I'm wrong because I haven't heard a good answer yet.

The other thing we've all agreed on and this is what brought me down Representative Vigue. I did say the prevail rule is dead and it is. The President of the Senate and I agreed that we did not want to go back to that system. We are not debating prevail rule here tonight. We are debating limited representation which says at the final stages, if you win, if you win because your case is just, then your lawyer gets paid. You know, when the President of the Senate and I went down to make that statement there was a man there that I have never met before. I want you to put some faces on this. It's not about statistics. It's not about the NCCI actuarial figures. It's about your constituents and God help you I hope it's not about you one day because it seems to me sometimes in this body something has to happen to us before we can empathize. Whether it's an insurance mandate or whatever else, it has to happen to us. So, put a face on this. The man who spoke at our press conference was a retired police chief, retired because of an injury, in Sanford, Maine. Clean-cut, young man who was injured badly and bitten when he tried to intervene in a domestic violence dispute. His comment was "I didn't know what to do. I had no one to help me and that didn't seem fair." And the quote that still sings in my ears is "I felt so alone." Now for all of the brave talk that all of you have made about disliking lawyers, and I have to make a disclaimer here, I'm married to one and I happen to like lawyers very much.

The first person that those small businesses that Representative Fisk mentioned, the first person they call when they get into real trouble is an attorney. I suspect Representative Murphy would want an attorney if he got into trouble in some manner. I know that because my husband's phone rings a lot when people get into trouble. Whether it's their children, themselves or whatever else. That's why I was somewhat amused, and I know this article was quoted without an attribution, the lawyer from Auburn, Maine who is quoted as saying "Although workers' compensation law is a complex bill, it's very narrow." I'm wondering, if this man was sued for malpractice, if he would want a public advocate representing him, if he's being sued for malpractice. I'm wondering if you want a public advocate representing you if you're being sued for bankruptcy or maybe a criminal offense, a felony of some sort. Don't apply double standards. Double standards simply don't work in the '90s. I want to talk to you about these double standards that we've been talking about. I've been reading the

enactors and that's an interesting job. I'm not opposed to this enactor, but there's one that's coming across called "An act to regulate recreational vehicle manufacturers, distributors and dealers." It's one of those bills that protects small businesses who have franchises and guess what, if you're wrong as a franchise owner, you get to go to court. If you win your court costs are paid. Now, small businesses get that. Should injured workers?

My personal favorite roll call happened earlier today on a vote of 116 to 29, this body voted that a Joint Standing Committee of the Legislature had the right to legal council and should have it, 116 to 29. I invite you to look this roll call over. Many of you who are now saying an injured worker does not have the right to legal representation, but the Joint Standing Committee of the Legislature should. Double standards, we really need to think about where we're coming down on that. But, I started out on a positive note and I want to end on a positive note. If we could focus on just the piece, just the piece that separates us and it's very small. It isn't about raising the cost, it isn't about going back to pre-'92. I guess I'd also like to tell Representative Vigue, don't be afraid of change. Change is frightening, but the status quo is worse. When I chaired the Banking and Insurance Committee it was our committee, it was not the blue ribbon commission I would like to remind all of you, that came up with the notion of MEMIC, which you all like very much now. MEMIC was modeled on self insurance. It was modeled on a free market and free enterprise. Workers and companies that had a good work record got better rates. Companies that hurt workers got worse rates because before MEMIC there was no competition and everybody stayed in this awful thing called a residual market. It is working now. It is working now because there is competition and they are rewards for good behavior. So don't get sidetracked. If you've done something wrong, if you have gone too far in one direction, don't be afraid to take a small step to rectify that change. Keep MEMIC, keep competition, keep lawyers out of the system, but let's play fair. That's the only issue that separates us. It is the issue of allowing an injured worker the same rights to an attorney that an insurance company has.

I will be able to sleep tonight knowing that whether I win or loose this debate, because it is not about winning or losing, it's about the men and women that I represent and I am very proud to have used the one time that I have come down from that podium to speak to you about an issue that is extraordinarily important to me and to you and the men and women who have no voices here tonight, who are not sitting in the lobby or in the gallery or anywhere else. They are at home nursing injuries and trying to survive. Can you imagine the fear and the fright of going it alone, being hounded by bill collectors because you can't pay your hospital bills. It's not right and we're better that that. I ask you tonight to rise above the rhetoric, to open your minds, to challenge those assumptions and be willing to take a small step forward. I hope you will vote for the Majority Report. I encourage you to do the right thing.

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

Representative JOY: Madam Speaker, Ladies and Gentlemen of the House. I am very glad that Speaker Mitchell happened to mention the creation of MEMIC because I'd like to take this time to correct some misinformation that was given before. There was lots of reference to so much money going to out of state insurance companies. I'd like to point out that 80 percent of the Maine insured are insured by MEMIC, which is a non-profit mutual insurer owned by the business and self insured of Maine. It's not an out of state company. They are only allowed to insure Maine companies. Thank you.

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

ROLL CALL NO. 300

YEA - Ahearn, Bagley, Baker CL, Baker JL, Berry RL, Bolduc, Brennan, Brooks, Bull, Bunker, Chartrand, Clark, Colwell, Cowger, Driscoll, Dunlap, Fisher, Fuller, Gagne, Gagnon, Gamache, Goodwin, Green, Hatch, Jabar, Jones KW, Kane, Kontos, Lemaire, Lemke, McKee, Mitchell JE, Morgan, Muse, O'Neal, O'Neil, Paul, Perry, Powers, Quint, Rines, Rowe, Samson, Saxl JW, Saxl MV, Shiah, Skoglund, Stanley, Stevens, Thompson, Townsend, Tuttle, Usher, Volenik, Watson, Wheeler GJ, Winn, Wright, Madam Speaker.

NAY - Barth, Belanger DJ, Belanger IG, Berry DP, Bigl, Bodwell, Bouffard, Bragdon, Bruno, Buck, Bumps, Cameron, Campbell, Carleton, Chick, Chizmar, Cianchette, Clukey, Cross, Davidson, Desmond, Dexter, Donnelly, Etnier, Fisk, Foster, Frechette, Gerry, Gieringer, Gooley, Honey, Jones SL, Jones SA, Joy, Joyce, Joyner, Kasprzak, Kerr, Kneeland, Labrecque, Lane, LaVerdiere, Layton, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, Mailhot, Marvin, Mayo, McAlevey, McElroy, Murphy, Nass, O'Brien, Ott, Peavey, Pendleton, Perkins, Pieh, Pinkham RG, Pinkham WD, Plowman, Poulin, Povich, Richard, Sanborn, Savage, Shannon, Sirois, Snowe-Mello, Spear, Stedman, Taylor, Tessier, Tobin, Treadwell, Tripp, True, Underwood, Vedral, Vigue, Waterhouse, Wheeler EM, Winglass, Winsor.

ABSENT - Dutremble, Farnsworth, Meres, Nickerson.

Yes, 59; No, 88; Absent, 4; Excused, 0.

59 having voted in the affirmative and 88 voted in the negative, with 4 being absent, Majority "**Ought to Pass**" as amended Report was not accepted.

The Speaker resumed the Chair.

The House was called to order by the Speaker.

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

The Bill was read once. Committee Amendment "B" (S-302) was read by the Clerk.

Representative HATCH of Skowhegan presented House Amendment "B" (H-715) to Committee Amendment "B" (S-302), which was read by the Clerk.

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

Representative HATCH: Madam Speaker, Men and Women of the House. This amendment changes the provisions regarding settlements to encourage structured settlements when the settlement amount is large. In the original bill we felt this was very important and we'd like to add it back to this one. It encourages those injured employees to be a little thrifty in how they use their money. We think that it's a good amendment. This amendment requires that at the conclusion of mediation the employer must inform the board and employee whether the employer will be represented by legal council at any subsequent proceedings or meetings with the employee. It also adds back in the attorney. Now I know we just went through this scenario, but I'm not to the conclusion of this yet.

If the employer elects to be represented the employee is entitled to have the employee's attorneys fees paid for by the employer, if the employee hires an attorney and the attorney wins the case, the amendment defines prevail as obtaining more compensation or benefits than were offered in the first place by

the employee in writing at the conclusion of mediation. This amendment also puts a repeal date of September 1, 1999 on that section of the committee amendment the entitles an employee who hires an attorney and who prevails to have the employee's attorney fees paid for by the employer. It's a sunset folks. Put in the sunset on the attorney. Now you're going to have a chance to vote on this amendment. It's something quite frequently used here in the House when we don't particularly like something. But I say we won't know if we like it if we don't give it a chance. This also would go back to the Labor Committee at the end of two years. It would be voted out and be voted by the full House.

Now, I know that you've just been through a lot of speeches on this House floor in regards to Committee Amendment "A". Well, this is "B" to "B". I believe it's an honest effort to try to reach some type of a compromise. Although the committee worked long and hard we differed on many things. My concern as House Chair will and continues to be that there are injured workers out there who are going without compensation even today as we speak. From '93 to '96, over 71,000 injuries were reported in the workplace. If you put in '92 and the first three months of this year that's over 100,000 workers. No, not all of them lost arm and legs but some of them were injured bad enough that they had to have medical treatment. I had several phone calls from businesses, but I also had a couple hundred from injured workers throughout the state over the course of the last two years complaining that they weren't getting paid. One man called me who needed surgery. The insurance company would not let him have it. They contraverted his benefits. He had to go on AFDC and food stamps. He had no attorney. He had no where to go. They were living in a rented home that the town was paying the rent on. I was paying for those benefits that he had. Finally Medicaid paid for the operation he so desperately needed. AFDC put some money so that they could buy the things that the kids needed to go to school and food stamps supplied him with food. We have a lot of injured workers out there that don't speak up, not all of them are from Somerset County. I'm sure you have a few in your county too. As a matter of fact, I heard from a lot of them. This is an honest attempt to give this a try. You can vote it up or down.

During the course of the hearings I want you to know we asked for information. While we had a lot of insurance attorneys at the hearings every single day the only information they gave was "Ought Not to Pass." You drive the cost of the system up even though they were attorneys and they were there for the insurance companies. I've been a small business owner in another life. It seems like a long time ago. I had many employees. I paid high workers' comp rates and no, we never had an injury. They were based on whatever the category that you happened to fall in. Had one of my workers been injured, I would have wanted to make sure they got the best medical health and that their wages would have been paid. I'm sure all business people feel like that and they think that they're getting a good deal. I also sold insurance for rental cars. I could go on and on and on, but I have news for you. The only business that insurance companies have is to make money. I'm not blaming the employers. I know many who have gone to bat for their employees over this workers' comp.

One is the local dentist in my hometown when his technician was injured, trying to get benefits for her. I can tell you right now the insurance company was not playing fair. He was pretty distressed. Finally, in the end she did win, she did prevail. But it took going out and getting an attorney of her own. I have a lot of friends who are attorneys. When I have a problem or someone in my family needs a deed made or there is a divorce ongoing with someone, then I'll tell you that's someone I turn to. The

Attorney General until he took the job was my family attorney so we've had to look elsewhere for that type of help. I believe, I truly believe, that the only way that employees are going to get a fair break, if you have one attorney in the system then you ought to have the second as a face off. I think advocates are good and I think it would be good if all, all parties used the advocates in the system. I don't believe it's going to happen. I encourage you to vote for this amendment and I thank you for listening.

Representative JOY of Crystal moved that House Amendment "B" (H-715) be indefinitely postponed.

The same Representative requested a roll call on the motion to indefinitely postpone House Amendment "B" (H-715).

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

The SPEAKER: A roll call has been ordered. The pending question before the House is indefinite postponement of House Amendment "B" (-715). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 301

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

NAY - Ahearn, Bagley, Baker CL, Baker JL, Berry RL, Bolduc, Brennan, Brooks, Bull, Bunker, Chartrand, Clark, Colwell, Cowger, Desmond, Driscoll, Dunlap, Fisher, Frechette, Fuller, Gagne, Gagnon, Gamache, Goodwin, Green, Hatch, Jabar, Jones KW, Kane, Kontos, LaVerdiere, Lemaire, Lemke, McKee, Mitchell JE, Morgan, Muse, O'Neal, O'Neil, Paul, Peh, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Saxl JW, Saxl MV, Shannon, Shiah, Skoglund, Stanley, Stevens, Tessier, Thompson, Townsend, Tripp, Tuttle, Usher, Volenik, Watson, Winn, Wright, Madam Speaker.

ABSENT - Dutremble, Farnsworth, Meres, Nickerson.

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

81 having voted in the affirmative and 66 voted in the negative, with 4 being absent, House Amendment "B" (H-715) was indefinitely postponed.

Representative CLUKEY of Houlton presented House Amendment "A" (H-641) to Committee Amendment "B" (S-302), which was read by the Clerk.

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

Representative SAXL of Portland requested a roll call on the motion to accept House Amendment "A" (H-641) to Committee Amendment "B" (S-302).

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

Representative CLUKEY: Madam Speaker, Ladies and Gentlemen of the House. The language that I want to put into the Minority Report was the exact language that was in the Majority Report that we just voted on. It got left out of the Minority Report. What it does is under the current law when an employee has been told he could go back, he or she could go back and refuses, and you go through the process of troubleshooting and mediation up to the point of a formal hearing the employee continues to be paid his workers' comp. Under the

current law, he could then appeal to the Maine Supreme Court and that could be carried on for another several months, maybe even years and he continues to draw his workers' comp. This amendment has the same language that was in the Majority Report that you just voted on which stopped the workers' comp payment at the point of the hearing if the hearing examiner so ruled. This is inequity in the system that I believed was overlooked when the new workers' comp law was written. I've been told that by people who are in the know on this. The Executive Director of the Workers' Comp system has said that this is and inequity, it needs to be corrected. So, I hope you will support my amendment.

Representative TUTTLE of Sanford moved House Amendment "A" (H-641) to Committee Amendment "B" (S-302) be indefinitely postponed.

The same Representative requested a roll call on the motion to indefinitely postpone House Amendment "A" (H-641) to Committee Amendment "B" (S-302).

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

The SPEAKER: A roll call has been ordered. The pending question before the House is indefinite postponement of House Amendment "A" (H-641) to Committee Amendment "B" (S-302). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 302

YEA - Ahearne, Bagley, Baker CL, Baker JL, Berry DP, Berry RL, Bigl, Bolduc, Bouffard, Bragdon, Brennan, Brooks, Bruno, Bull, Bunker, Cameron, Campbell, Carleton, Chartrand, Chizmar, Cianchette, Clark, Colwell, Cowger, Davidson, Desmond, Driscoll, Dunlap, Etnier, Fisher, Fisk, Foster, Frechette, Fuller, Gagne, Gagnon, Gamache, Gerry, Gieringer, Goodwin, Gooley, Green, Jabar, Jones KW, Jones SL, Kane, Kerr, Kneeland, Kontos, LaVerdiere, Layton, Lemke, Lemont, Lindahl, MacDougall, Mack, Madore, Mailhot, Marvin, Mayo, McKee, Mitchell JE, Morgan, Murphy, Muse, Nass, O'Neal, O'Neil, Ott, Paul, Peavey, Perkins, Perry, Pieh, Plowman, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Snowe-Mello, Spear, Stanley, Stevens, Tessier, Thompson, Townsend, Tripp, Tuttle, Usher, Vedral, Vigue, Volenik, Waterhouse, Watson, Wheeler GJ, Winglass, Winn, Wright, Madam Speaker.

NAY - Barth, Belanger DJ, Belanger IG, Bodwell, Buck, Bumps, Chick, Clukey, Cross, Dexter, Donnelly, Honey, Jones SA, Joy, Joyce, Joyner, Kasprzak, Labrecque, Lane, Lovett, McAlevey, McElroy, O'Brien, Pendleton, Pinkham RG, Pinkham WD, Savage, Stedman, Taylor, Tobin, Treadwell, True, Underwood, Wheeler EM, Winsor.

ABSENT - Dutremble, Farnsworth, Hatch, Lemaire, Meres, Nickerson.

Yes, 110; No, 35; Absent, 6; Excused, 0.

110 having voted in the affirmative and 35 voted in the negative, with 6 being absent, House Amendment "A" (H-641) to Committee Amendment "B" (S-302) was indefinitely postponed.

Representative SAXL of Portland presented House Amendment "C" (H-716) to Committee Amendment "B" (S-302), which was read by the Clerk.

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

Representative SAXL: Madam Speaker, Men and Women of the House. House Amendment "C" is a very simple amendment and I believe if fits within the parameters that Representative Plowman suggested "well maybe we can tinker around the edges." House Amendment "C" simply does this. It replaces the advocate program only by providing that the system that the advocates be, it deals with the qualifications of the advocates. It says in order to be an advocate you have to be an attorney.

What this means is that we've had a lot of talk today about the prevail system and people's concerns about increasing litigation by creating incentives outside of the workers' compensation for people to go through expensive litigation. This is saying that this advocate program which is good enough, everybody believes here apparently, for injured workers, those advocates should be attorneys. In this body every day we go to the Reviser's Office, to the Office of Policy and Legal Analysis, to other folks who work within this building and often times the people that we are consulting with are attorneys. They don't get paid by the hour, they get paid a flat salary. Similarly, these folks in the advocate pool who are attorneys would not have an incentive to over-litigate or under-litigate. They would simply be there as a resource not only to injured workers, but to employers. This is a program available to small employers who can't afford attorneys and injured workers. I would be happy to answer any questions from this body, but know that this does not have a very large fiscal note. It's very straight forward. It's just creating a pool of attorneys rather than a pool of people who might not be as experienced and able to represent an injured person or a small business person in a workers' compensation matter.

Representative JOYCE of Biddeford moved that House Amendment "C" (H-716) to Committee Amendment "B" (S-302) be indefinitely postponed.

The Chair ordered a division on the motion to indefinitely postpone House Amendment "C" (H-716) to Committee Amendment "B" (S-302).

Representative KONTOS of Windham requested a roll call on the motion to indefinitely postpone House Amendment "C" (H-716) to Committee Amendment "B" (S-302).

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

The SPEAKER: A roll call has been ordered. The pending question before the House is indefinite postponement of House Amendment "C" (H-716) to Committee Amendment "B" (S-302). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 303

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

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

ABSENT - Dutremble, Farnsworth, Kerr, Meres, Nickerson, Ott, Winn.

Yes, 76; No, 68; Absent, 7; Excused, 0.

76 having voted in the affirmative and 68 voted in the negative, with 7 being absent, House Amendment "C" (H-716) to Committee Amendment "B" (S-302) was indefinitely postponed.

Representative DAVIDSON of Brunswick presented House Amendment "D" (H-718) to Committee Amendment "B" (S-302), 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. This amendment itself is straightforward, you have it on your desk. This allows the Bureau of Insurance and the Superintendent of Insurance upon complaint by any interested party or on its own motion to directly investigate, make findings and assess penalties for practices for which the board has not assessed a penalty. Penalties assessed by the superintendent are payable to the Workers' Compensation Board administrative fund. This allocates for an additional senior claims examiner position, an additional staff attorney and operating costs necessary to administer certain responsibilities pertaining to penalties under the workers' comp law.

Representative PENDLETON of Scarborough moved that House Amendment "D" (H-718) to Committee Amendment "B" (S-302) be indefinitely postponed.

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

Representative CARLETON: Madam Speaker, Men and Women of the House. It's good public policy that there be one board or agency that's responsible for any particular area of law. What this amendment does is to set up two separate sources of jurisdiction, if you will, over improper handling of claims. The board has it now. What this amendment would do would be to add the Superintendent of Insurance to the list. That is not exactly conducive to good and efficient government practice. I urge you to support the indefinite Postponement of this amendment.

Representative CLARK of Millinocket requested a roll call on the motion to indefinitely postpone House Amendment "D" (H-718) to Committee Amendment "B" (S-302).

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 Davidson.

Representative DAVIDSON: Madam Speaker, Men and Women of the House. I want to follow what my good friend from Wells just said about good public policy. I did not vote for the Majority Report. I did not vote for the amendment to bring any kind of prevail standard back into this bill. I've hated this entire discussion about this issue for the last week. I've dreaded tonight, to go back to what the representative from Rumford had said on a bill we had a couple weeks ago. What this bill does is treats the Superintendent like we treat him with every other insurance in this state. It's not my intention whatsoever to come in and replace the Majority Report. This makes sense because it's not being done right now. It's not being done right now. The enforcement isn't being done. The board isn't doing its job and that is our job here tonight, is to change that. That's why we're here tonight. It's not to send it back if that's what you feel the Majority Report would have done. You don't have to do that. This is simple. It makes sense. It's good for enforcement. It's good for small businesses. It's good for workers. It is the right thing to do. One staff attorney, one senior claims examiner and powering, we have one of the best men in the state right now as Superintendent of Insurance. They don't mess around. I encourage you to support this amendment. Vote against Indefinite Postponement.

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

Representative CARLETON: Madam Speaker, Men and Women of the House. I hear the comments of my good friend,

the Representative from Brunswick, and I am still left with this problem. I mean if there is a problem with the board investigating these complaints then maybe we ought to do something about the board, but, to create a two-headed enforcement mechanism to try to correct this is the wrong way to correct it. I can just see chaos and confusion coming when you have to investigations potentially going on at once. Somebody goes to the board and someone else goes to the Superintendent of Insurance and what are you going to do? I hope you'll vote to Indefinitely Postpone this amendment.

The SPEAKER: A roll call has been ordered. The pending question before the House is the motion to Indefinitely Postpone House Amendment "D" (H-718) to Committee Amendment "B" (S-302). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 304

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

NAY - Ahearn, Bagley, Baker CL, Baker JL, Berry RL, Bolduc, Brennan, Brooks, Bunker, Chartrand, Clark, Colwell, Cowger, Davidson, Driscoll, Dunlap, Etnier, Fisher, Frechette, Fuller, Gagne, Gagnon, Gamache, Goodwin, Green, Hatch, Jabar, Jones SL, Kane, Kontos, LaVerdiere, Lemaire, Mitchell JE, Muse, O'Brien, O'Neal, Paul, Perry, Pieh, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Saxl JW, Saxl MV, Shannon, Shiah, Skoglund, Stanley, Stevens, Tessier, Thompson, Townsend, Tripp, Tuttle, Usher, Volenik, Watson, Wright, Madam Speaker.

ABSENT - Dutremble, Farnsworth, Meres, Nickerson.

Yes, 84; No, 63; Absent, 4; Excused, 0.

84 having voted in the affirmative and 63 voted in the negative, with 4 being absent, House Amendment "D" (H-718) to Committee Amendment "B" (S-302) was indefinitely postponed.

Representative THOMPSON of Naples presented House Amendment "E" (H-719) to Committee Amendment "B" (S-302), which was read by the Clerk.

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

Representative THOMPSON: Madam Speaker, Men and Women of the House. This amendment makes a change to section 3 of the Committee Amendment. Section 3 of the Committee Amendment has to do with the audit and enforcement part of the workers' comp laws. Basically the Committee report indicates the Board shall establish an audit, enforcement and monitoring program. The amendment puts that responsibility on the Executive Director as an administrative function. Later in the paragraph of the existing report it indicates that the Executive Director shall report back to the compliance report to the board, the Bureau of Insurance and etc. So, this is making, I believe, it more consistent to have the Executive Director do the administrative function of setting up the program and compiling the statistics and reporting them to the proper parties. I would ask that you would consider this amendment. Thank you.

Representative TREADWELL of Carmel moved that House Amendment "E" (H-719) to Committee Amendment "B" (S-302) be indefinitely postponed.

The same Representative requested a roll call on his motion to accept the indefinitely postpone House Amendment "E" (H-719) to Committee Amendment "B" (S-302).

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

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

Representative CARLETON: Madam Speaker, Men and Women of the House. On the surface this amendment does not do very much and when you dig deeper it still doesn't do very much. It simply shifts the requirement of developing the monitoring program from the board to the Executive Director. The Executive Director is completely responsibly to the board anyway. In one sense this amendment is not going to have very much practical affects. We're talking here about establishing a program however. The program sounds to me like it's policy, developing an audit enforcement and monitoring program. It may be a mix of policy and administration, but it seems to me that that program is something that the board itself should be responsible for and not the Executive Director. Of course, the Executive Director can develop it if the board request that it do so, but it seems to me that the responsibility for these thing should rest with the board as a policy making body and not with the Executive Director. I hope you'll vote to Indefinitely Postpone this amendment. Thank you.

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

Representative THOMPSON: Madam Speaker, Men and Women of the House. There's one thing I've heard in all of this workers' comp debate is how the board hasn't done the statistical gathering and provided the Legislature with sufficient information. This would make it so that the board, if there is a dispute on how they want to run the program, can't block the data gathering activity which is the policy that is set by this Legislature. In this paragraph already is the policy of what is to be done. We are talking about how it's going to be carried out and we need this information. We can't go any further. We can't go on without making sure that there is a way of getting the information. I have heard here this evening that if there is a problem with the board let's fix it. Well, this is one way of fixing it. Empowering, making one person be responsible for setting up the program and providing the information and reporting back to the various parties that need the information. I would ask that you consider this amendment. Thank you.

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

Representative SAMSON: Madam Speaker, Men and Women of the House. My good friend Representative Carleton has it wrong. The board does not act upon by order of the Executive Director. It's the other way around. The problem with the board is that it's a dead locked board. There are four management people on the board and four labor people. They don't agree on anything. This bill would authorize the Executive Director to have audits performed on the insurance carriers and on the system so that we get accurate information. Earlier Representative Joyce said, we don't have accurate information and he's partially right, we don't because we have a dead locked board. We've got to have the Executive Director take care of this problem and this is what this amendment will do.

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

Representative CARLETON: Madam Speaker, Men and Women of the House. If I said that the board is responsible for

the Executive Director, and I heard the Representative from Jay correctly, I apologize for that. This gets back to one of the things that I have said before. There is a problem with the board because you have four representatives of management and four representatives of labor on that board. As a member of the committee that helped write and approve and discuss this workers' law of 1992, that equal representation was deliberate. It was deliberate because we thought over the long term. We would have incredible fights in this Legislature if we had an unevenly balanced board so that depending upon which way the political winds swayed, one side would have the advantage and then it would change and somebody else would have the advantage. There is no benefit in all of that. When I said that we needed to change the culture of workers' comp, what we mean by that is that management and labor have to find a way to work together. It's been an awfully long road for that board. There's been an awful lot of frustrated people on that board and certainly there is frustration among those who have watched it grapple slowly toward what I think is the realization, that workers' compensation requires management and labor to work together. This amendment appears to take the authority out of the board and places it with one person, the Executive Director. I'm not sure if I were the Executive Director that I would want to have this responsibility because that Executive Director walks a fine line. The other effect, of course, of any amendment that's adopted to this committee amendment is that it would place the committee amendment in non-concurrence and then we would go on and on. So, I hope that you will vote to Indefinitely Postpone this amendment. Thank you.

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

Representative TREADWELL: Madam Speaker, Ladies and Gentlemen of the House. The amendment seems to contradict the mission statement in amendment "B" that we just voted in favor of. Let me read paragraph 151a, mission statement, "The board's mission is to serve the employees and employers of the state fairly and expeditiously by insuring compliance with the Workers' Compensation laws, insuring the prompt delivery of benefits legally due, promoting the prevention of disputes, utilizing dispute resolution to reduce litigation and facilitating labor-management cooperation."

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

Representative THOMPSON: Madam Speaker, Men and Women of the House. With all due respect to the good Representative, I disagree. I think it fully complies with the intent of the mission statement. The mission statement is that the board should be doing these functions. What we are talking about is the Executive Director gathering the information to see if they are actually doing their job. I would ask that you not just use a knee-jerk reaction and vote against this amendment. To look at it, to consider it fully and to adopt this amendment. Thank you. Vote against Indefinite Postponement.

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

Representative VIGUE: Madam Speaker, Ladies and Gentlemen of the House. I am really, I'm sold on Representative Thompson as to the value of this. Ladies and Gentlemen, I think we should oppose Indefinite Postponement on this particular bill and include it and go on. I hope you'll oppose the Indefinite Postponement. Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative GOOLEY: Thank you. I would like to ask the question of if there would be a fiscal note with this and how often audits would be done?

The SPEAKER: The Representative from Farmington, Representative Gooley has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Naples, Representative Thompson.

Representative THOMPSON: Madam Speaker, Men and Women of the House. In response to the question, these functions are already contained in the existing report which we have just adopted. It's just a matter of saying whether the board should implement them or the Executive Director. There is no fiscal note, or no change in whatever fiscal note is already in the report. This amendment has no fiscal note.

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

Representative VIGUE: Madam Speaker, Ladies and Gentlemen of the House. I think this would help make a better bill. I think it's something we could use. If we are really intent on making this a better workers' comp system then I think we should vote to oppose this pending motion and then go on to incorporate it into the new workers' comp system. Thank you.

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

Representative PENDLETON: Madam Speaker, Ladies and Gentlemen of the House. It came out during our hearings on this issue that the position that the good Representative from Naples has mentioned. The Deputy Director of Benefits Administration, that position is currently vacant and they've been reconsidering filling that position at this time and possibly creating a different position so that the auditors and advocates would fall underneath them. I'm not sure, at this time, whether that would even be a viable position. I happen to agree with his first change that he's making, but the second one I'm not sure of.

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

Representative O'NEIL: Madam Speaker, May I pose a question to the House if I could please?

The SPEAKER: The Representative may pose his question.

Representative O'NEIL: It occurs to me that since its inception, the Board of Audit has only performed one audit and that was at the certain egg farm in Turner a couple of years ago. I don't have documentation here. I'm hoping that perhaps somebody could back that up or refute it.

The SPEAKER: The Representative from Saco, Representative O'Neil has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Jay, Representative Samson.

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

Representative SAMSON: Madam Speaker, Men and Women of the House. That's true. It's only happened once.

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

Representative SHANNON: Madam Speaker, Men and Women of the House. Two things I'd like you to consider when you vote on the motion to Indefinitely Postpone is, if you had an employee in you employ for five years charged with auditing and keeping records to report to you, and at the end of five years you asked for that information and it wasn't available I assume the person would no longer be employed. We have a system that has not provided that information as is currently should in statute. This is an attempt to fix that. Secondly, what business would make projections for its future as we are asked to do with workers' comp not having valid, factual, historical information in

hand. I think this is a necessary amendment to this bill and I would encourage you to vote against Indefinite Postponement.

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

ROLL CALL NO. 305

YEA - Barth, Belanger IG, Berry DP, Bodwell, Buck, Chick, Cianchette, Clukey, Cross, Fisk, Foster, Honey, Jones SA, Joy, Joyce, Kasprzak, Kneeland, Labrecque, Lane, Layton, Lovett, MacDougall, Mack, Marvin, McAlevey, McElroy, Murphy, Nass, Ott, Peavey, Pendleton, Pinkham RG, Pinkham WD, Poulin, Povich, Sanborn, Savage, Taylor, Tobin, Treadwell, True, Underwood, Vedral, Waterhouse, Wheeler EM, Winsor.

NAY - Ahearne, Bagley, Baker CL, Baker JL, Belanger DJ, Berry RL, Bigl, Bolduc, Bouffard, Bragdon, Brennan, Brooks, Bruno, Bull, Bumps, Bunker, Cameron, Campbell, Carleton, Chartrand, Chizmar, Clark, Colwell, Cowger, Davidson, Desmond, Donnelly, Driscoll, Dunlap, Etnier, Fisher, Frechette, Fuller, Gagne, Gagnon, Gamache, Gerry, Gieringer, Goodwin, Gooley, Green, Hatch, Jabar, Jones KW, Jones SL, Joyner, Kane, Kerr, Kontos, LaVerdiere, Lemaire, Lemke, Lemont, Lindahl, Madore, Mailhot, Mayo, McKee, Mitchell JE, Morgan, Muse, O'Brien, O'Neal, O'Neil, Paul, Perkins, Perry, Pieh, Plowman, Powers, Quint, Richard, Rines, Rowe, Samson, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Snowe-Mello, Spear, Stanley, Stedman, Stevens, Tessier, Thompson, Townsend, Tripp, Tuttle, Usher, Vigue, Volenik, Watson, Wheeler GJ, Winglass, Winn, Wright, Madam Speaker.

ABSENT - Dexter, Dutremble, Farnsworth, Meres, Nickerson. Yes, 46; No, 100; Absent, 5; Excused, 0.

46 having voted in the affirmative and 100 voted in the negative, with 5 being absent, the motion to indefinitely postpone House Amendment "E" (H-719) to Committee Amendment "B" (S-302) did not prevail.

Subsequently, House Amendment "E" (H-719) to Committee Amendment "B" (S-302) was adopted.

Committee Amendment "B" (S-302) as amended by House Amendment "E" (H-719) 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 "B" (S-302) as amended by House Amendment "E" (H-719) thereto in non-concurrence and sent up for concurrence. Ordered sent forthwith.

**SENATE PAPERS
Divided Report**

Majority Report of the Committee on **State and Local Government** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-297) on Bill "An Act to Create the Maine Governmental Facilities Authority" (S.P. 589) (L.D. 1759) (Governor's Bill)

Signed:

Senators: NUTTING of Androscoggin
GOLDTHWAIT of Hancock
LIBBY of York

Representatives: AHEARNE of Madawaska
BUMPS of China
FISK of Falmouth
BAGLEY of Machias
LEMKE of Westbrook
GIERINGER of Portland

SANBORN of Alton
DUTREMBLE of Biddeford

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

Signed:

Representatives: GERRY of Auburn
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-297) and Senate Amendment "A" (S-336).

Was read.

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

Representative KASPRZAK of Newport requested a division on the motion to accept the Majority "**Ought to Pass**" as amended Report.

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

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

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

Representative KASPRZAK: Madam Speaker, Men and Women of the House. I would just let you know that I believe there is a big amount of money to be spent in this bill and I would ask that you would join me in defeating the pending motion. Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative MACK: What is the fiscal note on this bill?

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

ROLL CALL NO. 306

YEA - Ahearne, Bagley, Baker CL, Baker JL, Belanger IG, Berry RL, Bigl, Bolduc, Bouffard, Bragdon, Brennan, Brooks, Bruno, Bull, Bumps, Bunker, Cameron, Campbell, Carleton, Chartrand, Chick, Chizmar, Cianchette, Clark, Clukey, Colwell, Cowger, Desmond, Donnelly, Driscoll, Dunlap, Etnier, Fisher, Frechette, Fuller, Gagne, Gagnon, Gamache, Gieringer, Gooley, Green, Honey, Jabar, Jones KW, Jones SL, Joyner, Kane, Kerr, Kneeland, Kontos, Labrecque, LaVerdiere, Lemaire, Lemke, Lemont, Lovett, Madore, Mailhot, Mayo, McAlevey, McElroy, McKee, Morgan, Muse, O'Brien, O'Neal, Paul, Pendleton, Perry, Pieh, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Spear, Stanley, Stevens, Tessier, Thompson, Townsend, Tripp, Tuttle, Usher, Vigue, Volenik, Watson, Wheeler EM, Wheeler GJ, Winglass, Winn, Wright.

NAY - Barth, Belanger DJ, Berry DP, Bodwell, Buck, Cross, Foster, Gerry, Goodwin, Jones SA, Joy, Joyce, Kasprzak, Lane, Layton, Lindahl, MacDougall, Mack, Marvin, Murphy, Nass, O'Neil, Ott, Peavey, Perkins, Pinkham RG, Pinkham WD, Plowman, Savage, Snowe-Mello, Stedman, Taylor, Tobin, Treadwell, True, Vedral, Waterhouse.

ABSENT - Davidson, Dexter, Dutremble, Farnsworth, Fisk, Hatch, Meres, Mitchell JE, Nickerson, Underwood, Winsor, Madam Speaker.

Yes, 102; No, 37; Absent, 12; Excused, 0.

102 having voted in the affirmative and 37 voted in the negative, with 12 being absent, the Majority "**Ought to Pass**" as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (S-297) was read by the Clerk.

On motion of Representative KONTOS of Windham, tabled pending adoption of Committee Amendment "A" (S-297) and specially assigned for Wednesday, May 28, 1997.

On motion of Representative BAKER of Bangor, the House adjourned at 10:01 p.m., until 9:00 a.m., Wednesday, May 28, 1997.