

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
SECOND REGULAR SESSION
27th Legislative Day
Friday, March 6, 1998

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

Prayer by Reverend Evelyn S. Hale, North Wayne Church.
National Anthem by Pineland Suzuki Violin School, Manchester.

Pledge of Allegiance.

Doctor of the day, John Makin, M.D., Skowhegan.

The Journal of yesterday was read and approved.

COMMUNICATIONS

The Following Communication: (S.C. 586)

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

March 5, 1998

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 that the Senate today confirmed, upon the recommendation of the Joint Standing Committee on Judiciary the nominations of the Honorable Thomas E. Delahanty II of Lewiston for reappointment as a Superior Court Justice and Brian Thibeau of Caribou for reappointment to the Maine Human Rights Commission.

Thank you for your attention to this matter.

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

READ and ORDERED PLACED ON FILE.

The Following Communication: (S.C. 587)

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

March 5, 1998

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 that the Senate today confirmed, upon the recommendation of the Joint Standing Committee on Education and Cultural Affairs the nomination of Steven Janik of Castine for appointment as the Student Member of the Maine Maritime Academy Board of Trustees.

Thank you for your attention to this matter.

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

READ and ORDERED PLACED ON FILE.

**PETITIONS, BILLS AND RESOLVES REQUIRING
REFERENCE**

The following Bill and Resolve were received and upon the recommendation of the Committee on Reference of Bills were **REFERRED** to the following Committees, ordered printed and sent up for Concurrence:

APPROPRIATIONS AND FINANCIAL AFFAIRS

Bill "An Act to Preserve the State House and to Renovate State Facilities"

(H.P. 1631) (L.D. 2259)

Presented by Speaker MITCHELL of Vassalboro.
(GOVERNOR'S BILL)

Cosponsored by President LAWRENCE of York and Representatives: MADORE of Augusta, O'BRIEN of Augusta, Senators: AMERO of Cumberland, CLEVELAND of Androscoggin, DAGGETT of Kennebec, KIEFFER of Aroostook, MICHAUD of Penobscot, PINGREE of Knox.

STATE AND LOCAL GOVERNMENT

Resolve, Authorizing the Transfer of the Old Hancock County Jail on State Street, Ellsworth from Hancock County to the Ellsworth Historical Society

(H.P. 1630) (L.D. 2258)

Presented by Representative POVICH of Ellsworth.

Cosponsored by Senator GOLDTHWAIT of Hancock and Representatives: BIGL of Bucksport, BUNKER of Kossuth Township, JONES of Bar Harbor, LAYTON of Cherryfield, PERKINS of Penobscot, PINKHAM of Lamoine, VOLENIK of Brooklin, Senator: RUHLIN of Penobscot.

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Pursuant to Resolve

**Task Force to Study Strategies to Support
Parents as Children's First Teachers**

Representative BAKER for the **Task Force to Study Strategies to Support Parents as Children's First Teachers** pursuant to Resolve 1997, chapter 68 asks leave to report that the accompanying Resolve, Charging the Children's Cabinet Agencies to Support Efforts of Parents as First Teachers of Their Children

(H.P. 1632) (L.D. 2260)

Be **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS** and printed pursuant to Joint Rule 218.

Report was **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS** and ordered printed pursuant to Joint Rule 218.

Sent up for concurrence.

Pursuant to Resolve

Commission to Study the Certificate of Need Laws

Representative QUINT for the **Commission to Study the Certificate of Need Laws** pursuant to Resolve 1997, chapter 82 asks leave to report that the accompanying Bill "An Act to Implement the Recommendations of the Commission to Study the Certificate of Need Laws"

(H.P. 1633) (L.D. 2261)

Be **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and printed pursuant to Joint Rule 218.

Report was **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** and ordered printed pursuant to Joint Rule 218.
Sent up for concurrence.

SPECIAL SENTIMENT CALENDAR

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

Recognizing:

James Rose Carter, of Hampden, on the occasion of his 100th birthday. Mr. Carter was born March 12, 1898 in Andover, Massachusetts. Since moving to Hampden in 1967, he has been quite active in the community as a member of Kiwanis, Hampden Historical Society, Hampden Congregational Church and the Hampden Neighborhood Food Cupboard, which he helped organize in 1993. We extend our congratulations and best wishes to him on this momentous occasion;

(HLS 1190)

Presented by Representative PLOWMAN of Hampden.
Cosponsored by Senator MITCHELL of Penobscot.

On **OBJECTION** of Representative CAMPBELL of Holden, was **REMOVED** from the Special Sentiment Calendar.

READ.

On further motion of the same Representative, **TABLED** pending **PASSAGE** and later today assigned.

the following members of the Monmouth Academy Girls Basketball Team, who are the 1998 Western Maine Class D Champions: Laurel Poole, Georgia Riggs, Missy Jones, Angela Rioux, Megan Chuprevich, Jen Black, Jenn Berube, Faith Flannery, Abby Carter, Sierra Grant, Kate Chuprevich, Ashely Poole, Sarah Baran and Kara Pushard; Coach Rick Amero and Assistant Coaches Debbie Marshall and Rachel Bernier; Managers April Bonderud, Beth Mulcahy and Pajaree Thongvanit. They were undefeated going into the state championship game. We extend our congratulations to them;

(HLS 1186)

Presented by Representative GREEN of Monmouth.
Cosponsored by Senator TREAT of Kennebec.

On **OBJECTION** of Representative WATSON of Farmingdale, was **REMOVED** from the Special Sentiment Calendar.

READ.

On further motion of the same Representative, **TABLED** pending **PASSAGE** and later today assigned.

Debbie Hemmond, of Minot, upon her retirement after 18 years of wonderful service to the citizens of Minot as the emergency dispatcher. Ms. Hemmond, also known as the "Voice of Minot," has always been there for people during a time of crisis. We express our sincere gratitude and best wishes for a happy and healthy retirement;

(HLS 1182)

Presented by Representative SNOWE-MELLO of Poland.
Cosponsored by Senator NUTTING of Androscoggin.

On **OBJECTION** of Representative SNOWE-MELLO of Poland, was **REMOVED** from the Special Sentiment Calendar.

READ and **PASSED** and sent up for concurrence.

REPORTS OF COMMITTEE
Divided Report

Majority Report of the Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "B" (S-476)** on Bill "An Act to Exempt Nonprofit Ambulance and Fire Emergency Services from the State's Sales Tax" (EMERGENCY) (S.P. 189) (L.D. 607)

Signed:

Representatives:

TRIPP of Topsham
TUTTLE of Sanford
GREEN of Monmouth
ROWE of Portland
GAGNON of Waterville
MORGAN of South Portland
SPEAR of Nobleboro
BUCK of Yarmouth

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:

LEMONT of Kittery
CIANCHETTE of South Portland

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 "B" (S-476).**

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 "B" (S-476)** was **READ** by the Clerk and **ADOPTED.** The Bill was assigned for **SECOND READING** Monday, March 9, 1998.

CONSENT CALENDAR

First Day

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

(H.P. 1560) (L.D. 2189) Resolve, Regarding Legislative Review of Certification and Monitoring of Batterer Intervention Programs, a Major Substantive Rule of the Department of Corrections (EMERGENCY) Committee on **CRIMINAL JUSTICE** reporting **Ought to Pass**

(S.P. 281) (L.D. 889) Bill "An Act to Ensure Fair Claims Settlement Practices" Committee on **BANKING AND INSURANCE** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-482)**

(S.P. 564) (L.D. 1721) Bill "An Act Regarding Appointment to the Maine Public Broadcasting Board of Trustees" Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-481)**

(H.P. 1394) (L.D. 1948) Bill "An Act to Improve Management of Contracted Personnel Services Costs" Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** reporting **Ought to Pass as amended by Committee Amendment "A" (H-845)**

(H.P. 1431) (L.D. 1995) Bill "An Act to Appropriate Funds for Library Resource Sharing and for Acquisitions for the Maine State Library" (EMERGENCY) Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** reporting

Ought to Pass as Amended by Committee Amendment "A" (H-844)

(S.P. 745) (L.D. 2023) Bill "An Act to Restore Services to Maine's Elderly" Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-479)**

(S.P. 749) (L.D. 2027) Bill "An Act to Ensure Collection of Essential Data by the Department of Public Safety" Committee on **CRIMINAL JUSTICE** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-478)**

(H.P. 1453) (L.D. 2044) Bill "An Act to Promote Access to Public Higher Education" Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-842)**

(H.P. 1488) (L.D. 2087) Bill "An Act to Clarify the Tax-exempt Status of the Maine School of Science and Mathematics" (EMERGENCY) Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-843)**

There being no objections, the above items were ordered to appear on the Consent Calendar tomorrow under the listing of Second Day.

**CONSENT CALENDAR
Second Day**

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

(H.P. 1369) (L.D. 1919) Bill "An Act to Inform Crime Victims about the Disposition of Charges" (C. "A" H-840)

(H.P. 1416) (L.D. 1980) Bill "An Act to Require a Tax Identification Number for Sales Tax Exemptions on Hay and Animal Bedding" (C. "A" H-839)

(H.P. 1507) (L.D. 2129) Resolve, to Approve a Maine Technical College System Lease with the South Portland Housing Authority" (C. "A" H-836)

No objections having been noted at the end of the Second Legislative Day, the House Papers were **PASSED TO BE ENGROSSED AS AMENDED** and sent up for concurrence.

(H.P. 1500) (L.D. 2122) Bill "An Act to Support the Long-term Care Steering Committee" (C. "A" H-837)

On motion of Representative NASS of Acton, was **REMOVED** from the Second Day Consent Calendar.

The Committee Report was **READ** and **ACCEPTED**. The Bill was **READ ONCE**. **Committee Amendment "A" (H-837)** was **READ** by the Clerk.

Representative NASS of Acton **PRESENTED House Amendment "A" (H-849)** to **Committee Amendment "A" (H-837)**, which was **READ** by the Clerk.

On motion of Representative SAXL of Portland, **TABLED** pending the motion of Representative NASS of Acton to **ADOPT House Amendment "A" (H-849)** to **Committee Amendment "A" (H-837)**, and later today assigned.

**BILLS IN THE SECOND READING
Senate As Amended**

Bill "An Act to Extend the Prevailing Wage Laws to the Maine Turnpike Authority"

(S.P. 708) (L.D. 1956)
(C. "A" S-463)

Reported by the Committee on **Bills in the Second Reading**, read the second time, the Senate Paper was **PASSED TO BE ENGROSSED AS AMENDED** in concurrence.

House As Amended

Bill "An Act to Clarify the Definition of Functionally Water-dependent Use as it Pertains to the Shoreland Zone"

(H.P. 1368) (L.D. 1918)
(C. "A" H-838)

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

On motion of Representative PERKINS of Penobscot, was **SET ASIDE**.

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

Representative PERKINS: Madam Speaker, Colleagues of the House. We talked about this a bit yesterday. I was confused for quite a while so I did some looking into it. Apparently it does indeed make it more difficult for the common person to build a boathouse on the shore. If that is what all the members want, I just wanted to make sure we knew what we were voting on because there was some confusion about that. In our own caucus we had a bit of confusion yesterday there. I did some research to benefit my good friend, Representative Barth. He wasn't in our caucus this morning so I thought I had better repeat it. He was concerned that these boathouses cause eutrophication and the impending death of the lake. My research after considerable effort found out that even if there was a boathouse on the water within 100 feet of fire line, every lake in the State of Maine could take 10,864 years for the average lake to become a peat bog. Representative Barth, you can rest assured that it will take care of quite a few generations of Barths before they have to worry.

With all due respect to the committee that worked hard on this apparently for four different sessions, it is a difficult committee and very technical things they have to study. Yesterday I asked a quite high official in the DEP if this, indeed, would make it more difficult for the common person to build a boathouse on the water and he said, just like that, it would. A few minutes later he tracked me down, apparently he had some second thoughts, I said I wouldn't quote him and use his name. He said it is a little confusing and this is mainly just trying to clarify things. There again, with all due respect, a lot of times the departments come to busy committees and use the word clarification and I have seen it in the committees that I have been on. I maintain this is way more than clarification. If you just read it it says there are certain categories whereby you can get a permit to build on the water. One of them is this term called functional water use. This bill simply takes out boathouses out of that category of possibilities. It takes it out. It is as simple as that.

I called the Attorney General's Office and talked with Jeff Pidot, about a half an hour later he called back and I said I want to ask you specifically if this makes it more difficult for the common person to build a boathouse on the water. He said, "Two and two is four, isn't it?" That is the clear intent of this bill. If that is what we want, that is fine. I am just saying that yesterday it seemed like a lot of people were saying it is clarification and so forth. It is to make it more difficult to build this boathouse. To me, this is taking another choice away from the citizens. There is no sewage, no plumbing. It is just a simple matter of being able to have a little shelter for your boat. It has been done around the state for generations. One of the arguments will be and I have heard it is that you can't do it now.

That is not true. This would make it more difficult. It would take the boathouse out of that category of functional water use possibilities so when people say you can't do it now, I think that is a red herring.

The other thing I would like to point out is so the towns can be more restrictive than this. The towns have the choice of being more restrictive in state law. Why on earth would we want to make it at a state level more difficult for the citizens that choose to do this? With all due respect, I move that this bill and all accompanying papers be Indefinitely Postponed.

The same Representative moved that the Bill and all accompanying papers be **INDEFINITELY POSTPONED**.

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

Representative ROWE: Madam Speaker, Men and Women of the House. I stand to oppose the pending motion on this unanimous committee report. I said yesterday two things. One was that this is how the Department of Environmental Protection is interpreting current law. I stand by that. That is true. I also said the committee was notified by several code enforcement officers that they would like some clarification with respect to the statutes so they can enforce it. That is what the committee tried to do. The current mandatory shoreland zoning law does have setback requirements. What this does do is it clarifies that recreational boat storage buildings will not be considered to be functionally water dependent use facilities. Those that are included in that are commercial and recreational fishing and boating facilities. We put excluding recreational boat storage buildings. You have a whole list of some 25 other functionally water dependent uses. What we are talking about is a boathouse. A building that is used to store a boat. The idea is it is not necessary that that be within 75 feet of the shoreline. I think that if you had been in our committee, we did have four work sessions over this. We spent a lot of time. We don't deal with these bills in a frivolous manner. We do consider the implications. We did in this case. We are not trying to do something that is unreasonable. We are trying to do something that is very consistent with the shoreland zoning law.

If you go back and look at the shoreland zoning law and you look at the actual preamble to it, you will see that that the reasons for the law are to protect commercial fishing and maritime industries, freshwater and coastal wetlands, to control building sites, placement of structures and land uses, to conserve shore cover and visual as well as actual points of access to inland and coastal waters, to conserve natural beauty and open space and to anticipate and respond to the impact of development in shoreland areas. Our committee believes that this amendment is very consistent with the original intent of the shoreland zoning law. It is not retroactive. That is clear. If you have a building that is sitting on the shore next to the water, you keep it there. It would just make it clear for the municipalities to enforce this statute what it means. Again, as I say, this is how it has been interpreted by the Department of Environmental Protection. We were asked to do this. This was a bill that came to us at the request of the department based on working with municipalities and the request from code enforcement officers. I just want to say that I appreciate the Representative from Penobscot's opinion and his position, but I did want to set the record straight with respect to what this does do and doesn't do. Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative WATERHOUSE: Madam Speaker, Ladies and Gentlemen of the House. To Representative Rowe, could you answer in a definitive manner whether right now, under state law, whether it is against the law to build a boathouse. I know it is very hard to get permission to build one, but my question is right now is it definitely against state law to build a boathouse in shoreland zoning or can you get a variance or waiver or whatever? If you can, this, in effect, would make that illegal because it takes it out of that category where you could build that boathouse on the shoreline. Could you please answer, anybody, whether it is illegal now under state shoreland zoning? Thank you.

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

Representative JONES: Madam Speaker, Men and Women of the House. I guess maybe a couple of examples might clarify this. To answer your question, it is illegal to build a recreational boathouse on the shores of any body of water in the State of Maine. All structures have to be 100 feet from the normal high water line. One thing that I think might be confusing people about this bill is this has nothing to do with commercial entities. These boathouses still can be built. We had three or four examples that came to our committee where boathouses magically turned into full fledged beautiful homes on the shores of our bodies of waters. Like everybody in this room, I am sure there is not a person that wouldn't want to have a gorgeous home sitting on a lake in the State of Maine. One in particular in my area, this is why I agreed to sponsor this bill on behalf of the Department of Environmental Protection with 100 plus year old boathouse with beautiful ways out over the water. We had a gentleman from out of state who understood the rules and how to tweak them, with no disrespect to attorneys, but he was an out of state attorney. This boathouse turned into a three story beautiful home on the shores of Moosehead Lake with no appropriate subsurface wastewater system. The department truly wanted to have some real clarification because often times the planning boards are put in a very difficult decision on how to handle these types of applications. This bill simply clarifies that from this day forth, you can no longer build boathouses on the shores of lakes just to turn them into a home. That is it in a nutshell. Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative WATERHOUSE: Madam Speaker, Men and Women of the House. To the good Representative Jones, if it is against the law now to build a boathouse on any shoreland zoning on the water, maybe I am missing something. Why would we need to change the classification for something you can't build on the water anyway? I think we have laws now that if we have an existing structure on the lake and it has happened on the lake in some of my areas too. In fact, the town right next door where somebody had a structure on the marina there and they built a second story on it and the code enforcement officer came by and he had to tear the whole structure down. We have laws now that say you can't do that to an existing structure within shoreline zoning. Could you please clarify to me if it is illegal now to build a boathouse in shoreline zoning, why do we need language to take that structure that we cannot build on shoreline zoning, why do we have to change the definition of what that structure is when we can't build it now?

The SPEAKER: The Representative from Bridgton, Representative Waterhouse has posed a question through the

Chair to anyone who may care to respond. The Chair recognizes the Representative from Portland, Representative Rowe.

Representative ROWE: Madam Speaker, Men and Women of the House. In response to the question, as I have said, the Department of Environmental Protection is being consistent in their interpretation of the statute. I believe there have been some municipalities that have allowed the construction of boat storage facilities right on the shore, which were inconsistent with the statutes as interpreted by the department. I am just giving it to you straight here. This would clarify it, as I said, the word clarify a lot of times today. It would make the statute consistent with the intent of the law and the preamble. It would make it clear to the code enforcement officers who were put in a real bind here when they are trying to tell the property owner one thing and they are hearing something else from the town and something else from the state. This hasn't happened very many times, but we saw examples in our committee as the Representative from Greenville had cited where you started with a boathouse and then it became a bunkhouse and then you had all the amenities of a living quarters right next to the water. That is what is happening. This is being taken advantage of.

Boathouses, the reason they are not water dependent is because they don't require to store the boats and boating equipment in most small boathouses. There is not the need to have the boathouse constructed right on the shoreland. Because of the abuses under the current law, it was felt necessary by not only the department, but we had testimony from others that this be clarified. I understand where you are coming from Representative Waterhouse and I appreciate the position of those who feel that somehow this is changing the law. I would just tell you that it is my opinion that it is not changing the law with respect to the intent of the law. If you want to call it the loophole, call it that, but this law has been abused by some individuals who have constructed boathouses that have suddenly turned into living quarters right on lakes. This will make it clear that in the future, that is not only inappropriate, but it is also illegal. Thank you.

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

Representative PERKINS: Madam Speaker, Colleagues of the House. It seems to me that this is an attempt to stop abuse, which I respect. I mean that is difficult. I know it has been abused. It seems to me that this isn't the way to go about it, to take the choice away from everybody that might want to build a boathouse because we can't stop the abuse. This doesn't quite make sense to me. The other thing I would like to say one last time is, it seems to me still a bit of gray area whether or not you can build now and this would prohibit it. I repeat the clear words of Jeff Pidot, "This indeed would make it more difficult for a citizen to build a boathouse on the water." Thank you.

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

Representative LOVETT: Madam Speaker, Colleagues of the House. You know I certainly appreciate the hard work that the Natural Resources Committee has done on this. I know their job is very difficult. However, I feel we have to look at this in a little different light. You have a boathouse and if people are misusing the boathouse on the lake, I think the laws should be aimed at the misuse and not make it harder for people who are innocent and using the boathouses for what they are supposed to be. A boathouse is supposed to be to store boats. To make it easier for the camp owner to get his boat into the water. The lake that I am on, I see boat owners that have these boathouses and all they have in those boathouses is canoes and things because they don't want people to steal them. I have not seen on the lake that I am on any misuse. I think we are making it

very difficult for those who might want to try to pursue the avenue of putting a boathouse up. I just think we are making this issue more difficult. I certainly empathize with the people on the Natural Resource Committee, but I really think we ought to Indefinitely Postpone this bill until we have a better story on it. Thank you.

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

Representative MERES: Madam Speaker, Ladies and Gentlemen of the House. I think it is important to realize that we are not here to make it impossible for people that already have boathouses from using them. We are not trying to tell people that they cannot build a boathouse. I think the point is because we, in the State of Maine, have embraced through this process a shoreland zoning act and that is the law of the land that we are trying to clarify the fact that you cannot build a boathouse right on the water. If you listen to your own testimony here, you are talking about loopholes. You are saying let's make it easier for people. We don't want to make it harder for people to find a loophole in the law. To me, that is contrary to why we are here in the first place. I think the point of this and why we have so much problems, when we were dealing with this in our committee was to talk about the definition of what a boathouse is and why we took so long to do this was to make sure that we were not negatively impacting on people's right and that we were not unintentionally trying to make it difficult for people who are in a commercial business and in that we were in the spirit of the law itself. What you do with this is your own conscience. Don't get caught up in a discussion on some things based on emotion. Don't get caught up in a discussion on some things which will allow for abuse of the laws that exist. I would ask you not to vote for Indefinite Postponement. Thank you very much.

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

Representative CARLETON: Madam Speaker, Men and Women of the House. I have been looking at the bill, which includes a section of the present statute out of Title 38. It is entitled functionally water dependent uses although I have not checked the context of this within the statute, I think I remember that uses which are defined as being functionally water dependent are exempt from the general requirements that you cannot build any structure within 75 or 100 feet of the water. This proposed amendment which by its terms applies to coastal waters, would by this bill apply to inland waters as well? Functionally water dependent uses under current law and if they are functionally water dependent, they are exempt and include things like boating facilities. I am not sure whether voting facilities includes boathouses or not. Just reading the bill and reading the statute as it exists, not knowing how the Department of Environmental Protection interprets then, as I read the existing statute, it does not prohibit your normal boathouse, which is used to store one boat by somebody who owns a camp on a lake. It is also clear that this proposed amendment, this bill, would prohibit that because it says that these uses meaning water dependent uses do not include boathouses essentially. I guess my conclusion is that however the DEP interprets their regulations, it is not necessarily supported by the statute itself. This bill would expressly prohibit boathouses. I think that goes too far myself.

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

Representative COWGER: Madam Speaker, Men and Women of the House. I wanted to respond further to the Representative from Bridgton's questions. I think it is important to realize that the lakes in the state clearly belong to all of the citizens of the State of Maine. That is guaranteed to us forever. One of the reasons that we needed to clarify this language is that

there is indeed an inconsistency in how the existing policies in the shoreland zoning act are applied across our communities. It came to us because of this inconsistency the need to add additional clarification. The fact is that new boathouses, under DEP policy, are not allowed to be built along the shore front. They are required to be set back just like any other structures are in the shoreland zoning act. Again, the lakes belong to all of us. You don't want to end up with one town and many lakes having several municipalities around the shoreline. You don't want to end up with one municipality allowing boathouses to proliferate where other municipalities are trying very hard to limit boathouses. It is going to give you very mixed development along the shore front. I think it is very important because the lakes belong to all of us that we have a consistent application of the law. There is indeed a need for this clarification. I urge you to vote against the pending motion. Thank you.

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

Representative WATERHOUSE: Madam Speaker, Ladies and Gentlemen of the House. To respond to the last speaker, we are always going to have those inconsistencies across the state when it comes to shoreline zoning. Right now, local communities can have their own shoreline zoning, which is a lot stricter than the state. No matter how the strict the state gets to try to get uniformity across the state in these different communities, another community can go even further. You still would have that inconsistency. For example, my town of Bridgton has, I would daresay, one of the strictest shoreline zonings in the state. I am glad we do. We decided to do that at the local level. We are always going to have those inconsistencies. Thank you.

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

Representative CROSS: Madam Speaker, Men and Women of the House. Again, after listening to this bill, it makes me wonder what we have a shoreline zoning on the books that covers this. This bill is being brought forth because of one or two instances that were not enforced because after they took place and you can make them dismantle the building or do whatever under the present shoreline zoning. I don't understand why we need another law that if you aren't going to enforce the first law, why do we need a second law for? I would think the emphasis should be on those people that were supposed to enforce the shoreline zoning law in their own towns. Thank you very much.

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

Representative MCKEE: Madam Speaker, Men and Women of the House. Our committee worked very, very hard on this bill, which we call the boathouse bill. I just want to share my experience with you and it might help you to make a decision. I am voting against Indefinite Postponement. My family came here to Maine in 1971. I have lived here for almost 27 years. I was in the League of Women Voters along with the Speaker of the House, at that time. I was appointed to the advisory committee for the shoreland zoning law. During those discussions, we talked about the shoreland and how important it was for Maine waters. Those of you who live on the shore today know how you struggled between the conflict you have to see the lake and the knowledge you have that in order to protect the lake, we must preserve a canopy that provides the shade for that lake so that we don't have the kind of degradation that we occasionally see in places where people mow down to the lake and that is grandfathered. We are trying to preserve these lakes.

We worked long and hard thinking about Maine lakes 27 years ago and what we would need in that act in order to do that. Certainly there were boathouses around the State of Maine. The

boathouse is a symbol. It is a symbol of Maine. Payton Place the movies is a good example. Other movies show those old boathouses. Most of them have crumbled and are gone. Those were grandfathered. By virtue of our grandfathering those boathouses, I think one could assume that by doing that we were saying no boathouses under the new law. The boathouse is in the place where we are working so hard to provide the kind of protection we need for Maine lakes. Certainly if you are a commercial fisherman, we have made provisions for you. Towns can set aside a special place and can zone a commercial zone for that boathouse. You can move in and out freely there. As far as recreational boathouses, no. We are looking for trees that will extend out over the lake and protect that lake. Let me tell you, if you have visited other states who don't have shoreland zoning laws, you know what it is like.

My brother lives in North Carolina. He has the good fortune of having a place on a lake. He has a boathouse. That boathouse became, over time, a party house. There is a generator there, ping pong table and there is even now a couple of extra cots for the college kids who come home and want to have a party at the boathouse. In a sense, it is an extra dwelling. It is a guest house. Guess what? Next door, his neighbor has one too, to his left. His neighbor has one to the right. As I look around that tiny lake in North Carolina, I see houses on the shoreline of that lake in an uninterrupted fashion completely around the lake. In fact, his children can skip from boathouse to boathouse. Ascetically you know the effect of that, but more importantly, environmentally that lake is destined to an early death. A lake does not live forever. Some our lakes right here in central Maine in the lakes district of Maine are going to die in 25 years if we don't do something about other kinds of non-point source pollution. A lake ought to be able to live several hundred years, but it won't do that without protection. It was the intent of the law to protect the shoreland.

I spoke to the chairman of my planning board and gave him a scenario of what would happen if I moved into the State of Maine and into the Town of Wayne today and I wanted to build a house. Where would I put it in my new lot on the lake? We have clear laws about where those houses go. Even though some of our friends who moved here from away say, but in North Carolina I could be so much closer and I could have a view. We say, we are trying to protect our lakes. That is why our lakes look different from your lakes. When they ask what about my boathouse, it has to go on the lake. No, the Town of Wayne has no boathouses that have been built on the shoreland since 1971. We are trying to protect Maine lakes. If that old law has a hole, let's close that hole. There are people who are moving into the State of Maine who don't understand our ethics, our environmental ethics. Let's explain it to them clearly. Help them to understand why we are such a beautiful state and why we are trying to protect our many thousands of lakes. If this law will help and the DEP says that it will, let's do it. Let's vote against Indefinite Postponement of the bill and papers and go on to put this into law. Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative GAGNON: Madam Speaker, Men and Women of the House. I am just wondering if this bill had a public hearing or whether or not there were public workshops and if, in fact, the bill came out unanimous Ought to Pass?

The SPEAKER: The Representative from Waterville, Representative Gagnon has posed a question through the Chair

to anyone who may care to respond. The Chair recognizes the Representative from Freeport, Representative Bull.

Representative BULL: Madam Speaker, Men and Women of the House. Yes, this did have a public hearing as well as, I believe, four work sessions. This is a unanimous bipartisan committee report. Quickly, in response to some of the other questions here, there have been some abuses, but there is also a lack of clarification. This simply clarifies that water-dependent uses does not include boathouses. This is not only a response to abuses, but it is also clarifying what the department authorities have been working on. Boathouses do not qualify as water-dependent uses and therefore do not need to be placed directly on the shore. Thank you ladies and gentlemen, do not support the Indefinite Postponement of this bill.

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

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

The SPEAKER: The Representative may pose his question.

Representative BUCK: Madam Speaker, Ladies and Gentlemen of the House. I have a question for anybody who would care to respond. I would like to know what environmental damage results from constructing a boathouse that has no plumbing, running water and that sort of thing? Thank you.

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

Representative JONES: Madam Speaker, Ladies and Gentlemen of the House. Maybe I should use my boat. I have a 32 foot cruise craft, 1954. Can you imagine the size I would have to have to put my boat on the shores of beautiful Moosehead Lake. Don't you think for a moment that I wouldn't like to do that? We have to protect the waters of our lakes and our streams. It is very, very critical if we can tighten up on this loophole. Furthermore, I think one thing we talk about, local control, maybe you don't understand as well that often times those planning boards wrestle with this decision and have to go through an appeals process and etc., it is very costly to the towns. The legal procedures that a town has to go through does put a burden on the taxpayers. This really simply clarifies that also protects those pristine bodies of water in the State of Maine.

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

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

The SPEAKER: The Representative may pose his question.

Representative BUCK: Madam Speaker, Ladies and Gentlemen of the House. I have a question for anyone in the House that would like to answer. What environmental damage does the construction of a boathouse on a lake do?

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

Representative MCKEE: Madam Speaker, Men and Women of the House. I thought I had made that clear, but just to reiterate. First of all, the construction, we will start with that. The disturbance of the shoreland. We can't even move sand in, as you well know, to have those wonderful little beaches that we used to have. We cannot disturb the shoreland. The second thing is that unless you have trees growing out of that boathouse that is somehow going to get there without construction and those trees are extending out over that lake to protect that shoreland, you are going to have degradation of the shoreland. You are not protecting the shoreland. You have got to provide

the shade that extends to it. It is not that way all around Maine lakes, but we are trying to get people to that place. As I said, lawns are actually grandfathered, but we are trying very hard now to try to get people to put in the buffers that will provide that. The life of the lake is limited if we don't do that. People around the State of Maine know that and have been trying to do that. I think we are a wonderful environmental state regarding our lakes. Our planning board not only supports bills such as this to protect the shoreland, but they actually try to educate people who move into the town about our shorelands. If I haven't made myself clear, maybe there is someone else here who can.

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

Representative COWGER: Very quickly, to elaborate on the response to the Representative from Yarmouth's question. The most critical element in protecting our lakes is the buffer around the shoreline. This Legislature many, many years ago enacted the shoreland zoning law in order to provide a set back for structures from the shoreland. The purpose of this was to retain the existing buffer that is around our lakes. To certainly grandfather existing facilities, but to retain the buffer that surround our lakes. That first 25 feet of buffer along the shoreline is absolutely critical to the long term protection of our lakes. Further buffers of 50 or 75 feet continue to add to that. That critical element is that buffer along that shoreline. Thank you.

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

Representative CROSS: Madam Speaker, Ladies and Gentlemen of the House. In my past work, we had something to do with shoreline zoning. We were in position to enforce it. Somewhere along the line, I missed the boat here. If this has to do with new buildings, you can't do it under shoreline zoning. You just can't do it. Why do we need it if the stuff was going to be grandfathered as it was, you can't build within the 150 or 200 or whatever. Now, why do we need this? I don't understand why we add a bill on top of a bill. Excuse me.

Representative MAYO of Bath **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 Bethel, Representative Barth.

Representative BARTH: Since my name was mentioned early on in this debate, I think I had better say something. I said something in the Republican caucus a day or two ago about this issue and not all of you were there obviously, so let me tell you all. Our lakes in Maine are gifts of the glaciers that once covered this great state. They wasted away 8,000, 10,000 or 11,000 years ago and left us with lakes because that is what glaciers do. If you want me to explain how they do that, see me outside of this debate. We now have about half of those lakes that the glaciers gave us. The rest of them are no longer with us. They have been filled in as streams bring in sediments, wind blown sediments, etc., fill those lakes, vegetation fills those lakes. They become swamps. They become peat bogs. They become dry land. This is a natural process and will continue and does continue today. Lakes, geologically speaking, are simply temporary structures on the land. Man can create lakes and we have created some lakes in this state by damming rivers and by adding to existing lakes. Most lakes have dams on them to raise the level of the water. Still, they are natural phenomena, which eventually disappear.

This process is called eutrophication. Don't ask me to spell it. I never did very good in English. What man does is

accelerate that process. It is called cultural eutrophication. By building cottages, houses, lawns and landscaping along the edges of our lakes and by farms and many places that used to be farmland which is now woods, the cows used to drink water and do other things in the lake because the fields extended right down to the lakes in such places as Mt. Blue State Park and Weld Lake and Lake Penneesseewassee in Norway. Shoreland zoning came in in an attempt to curtail this activity of man fertilizing the lakes. That is what it gets down to. Anytime you put a lawn in and put fertilizer on it or you plant shrubbery and you put fertilizers, you get excess runoff. You have manure spills as has happened in farms, which then is carried in the stream and dumped into the lakes. You are fertilizing the lake. It is just like fertilizing your garden. You fertilize your garden to make things grow, so our lakes become choked with vegetation. We have more vegetation than what we used to have. It accelerates the process of the lake becoming a swamp, then a peat bog and then no longer a lake, but dry land.

That is what we are talking about and we are talking about the best way to try to handle it. Shoreland zoning was instituted a number of years ago when I was president of the Lakes Association in Norway of four lakes soon to be three because one of those lakes is going through not only natural eutrophication, but cultural eutrophication and probably has a limited life left. The other lakes seem to be doing fairly well. We have tried to establish some rules to prevent, not to prevent because that is impossible, but to delay the death of every lake in Maine. That is all we can do. The problem lies with a few individuals and it was mentioned that somebody got a permit to build their boathouse and then changed the entire structure. You are always going to have people like that that push the envelope that try to get around whatever law we pass. What do we have to do? Instead of punishing the other 99 percent of people who are law abiding, let's get after the 1 or 2 percent or whatever and punish them for their misdeeds and not punish everybody else. This is and it has been said as a clarification, I don't know whether it is necessary or not, but I think a better approach would be to make sure we have uniformity in the way the law is interpreted by all of our code enforcement officers and give them the backbone that they need to stand up to some of these miscreants who flaunt the law or are buddy-buddy with and they still flaunt the law.

At this point, I am not sure how I am going to vote on this bill. I just thought you might need to know a little background. Thank you.

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

Representative Bull: Madam Speaker, Men and Women of the House. I would first like to respond directly to the good Representative from Dover-Foxcroft, Representative Cross's question, about why this law is needed. Currently we have the shoreland zoning law, but there is an exemption for functionally water dependent uses. The department has interpreted that to not include boathouses, either standard or ones that have been converted into cottages. This simply puts into statute what the department has been doing all along by saying that boathouses specifically are not water-dependent structures. That is why this bill is being there. Because there is an exemption there we want to make sure that these boathouses, even if they are being used for boat storage, are not put directly on the shoreline zone. I do see a problem here that these boathouses are being put right on the water. I think it is important that we expect people to put these boathouses a little bit away from the water line. They do not need to be right on the water for people to use them. That is simply what this is trying to do. Ladies and gentlemen, again, this is a unanimous committee report. We worked long and hard

on this. This is not really changing anything too radically. It is simply putting the statute practices already carried out by the department in relation to boathouses. There has been some questions though from code enforcement officers whether or not boathouses are water dependent structures. This says that no they are not. Please vote against the pending motion and go on to accept the unanimous committee report. Thank you.

Representative CAMERON of Rumford moved that the Bill be **TABLED** pending the motion of Representative PERKINS of Penobscot to **INDEFINITELY POSTPONE** the Bill and all accompanying papers and specially assigned for Monday, March 9, 1998.

The Chair ordered a division on the motion to **TABLE**.

A vote of the House was taken. 25 voted in favor of the same and 71 against, the motion to **TABLE** failed.

A roll call was previously ordered on the motion to **INDEFINITELY POSTPONE** the Bill and all accompanying papers and was taken now:

The SPEAKER: The Chair recognizes the Representative from Penobscot, Representative Perkins. Having spoken twice now requests unanimous consent to address the House a third time. Is there objection? Chair hears no objection, the Representative may proceed.

Representative PERKINS: Madam Speaker, Colleagues of the House. Just quickly. I could put it in a form of a question and then it wouldn't be the third time I guess. Maybe it is just an observation, but it just seems to me and I have been voting all my life and lived near the shore all my life, the good Representative from Greenville said she had the 32 foot cruise craft. I guess it is kind of a question, but from my experience from votes, they are a polluting instrument. Boats are very polluting themselves. I guess it is a question. Wouldn't it be less polluting to cover your boat by a nice little neat building on the shore than it would be to leave it out and let the water wash off the oils and the paint residue? The sun starts to atrophy the paint and so forth and the fiberglass and the water washes that in. Wouldn't it be a lot less environmentally damaging to have a nice little neat building on the shore to keep that boat in?

The SPEAKER: The Representative from Penobscot, Representative Perkins has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Greenville, Representative Jones.

Representative JONES: Madam Speaker, Men and Women of the House. You are absolutely right Representative, however, I am helping a small business in my town who has a wonderful brand new storage facility and my boat is in that storage facility.

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

ROLL CALL NO. 430

YEA - Belanger DJ, Belanger IG, Bigl, Bouffard, Bragdon, Buck, Cameron, Campbell, Carleton, Cianchette, Clukey, Cross, Donnelly, Gerry, Gieringer, Goodwin, Honey, Jones SA, Joy, Joyce, Joyner, Kasprzak, Labrecque, Lane, Layton, Lovett, MacDougall, Mack, Marvin, Mayo, McAlevey, Murphy, Ott, Pendleton, Perkins, Pinkham RG, Pinkham WD, Plowman, Snowe-Mello, Stedman, Tobin, Treadwell, True, Underwood, Vedral, Waterhouse, Wheeler EM, Winglass, Winsor.

NAY - Ahearn, Bagley, Baker, Barth, Berry RL, Berry RL, Bodwell, Bolduc, Brennan, Brooks, Bruno, Bryant, Bull, Bumps, Bunker, Chartrand, Chick, Chizmar, Clark, Colwell, Cowger, Davidson, Desmond, Dexter, Driscoll, Dunlap, Dutremble, Farnsworth, Foster, Frechette, Fuller, Gagne, Gagnon, Gamache, Gooley, Green, Hatch, Jabar, Jones KW, Jones SL, Kane, Kneeland, Kontos, LaVerdiere, Lemaire, Lemke, Lemont, Lindahl, Madore, Mailhot, McKee, Meres, Mitchell JE, Morgan,

Muse, Nass, Nickerson, O'Brien, O'Neal, O'Neil, Paul, Peavey, Perry, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Savage, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Spear, Stanley, Taylor, Tessier, Thompson, Townsend, Tripp, Tuttle, Usher, Vigue, Volenik, Watson, Wheeler GJ, Wright, Madam Speaker.

ABSENT - Etnier, Fisher, Fisk, Kerr, McElroy, Pieh, Saxl JW, Stevens, Winn.

Yes, 49; No, 93; Absent, 9; Excused, 0.

49 having voted in the affirmative and 93 voted in the negative, with 9 being absent, the motion to **INDEFINITELY POSTPONE** the Bill and all accompanying papers failed.

Subsequently, the House Paper was **PASSED TO BE ENGROSSED AS AMENDED** and sent up for concurrence.

By unanimous consent, all reference matters requiring Senate concurrence having been acted upon were **ORDERED SENT FORTHWITH**.

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

SPECIAL SENTIMENT CALENDAR

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

Recognizing:

the Allied Construction Company on the occasion of its 40th year of business. The company was founded by Donald W. Cook, Sr. and Alice E. Cook in 1958 with 12 employees. It currently has 50 employees and is owned and operated by their son David Cook. Well-known buildings constructed by the company include the Blue Cross/Blue Shield building in South Portland, the Guy Gannett Publishing Company building in South Portland, various Unum buildings and much of the Maine Mall. We extend our congratulations to Allied Construction Company on its anniversary and offer best wishes for continued success;

(SLS 427)

On **OBJECTION** of Representative PENDLETON of Scarborough, was **REMOVED** from the Special Sentiment Calendar.

READ.

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

Representative PENDLETON: Madam Speaker, Ladies and Gentlemen of the House. It is, I think, quite an honor for me to stand up and give this sentiment for a contracting business that has lasted 40 years that started out as a family business and is still a family business. With the massive conglomerates that we have now, businesses that are good businesses seem to be swallowed up and made into bigger and bigger business. It is really, I think, an honor that a small family business has now grown into a medium sized family business and they are building some of the major buildings that we have in southern Maine. It is really an honor for me to honor Dave Cook, who is the present owner and operator of this business. I would like to say that I hope that they have many, many years going forward because this is the type of business that we need. The solid business that understands our local economy and our local needs for development. Thank you very much.

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

Representative LOVETT: Madam Speaker, Ladies and Gentlemen of the House. I also want to echo the same sentiment as my fellow colleague from Scarborough,

Representative Pendleton. It is indeed an honor for me to stand here and wish them 40 years of successful business in Scarborough. I want to wish them another 40 years. Thank you Dave Cook for everything you have done for our community. Thanks a lot.

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

Representative CAMPBELL: Madam Speaker, Men and Women of the House. As many of you know, I have been in the construction business for many years, over 25 now. This is a very different type of a business. This is the type where each year you start a business all over again. Every building has a start. Every building has a completion. If you get caught up in that one particular job to a point where you are so in tuned with its start to completion, you then are without a project for the next phase of your company. I certainly commend the Cooks and welcome Mr. Cook here and appreciate all they have done for the State of Maine.

PASSED in concurrence.

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

Expression of Legislative Sentiment recognizing James Rose Carter, of Hampden

(HLS 1190)

Which was **TABLED** by Representative CAMPBELL of Holden pending **PASSAGE**.

Subsequently, was **READ**.

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

Representative PLOWMAN: Madam Speaker, Men and Women of the House. I would like to talk to you a few minutes about my oldest friend, James Rose Carter. It is not how long I have known him, but he is going to be 100 next week. On Sunday of this week, Hampden has named March 8th as James Rose Carter Day. James Rose Carter is one of our very special citizens in Hampden. He moved to Hampden in 1967. He is a graduate of MIT and he has been involved in the Hampden Historical Society. In fact, I think most of what we will be putting and talking about on Sunday will be Jim Rose and what he did in the Hampden Historical Society in the last 31 years. He joined Kiwanis 31 years and to my knowledge has not yet missed a meeting. At the grand young age of 85, he decided that he would work with the key club of Hampden Academy. He has managed to keep up with quite nicely. He has managed to earn respect from children who today don't always value the lessons of their elders. We have had a hard time planning what to for James Carter's 100th birthday. We don't want to do what we did for his 90th birthday. It is kind of strange thing to come to. Jim has lived in two centuries and now Jim wants to live in three centuries. We want to see him reach the year 2000. Jim is not here today. He is resting up for Sunday. He needs to be in full form for when Hampden turns out. He is a very special man. He is one of the most sincere, kindest and true people and Jim attributes it to living the way God would like him to have lived. I attribute that to why the Lord has let him live for 100 years and more. I would like you to join me in congratulating Mr. James Rose Carter and only 100 years ago could a mother have gotten away with naming her son James Rose. He has lived with it and he has done quite well. I would like you to join me in congratulating him and wishing him well as he heads into his third century. Thank you very much.

PASSED and sent up for concurrence.

Expression of Legislative Sentiment recognizing the members of the Monmouth Academy Girls Basketball Team

(S.P. 699) (L.D. 1933)
(C. "A" S-467)

(HLS 1186)
Which was tabled by Representative WATSON of Farmingdale pending **PASSAGE**.

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed, **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

Subsequently, was **READ** and **PASSED** and sent up for concurrence.

ENACTORS

Emergency Measure

An Act to Conform the Maine Tax Laws for 1997 with the United States Internal Revenue Code

(S.P. 683) (L.D. 1908)
(C. "A" S-469)

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. 132 voted in favor of the same and 1 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Clarify and Enhance Certain Municipal Powers Regarding Solid Waste Disposal

(H.P. 1439) (L.D. 2003)
(C. "A" H-822)

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. 132 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Acts

An Act to Clarify the Law Regarding the Discipline of Exceptional Students

(H.P. 1006) (L.D. 1398)
(C. "A" H-809)

An Act to Improve Employment Tax Increment Financing

(H.P. 1374) (L.D. 1923)
(C. "A" H-818)

An Act to Revise the Hazardous Occupations Provisions of the Child Labor Laws

(H.P. 1413) (L.D. 1977)
(C. "A" H-813)

An Act to Expand the Potato Licensing Laws to Include Rotation Crops

(H.P. 1442) (L.D. 2006)
(C. "A" H-817)

An Act to Clarify Certain Laws Pertaining to the Department of Environmental Protection, Bureau of Land and Water Quality

(H.P. 1493) (L.D. 2092)
(C. "A" H-812)

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.

Resolve

Resolve, Authorizing the State Tax Assessor to Convey the Interest of the State in Certain Real Estate in the Unorganized Territory

TABLED AND TODAY ASSIGNED

The Chair laid before the House the following item which was **TABLED** and today assigned:

HOUSE DIVIDED REPORT - Majority (7) **Ought to Pass as Amended by Committee Amendment "A" (H-841)** - Minority (6) **Ought Not to Pass** - Committee on **LEGAL AND VETERANS AFFAIRS** on Resolve, to Allow David Prentiss to Sue the State of Maine (EMERGENCY)

(H.P. 1476) (L.D. 2075)

TABLED - March 5, 1998 by Representative TUTTLE of Sanford. **PENDING** - Motion of same Representative to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report.

On motion of Representative TUTTLE of Sanford, **TABLED** pending his motion to **ACCEPT** the Minority **Ought Not to Pass** Report and specially assigned for Monday, March 9, 1998.

BILL HELD

An Act to Protect Internal Waters of the State

(H.P. 55) (L.D. 80)
(C. "A" H-805)

- In House, **PASSED TO BE ENACTED**.

HELD at the Request of Representative BELANGER of Wallagrass.

On motion of Representative BELANGER of Wallagrass, the House **RECONSIDERED** its action whereby the Bill was **PASSED TO BE ENACTED**.

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

Representative BELANGER: Madam Speaker, Men and Women of the House. This bill, I feel, I took a look at it and I am sorry we had to come back at this point. I would like to go on record as being opposed to this bill. The one thing that concerns me is that the Committee Amendment replaces the bill. I will read from the amendment. "In establishing the priorities for activities within the lakes assessment of protection program, the commissioner shall consider the recommendations of the Great Pond Task Force." It is my understanding that there is a bill that we are going to be debating on with some of the recommendations of the task force. My objection to this amendment is that the policy should be set by this House and that I do not agree in giving this authority to the commissioner. That is my objection. I will vote against it. When the vote is taken, I request the yeas and nays.

The same Representative **REQUESTED** a roll call on **PASSAGE TO BE ENACTED**.

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

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

Representative ROWE: Madam Speaker, Men and Women of the House. This is another unanimous committee report out of the Natural Resources Committee. I would strongly encourage you to vote for enactment. This bill basically restores the much needed lakes quality program back to the Department of Environmental Protection. This program was 0 funded in 1991 and this bill would re-establish the program, albeit in a limited form. It would also provide money to carry out other local

projects to restore the lakes of this state and the water quality in those lakes back toward their original beauty and original quality. The one objection that was made, I certainly do not share that. There were certainly recommendations made by the Great Pond Task Force and regardless of what happens, those recommendations stand. The ones this bill speaks to are the ones that pertain to water quality. If the Representative is talking about recommendations with respect to surface water craft, that is in another bill that would be coming later. These recommendations are the ones that speak to water quality and those recommendations are there. That report is a report that is available to the public. This simply says that the commissioner shall consider the recommendations. It doesn't direct the commissioner to do anything in particular with those recommendations. This is a very good bill. It does have an appropriation as you know. I really fear for the water quality of the lakes of this state. I know we had a debate this morning, but one thing that we like to have is continued tourism. One of the ways we attract people to the state is because of the natural scenic beauty of this state and the quality of our lakes. If we don't enact this bill, I just fear that our lakes are going to continue to move in a downward spiral. I would really appreciate your support. Thank you.

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

ROLL CALL NO. 431

YEA - Ahearne, Bagley, Baker, Barth, Berry DP, Berry RL, Bigl, Bodwell, Bolduc, Bouffard, Bragdon, Brennan, Brooks, Bruno, Bryant, Buck, Bull, Bumps, Bunker, Cameron, Campbell, Carleton, Chartrand, Chick, Chizmar, Cianchette, Clark, Clukey, Colwell, Cowger, Cross, Davidson, Desmond, Dexter, Donnelly, Driscoll, Dunlap, Dutremble, Farnsworth, Foster, Frechette, Fuller, Gagne, Gagnon, Gamache, Gerry, Gieringer, Gooley, Green, Hatch, Honey, Jabar, Jones KW, Jones SL, Joyce, Joyner, Kane, Kerr, Kneeland, Kontos, LaVerdiere, Lemaire, Lemke, Lemont, Lindahl, Lovett, MacDougall, Madore, Mailhot, Marvin, Mayo, McElroy, McKee, Meres, Mitchell JE, Morgan, Murphy, Muse, Nass, Nickerson, O'Brien, O'Neal, O'Neil, Ott, Peavey, Pendleton, Perkins, Perry, Pinkham RG, Plowman, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Savage, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Snowe-Mello, Spear, Stanley, Tessier, Tobin, Townsend, Tripp, Tuttle, Usher, Vedral, Vigue, Volenik, Waterhouse, Watson, Wheeler GJ, Winglass, Winn, Wright, Madam Speaker.

NAY - Belanger DJ, Belanger IG, Goodwin, Jones SA, Joy, Kasprzak, Labrecque, Lane, Layton, Mack, McAlevey, Pinkham WD, Stedman, Taylor, Treadwell, True, Underwood, Wheeler EM, Winsor.

ABSENT - Etnier, Fisher, Fisk, Paul, Pieh, Saxl JW, Stevens, Thompson.

Yes, 124; No, 19; Absent, 8; Excused, 0.

124 having voted in the affirmative and 19 voted in the negative, with 8 being absent, the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

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

SENATE PAPERS

Bill "An Act to Allow the Department of Environmental Protection to Process an Application by the Ivan Davis Family for a Hydropower Project at an Existing Dam on the St. George River"

(S.P. 849) (L.D. 2262)

Came from the Senate, **REFERRED** to the Committee on **NATURAL RESOURCES** and ordered printed.

REFERRED to the Committee on **NATURAL RESOURCES** in concurrence.

Bill "An Act to Allow a Municipality to Request a Joint Check from the Maine Residents Property Tax Program in the Event of Nonpayment of Taxes"

(S.P. 850) (L.D. 2263)

Came from the Senate, **REFERRED** to the Committee on **TAXATION** and ordered printed.

REFERRED to the Committee on **TAXATION** in concurrence.

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

HOUSE REPORT - Ought to Pass as Amended by Committee Amendment "A" (H-837) - Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS on Bill "An Act to Support the Long-term Care Steering Committee"

(H.P. 1500) (L.D. 2122)

Which was **TABLED** by Representative SAXL of Portland pending the motion of Representative NASS of Acton to **ADOPT House Amendment "A" (H-849) to Committee Amendment "A" (H-837)**.

Subsequently, **House Amendment "A" (H-849) to Committee Amendment "A" (H-837) was ADOPTED**.

Committee Amendment "A" (H-837) as Amended by House Amendment "A" (H-849) 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-837) as Amended by House Amendment "A" (H-849) thereto and sent up for concurrence**.

On motion of Representative TRUE of Fryeburg, the House adjourned at 10:50 a.m., until 10:00 a.m., Monday, March 9, 1998.