

# 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  
28th Legislative Day  
Monday, March 9, 1998

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

Prayer by Reverend James Gill, East Winthrop (retired).

National Anthem by Great Salt Bay Wind Ensemble, Damariscotta.

Pledge of Allegiance.

Doctor of the day, Craig Curtis, M.D., Bangor.

The Journal of Friday, March 6, 1998 was read and approved.

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**Non-Concurrent Matter**

Bill "An Act to Establish the Maine Disaster Relief Laws"  
(H.P. 887) (L.D. 1204)

**PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-783)** in the House on February 10, 1998.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-783) AS AMENDED BY SENATE AMENDMENT "B" (S-483)** thereto in **NON-CONCURRENCE**.

The House voted to **RECEDE AND CONCUR**.

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**COMMUNICATIONS**

The Following Communication: (S.C. 589)

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

March 6, 1998

The Honorable Joseph W. Mayo

Clerk of the House

2 State House Station

Augusta, ME 04333

Dear Clerk Mayo:

Please be advised that the Senate has Insisted and Joined in a Committee of Conference on the disagreeing action between the two bodies of the Legislature on the Bill, "An Act to Implement the Recommendations of the Interagency Committee on Outdoor Trash Burning" (H.P. 1408) (L.D. 1972).

The President has appointed as Conferees on the part of the Senate the following:

Senator Treat of Kennebec  
Senator Nutting of Androscoggin  
Senator Butland of Cumberland

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

**READ and ORDERED PLACED ON FILE.**

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Reference is made to Bill "An Act to Implement the Recommendations of the Interagency Committee on Outdoor Trash Burning"

(H.P. 1408) (L.D. 1972)

In reference to the action of the House on Thursday, March 5, 1998, whereby it Insisted and Asked for a Committee of Conference, the Chair appoints the following members on the part of the House as Conferees:

Representative JONES of Greenville

Representative DUNLAP of Old Town  
Representative WHEELER of Bridgewater

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**PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE**

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

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**AGRICULTURE, CONSERVATION AND FORESTRY**

Bill "An Act to Promote and Encourage the Cultivation of Cranberries in the State"

(H.P. 1634) (L.D. 2264)

Presented by Representative BUNKER of Kossuth Township.  
Cosponsored by Senator KILKELLY of Lincoln and Representatives: BAGLEY of Machias, BELANGER of Wallagrass, DRISCOLL of Calais, GOODWIN of Pembroke, JONES of Bar Harbor, POULIN of Oakland, POVICH of Ellsworth, Senator: KIEFFER of Aroostook.

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

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**Pursuant to Resolve**

**Joint Standing Committee on Natural Resources**

Representative ROWE for the **Joint Standing Committee on Natural Resources** pursuant to Resolve 1997, chapter 67 asks leave to report that the accompanying Bill "An Act to Reduce Nonpoint Source Pollution from Existing Sources"

(H.P. 1635) (L.D. 2265)

Be **REFERRED** to the Committee on **NATURAL RESOURCES** and printed pursuant to Joint Rule 218.

Report was **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **NATURAL RESOURCES** and ordered printed pursuant to Joint Rule 218.

Sent up for concurrence.

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**ORDERS**

On motion of Representative OTT of York, the following Joint Order: (H.P. 1636)

**ORDERED**, the Senate concurring, that the Joint Standing Committee on Taxation shall hold public hearings on, and consider the need for reporting out legislation concerning, whether all Maine workers, companies and suppliers should be eligible to participate equally in projects related to the Shipbuilding Facility Credit under the Maine Revised Statutes, Title 36, chapter 919.

**READ.**

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

Representative OTT: Madam Speaker, Men and Women of the House. This order that I am presenting this morning would allow the Taxation Committee to hold public hearings and to consider the need for reporting out legislation regarding the issue of whether all Maine workers, companies and suppliers should be eligible to participate or compete in the building project proposed for Bath Iron Works. I think we all know the issue here. It is not the 7,000 plus jobs that are actually engaged in the shipbuilding process at the shipyard, but the 250 jobs that will involved with the improvements. I think we are also now fully aware of the project labor agreement, which requires all workers,

companies and I believe suppliers to be union. I know that some people differ with this. They say that is not the case. They say it is a misrepresentation of the facts to say that non-union companies cannot participate. I have even read where BIW is mystified by this controversy. I have read where company spokesmen have called this a foolish controversy. They all say that the workers are eligible to work on this project. If that is the case, then I ask these spokesmen to help me out because it is not clear to me. Tell me. Send me a note, a letter on company stationary and spell it out that a company can bid on the project, if it is a successful bidder, it can send its own workers and deliver its own products to the job site without any further qualifications. Tell me that BIW is really meeting the obligation and the intent under the statute. That I quote, "Is to give to the greatest extent possible, preference to Maine workers, companies and bidders provided the supplies, products and bids meet the standards required by the qualified applicant for best value including without limitation quality and delivery and are competitively priced." It says nothing about being required to join a union. Nothing about being unionized to work on that project.

I have said I am not clear on the full impact of this project labor agreement. I think last week's vote certainly reflects that there are some misconceptions within this body. We had a vote of 75 to 55 and to me that is not a clear vote. Certainly in light of the fact that it is a swing vote of some 35 votes that have changed from the vote we took last year when we almost unanimously endorsed support for this tax subsidy so that those union jobs could be preserved. All this order asks for is an opportunity to discuss this issue in a public forum. Shouldn't we look at it now? We haven't even started on the first installment toward this tax subsidy. We have a moral obligation under the vote that we took last year to continue this subsidy for 20 years, provided certain requirements are met by the company. If for no other reason, I think we should look at it now to make sure we understand fully what we voted on last year. If for no other reason than to have a full public review of all project labor agreements where there are companies with contracts that are getting government subsidies. What are we afraid of? Are we afraid of the information that might come out of the public forum, the knowledge we may gain from that information, the truth to help us in this process that we call legislating? I ask you to give all Maine people from Kittery to Fort Kent the opportunity for a public review of one of the biggest tax subsidies that Maine has provided.

I am not asking you to decide whether or not there is a fair or level playing field. I have my own opinion on that. I really don't know. I am asking you to put any union job not at risk at Bath Iron Works that is actually working on that project of shipbuilding. In other words, the 7,000 jobs. These are jobs that we help preserve for some of the finest shipbuilders in the world. I am asking, however, that we have this public discussion to understand the full impact of the information that rather obscurely came to life last week from a union trade journal. We are public servants and I think we are entrusted with the responsibility to see to it that when public funds are involved, we make sure that the general welfare of all Maine people are provided for. Let's get to work. I urge you to pass this pending order. Madam Speaker, when the vote is taken, I ask for the yeas and nays.

The same Representative **REQUESTED** a roll call on **PASSAGE**.

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

Representative KONTOS of Windham moved that the Joint Order be **INDEFINITELY POSTPONED**.

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

Representative BUMPS: Madam Speaker, Men and Women of the House. Last week when we assessed a similar Joint Order, I chose to stay in my seat. I chose not to speak in favor of the order because quite simply, I wasn't sure I supported it. It would have directed the Taxation Committee to report out a bill. This morning, I stand to speak in favor of this Joint Order because what it does is it provides for public hearing. It provides for a public hearing on a law that we passed last year to preserve 7,000 Maine jobs at a shipyard in Bath. This is the important point. I supported the legislation then. I do not want to reverse the support that we have offered to build the land level facility at BIW to make that company competitive into the 21st century.

Today, I am standing before you to ask for your support of Representative Ott's Joint Order. This measure has been crafted to simply allow a public hearing on the issues which have caused a great deal of public commentary over the past week. We can't ignore it. This Joint Order seeks to simply allow a public hearing on whether or not there are issues here that need to be clarified. Again, I supported the state's role in the shipyard improvement project. Let's put this issue to rest and finally clearing the air. Hold the public hearing on this latest and complex development so that we can all be confident and proud of the improvement project and that it move forward. I would ask you to vote against the pending motion to Indefinitely Postpone this so we can go on and pass this order. Thank you.

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

Representative SPEAR: Madam Speaker, Ladies and Gentlemen of the House. I urge you to defeat the motion that is before us so that we can go on and pass this order. Last weekend, everywhere I went there was a question that faced me. It is very clear that the public has a lot of questions and they are looking to us for answers. I worked hard as a member of the Taxation Committee last year and I wholeheartedly supported the bill that we passed to save these jobs and I fully believe in it. I believe it. There are a lot of things here now that we really need to clear up. I want to be able to go back and hear a public hearing and hear what the public has to say. We just need a chance for the public to have their say in this so that we can get this settled once and for all. Once again, this is not to take away, I want to make it clear, that this is not to take away what we have already done. We need to get it straight so that everybody understands who has the opportunity for these jobs. I would urge you to vote against the Indefinite Postponement motion. Thank you.

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

Representative BERRY: Madam Speaker, Men and Women of the House. When I heard the House support the pending motion, we debated this in quite a lengthy discussion the other night. Very little to me is different here. We debated the strikebreaker legislation in this body and most of the people that are supporting this joint order were opposed to the strikebreaker legislation. How does that compare? We shouldn't interfere with labor management relations, but now you are going to. Let's include all the TIF and STIF projects. Are we going to judge all the labor agreements involved in that? Are we going to analyze the pay issues and the construction, whether it is union or non-union contracts that are awarded? I don't think you are prepared to do that. I don't think we should interfere with this decision. The project agreement supports Maine workers. What is wrong with that? The trade has to bid. What is wrong with that? Thank you.

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

Representative MAYO: Madam Speaker, Men and Women of the House. I, like Representative Bumps of China, did not speak on this issue last week. I felt that everybody in this body knew where I would be coming down when the vote was taken. However, this morning I do feel the need to rise and to speak on it. I support the good Representative from Windham's motion for Indefinite Postponement. We discussed this issue for in excess of two hours last Wednesday. We had a recorded vote. While this particular Joint Order is somewhat different than the one that we discussed last Wednesday, the end result will be the same. It will open up the whole discussion and it could lead to major changes. I, personally, do not think that it is the right, or the responsibility of this body, to review all contracts that companies enter into, all labor agreements. We are putting ourselves into something that I personally feel is not the responsibility or the duty of this organization. Last week, BIW was most fortunate to receive a \$2 billion dollar contract award. The bidding for that contract which was done last spring and early last summer was predicated on the fact that there will be a land level launching pad for those six ships. If what we do here today and if the petition that is circulating around this state is successful, and I personally hope that it is not, we will be placing Bath Iron Works' future in serious jeopardy because the bid was predicated on something and it is going forward. If, in fact, we roll the clock back, BIW will have a great deal of difficulty fulfilling that bid at the price that it received it at.

Ladies and gentlemen of this body, we have been up this tree once before recently. I think it is time to get on with the business of this Legislature. We have a lot still on our plate. How many more times are we going to discuss the same issue? I urge your support of Indefinite Postponement. Thank you.

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

Representative CAMPBELL: Madam Speaker, Men and Women of the House. One thing I would like to respond to is to my good friend from Bath, Representative Mayo's comment about the petition. I think we all agree that the petition would be nothing but disruptive. I think it is very important that we, in this body, address the circumstances, put this issue back to committee where we can deal with it in a very sensible forum. I think that the PLA that we have been discussing is controversial, to an extent. I think there are three very minor points in that PLA that can be addressed. I think that the fact that that contractor must be a union shop, the fact that the employee must become a member of the union and the fact that the employee must pay union dues is simply the only deficiency that we are talking about. I also believe that this process of construction is at a point where this could very easily be accomplished.

There is a contract with an out of state firm to do two phases. Phase 1, design and budget. We are about to complete that phase. Phase 2, the construction proponent of the contract. At this point, we could, as a body, BIW could, as a stakeholder, unions as a stakeholder and the citizens of this great state and local citizens of the Bath/Brunswick area can come together and accomplish the goal that we set out for. That was to maintain and secure those 7,000 union jobs. I think that the harmony that was spoken to us all about, whether it be in caucus or on the floor, could be maintained. Right now there is this harmony. Right now there is some confusion. Taxpayers of the state have an issue before them that they were reluctant to buy into early on. With the recent issues that have come out of this PLA they are more reluctant. I think we, as a body, and the stakeholders in this issue could get together and accomplish the goal of maintaining the jobs if we could just address those three issues.

Let me repeat. The contractors mandate to become a union shop. The employees mandate to become a member of the union and the employees mandate to pay union dues. Let's take care of it here. I recommend that you defeat the motion, vote against the pending motion and when the vote is taken, I ask for a roll call.

Representative CAMERON of Rumford **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE** the Joint Order.

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 York, Representative Ott.

Representative OTT: Madam Speaker, Men and Women of the House. I have to respond to the two speakers who are opposing passage of this order. This order is not asking any company that is doing business as a private employer to change how and what it has for employment practices. I don't think that is any of our business. When you mix in public monies, then I think it makes a difference. It does become our business in how those monies are spent. What can be wrong with having a public airing of this? It enables us to look at this process, to look at this controversy and to look at this issue and decide whether or not we want to be better educated, more informed should the issue of a PLA come up in the future. We are just asking the Taxation Committee to determine what may or may not be any further action that would be required. If they decide there is no further action required, then that would be the end of it. At least we would have the opportunity of enlightening ourselves on a question that seems to be nagging this body for the last week and a half. Thank you.

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

Representative WRIGHT: Madam Speaker, Men and Women of the House. As somebody else once said before, this is dejavu all over again. We did have this debate. It went on for several hours. As one of the other speakers said before, a 20 vote margin seems pretty clear to me on where most of the people stand in this chamber. This is a business decision. This wasn't done in the back room under a cigar filled atmosphere. This was done in a corporate boardroom. No other time have we been asked for a corporation to open up their decisions in their boardroom and their shareholders to figure out what we want them to do. What this boils down to is, should we be paying good wages and good benefits to the workers. The workers will be working on this project and, granted, most of them will be union, but there are also opportunities for non-union people to come in. We will be glad to take them. What this boils down to is a couple of companies don't want their workers to get a taste of what real wages are and real benefits are because then, in the future, they may have to start paying those wages. This seems to me like somebody crying over spilled milk. The decision was made. We supported it as a state, the BIW expansion. BIW went ahead and spoke to their owners and their shareholders and they decided that this was the best deal for them. The unions have given them concessions. They guaranteed wages. They have guaranteed no work stoppages. They have guaranteed the highest skilled workers available. I say we support Indefinite Postponement and let's move on.

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

Representative KONTOS: Madam Speaker, Men and Women of the House. This debate reminds me of when my children were young teenagers and I would have to say to them, "What part of no don't you understand?" Part of what we can be proud of is the work the committee did last spring and the kind of

vote that this issue got in this body last spring when this particular tax credit was so carefully crafted before the committee of jurisdiction. Nothing has changed since we debated this last week except for one good piece of news, which is a new contract awarded at BIW. All the more reason for us to keep out of the way, which seems too often be the mantra of the other party. Get out of the way and let business do its job. Were this not an election year, we might not have this debate before us again, but since it is, let me remind you that other project labor agreements have been entered into in this state and projects that probably had public money involved, not the least of which would be at Maine Yankee and SD Warren in Westbrook.

It amazes me that we are having the debate again today. It amazes me that we are not talking about not just a regional, but a national and even global economy when we look at the major private employer of this state making such progress as BIW has been making over the last few months. I am disappointed that this body has to take up this action once again. That is the reason for the Indefinite Postponement. I urge you to support that motion so we can get on to some of the other issues before us. I thank you.

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

Representative BUCK: Madam Speaker, Ladies and Gentlemen of the House. Let me emphasize once again this week what I said at the beginning of my remarks last week, when I was talking about the tax break that we are giving Bath Iron Works so those 5,000 or 6,000 union employees will be guaranteed jobs for the next 15 or 20 years. What we are talking about is the construction project itself. Let me tell you the part I do not understand. As a member of the Taxation Committee, last year, when BIW officials came before our committee, they talked about the construction phase of this project. They made a great deal about the fact that local suppliers, local vendors, local contractors and most of all, local workers would have an opportunity to work at this construction site. At no time was it mentioned to me that there would be a requirement that they join the union. If they had made such a presentation then, nobody would be standing up questioning it today. That is the crux of all of this controversy that exists today. I think Representative Ott is correct in asking for a public hearing on this so that we can ask BIW officials at a public hearing so that they can answer those questions. Many of us are still confused about the fact that this PLA is going to require non-union workers to join a union. It is going to effectively prohibit contractors who are non-union from working because they will have to depend upon a workforce that they haven't had any experience working for.

I think the most important question that can be answered at that public hearing, because I don't think it can be answered on the floor today, is in the original bill that we passed under the Maine preference section, it says, "As part of the contractual inducement for the qualified applicants to make a qualified investment and for the state to provide the credit, Maine workers, companies and bidders providing supplies, product and bids, as long as they meet the standards required by a qualified applicant, will be including, without limitation, quality and delivery and are competitively bid." My question is, if we enter into this PLA agreement, are we still competitively pricing that project? Much of the data that I have read indicates that whenever you enter one of those agreements, you significantly increase the wage rates for that project. My legal question, I guess is, how does that fit with this section of the law that requires it be competitively priced? That is the question that I would like answered. Thank you.

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

Representative PLOWMAN: Madam Speaker, Men and Women of the House. I am sorry I cannot answer the former Representative's question. However, I do have a few comments. As a company owner, I am sure I could feel very comfortable raising my wages and benefits if I knew the government was going to swoop down in and give me a nice tax credit for doing so. I don't think it is likely. I am a little too small to attract that kind of attention. What are we afraid of for a public hearing? I think we are afraid that 82 percent of the workers of the State of Maine might get a chance to say that a good many of them don't really care to be unionized. It is not a big deal in their life. What are we afraid of for a public hearing? That the public might know what is going on? Right now they are quite confused. I was out in my community this weekend, as I am sure many of you were, at town meetings. They are quite confused. They are one thing altogether and that is angry because they are taxpayers and they are looking at the southern Maine economy, which really for the rest of the State of Maine really rubs us raw, that we are the other Maine and the other Maine got a \$64 million tax credit.

They didn't like it in the first place. That is why their are petitions out there. They are called citizens petitions. Citizens who disagree with what we decided here. As you know, they are sometimes successful. There is no earthly reason why we can't have a public hearing to address the questions that are raised in this body and cannot be or are not answered when they are posed. If we can't even provide the answers to each other in this body for information purposes, I can understand why there is a fear that there might be a public hearing. When you don't provide information in a public hearing, the citizens get upset. As much as we consider the debate in this hall to be a public debate, less than 200 people will hear all of the debate. We will consider that this had been publicly debated, publicly sounded out and then it will divide on philosophical reasons and the people of the State of Maine will still have no answers to the questions that have come up here and in the public. If you want to shut the public out of the process that is going on in Bath, that is worth \$64 million in tax credits. I guess that is small change now that we have a \$306 million surplus. I guess \$64 million spends easy.

It is still public money with public questions. I, for one, think that the public has the right to sit in and listen and ask questions because while we may think we are the final arbiters, we are not. The public still has the right to petition. When they succeed with their petitions because they haven't gotten the answers, then you will be back here in a whole new forum trying to put your finger in the hole in the dam. It would be a little bit better to do what you can now to persuade the questions and the concern to the public, then to try to undo a people's veto, which has gained momentum in the last week. I ask you to oppose the pending motion and allow the Taxation Committee to do what it is supposed to do. Hold public meetings on public matters. Thank you.

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

Representative SAXL: Madam Speaker, Men and Women of the House. There are some things that this debate is and there are some things that this debate definitely is not. What this debate definitely is a great breeding ground for some beautiful legislative phrases that we use often on the floor of the House. Some of my favorites are, didn't we do this last week, this is dejavu all over again, haven't we already had this vote and my own favorite, Ronald Reagans, "Here we go again," My nieces, "Been there, done that." Last week we had a vote on the floor of the House and I am sorry that many of you were not here. There were 21 that were absent. It was over half of this body that voted in favor of Indefinite Postponement of this Joint Order.

This matter is plain and simple politics and I don't think it should be. What this is not is it is not about two Maines. This is not about hurting people from northern Maine or central Maine. In the debate last spring, we heard long lists of companies from other parts of Maine that were helped. Let me name some, RH Foster in Hampden, REM Safety Supply in Brewer, NH Braggs and Son in Bangor, Maine Valve and Fitting in Bangor, Nelson and Wright, Irving Oil, White Signs, Industrial Electric in Stillwater, Freightliner in Bangor, Oxford Industrial Laundry in Norway, Streaked Mountain Designs in Buckfield and Shipping Services in West Southport. This isn't about two Maines. This is about good paying jobs for Maine people.

This past week the Majority Leader mentioned that we were very excited, I don't think anybody in this chamber wasn't excited, to hear that Bath Iron Works got a \$2.2 billion contract to build new Aegis Destroyers. It is the belief of this body or the Representative from York that we should suspend receipt of this great contract until Bath Iron Works promises not to use their current unionized work force. I haven't heard that from him. I haven't heard that from one other person in this body. This is about a private business decision that Bath Iron Works has made. They are responsible to General Dynamics who is responsible to their shareholders. They are required by law to maximize profits for those shareholders. It is a business decision plain and simple. I would ask you to let these people do the business that they are required by law to do. Thank you very much.

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

Representative MURPHY: Madam Speaker, Men and Women of the House. Continually through this debate we have heard that there are two parties at the table, management and the union. Many of us would argue that they wouldn't be sitting at that table that that project or expansion wouldn't be feasible if the third party didn't ante up and that is the Maine taxpayers to the tune of \$60 million. I am very concerned that it is not only the labor that may have restrictions on it, but the good Representative from York has raised the question of whether those restrictions now apply to the suppliers at that project. Some of the games in the past that we just heard the Assistant Majority Leader read off. I think that we vote no today and go to a public hearing, we are going to let some sunshine into this process. Sunshine that should have been there in the closing days of the first session. We will get some clarification on the confusion that exists on this floor. If you vote yes today, you vote to Indefinitely Postpone. There is a much larger audience watching this debate. Correctly or incorrectly, they will perceive it as a cover up. I think we will see a petition drive fueled. There will be a statewide vote and debate. I had indicated to a Representative of the AFL-CIO this morning that I thought that would be a tremendous tragedy and would hope that that would never occur.

I think you have the opportunity that if the new information that has come forward goes to a public hearing, you have the unique opportunity maybe to take some of for the original votes and turn us into yes votes. I would like to pose a question, well, actually a series of three questions. This is a week later that the Assistant Majority Leader have copies of the PLA agreement. Does any member of the Taxation Committee have a copy of the PLA agreement? Does any member of this body have a copy of the PLA agreement?

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 Portland, Representative Saxl.

Representative SAXL: Madam Speaker, Men and Women of the House. The answer to your questions are no. The Project Labor Agreement is a private document, which has been negotiated between the contractor and BIW. It has been developed by them. I don't believe it is actually in its final form. I do have a page from it, which I did share with the Assistant Minority Leader. It clarifies the first concern. The Project Labor Agreement pertains only to the construction of labor aspects of this legislation. The other part of his, which I forgot to mention during my previous floor speech was a very simple thing that after our debate and it seems that this issue was done for the year, I was interested to read in the paper that Cianbro, one of the companies that had concerns about the Project Labor Agreement had in fact said in the paper that now they probably wouldn't bid on this matter and yet they could as a practical matter be included and that this was not a bar to anybody in the State of Maine from participating in this work. In fact, we note also from the recent paper that if this land level project doesn't go forth, that the \$2.2 billion project which was recently awarded to Bath Iron Works would be, in fact, in jeopardy and that would be the loss of over 7,500 direct jobs and probably 25,000 to 35,000 indirect jobs. Yes, all these, whether union or non-union shops on this list in each of your communities in the state would be excluded and lose those jobs. I ask you today to end this debate once and for all to allow a vote to go forward and to allow the people at Bath Iron Works, the people at General Dynamics and the hardworking people of Maine to get on with the work that they have to do. Thank you very much.

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

Representative MURPHY: Madam Speaker, Men and Women of the House. We have heard, I am assuming, that no member of the Taxation Committee has stood up to say that they have the PLA agreement in hand. No member of this body has stood up and said that they have that agreement in hand. If you do have it in hand, please wave it. I don't see any waving. Two parties to this agreement, the unions and management have a copy of the PLA agreement. The third partner in this arrangement, a partner who has put up \$60 million, their representatives are denied a copy to that agreement.

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

Representative KONTOS: Madam Speaker, Men and Women of the House. I can draw one parallel to respond to the Representative from Kennebunk and to suggest that there are no members of this body or members of the administration that have copies of contracts entered into by private companies. It is a specious question. It is designed to distract us. Do not be distracted. I would suggest to you that a heavy regulated industry, like the electric utility and the largest electric utility in this state, Central Maine Power, has entered into an agreement with Florida Power and Light. It is a company that is going to be purchasing their generator assets. Members of the Utilities Committee, members of the Public Utilities Commission that regulates that industry do not see copies of that contract. The good Representative knows that. Don't be distracted. This is an election year move at its best. I say at its worst in terms of what it does to the work of this body. If the people of Maine are confused, it is not unintentional. I suggest to you that we move on and vote in favor of the motion before you and allow the largest private employer in this state to do the business that it is incorporated to do. I thank you.

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

Representative TREADWELL: Madam Speaker, Ladies and Gentlemen of the House. I decided I was not going to speak

until the Representative from Windham just said that if there is any confusion in the House it is not unintentional. I think I would agree with that wholeheartedly. We really don't know what the agreement is. We don't know what the parts of it are and one of the major stakeholders in this whole agreement are the taxpayers of Maine. I don't think that the taxpayers or Maine are being treated fairly by being shut out of this discussion. I think the Taxation Committee is the way that the information should be presented to the taxpayers by getting rid of the confusion and let's press on. I am as much in favor of keeping those jobs at Bath Iron Works as anybody else, but I think that we should do it in the open without trying to shuffle things under the table and keep the people of Maine in the dark.

The SPEAKER: The Chair recognizes the Representative from York, Representative Ott. 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 OTT: Madam Speaker, Men and Women of the House. It was earlier suggested that the reason that non-union shops didn't want their workers to work on this project is they didn't want their workers to get a taste of good wages and benefits. The name of Ciambro has surfaced here this morning. It is my opinion and I based that on some knowledge that companies like Ciambro or Reid and Reid would be more than happy to compare their wage scale with those rates paid at the yard. In many cases, I think they are certainly at parity or even above what those rates may be. It has also been suggested that any non-union workers are welcome. I guess since I started this discussion, maybe I can get clarification to resolve this issue in my mind. A simple question I would like to pose to the Chair to anyone who can respond. Can anyone tell me for sure that a non-union worker, who has worked for years for a non-union company, can go to work on this project once that company has won the bid? If not, tell me what qualifications or requirements are needed to allow that worker to do so?

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

Representative WRIGHT: Madam Speaker, Men and Women of the House. I can't speak for all the unions. I wish I could. I work for the Carpenters Union. The way it works with our union is if a contractor gets the bid, they can bring any of their local men to that job as long as they are paid up on their dues.

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

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

The SPEAKER: The Representative may pose his question.

Representative CAMPBELL: Madam Speaker, Men and Women of the House. My question is, is it as simple as the good Representative from Berwick just mentioned? Can an employer, once they have secured the contract, have their own employees go directly to the job site?

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

Representative WRIGHT: Madam Speaker, Men and Women of the House. Yes.

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

Representative CAMPBELL: May I have clarification of my point please?

The SPEAKER: The Representative from Holden, Representative Campbell has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Rumford, Representative Cameron.

Representative CAMERON: Madam Speaker, Ladies and Gentlemen of the House. I don't think there is any question that most of you understand how I felt about this debate when we had it a week ago. I felt betrayed by BIW. I told you all the things that I felt were wrong with it. Having said all that, I will be supporting this motion because we have made our point. We have said how we feel and we have a lot of work to do and as far as I am concerned, while I disagree with the other side, I do think it is time to get on with our work. I will be supporting the motion. I encourage you to do so as well.

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

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

The SPEAKER: The Representative may pose his question.

Representative MACDOUGALL: Madam Speaker, Men and Women of the House. I had heard in the debate in the other body that a question was raised and I would like to pose it to the body here. Is the People's Republic of China building the dry dock or are they not?

The SPEAKER: The Representative from North Berwick, Representative MacDougall 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, Ladies and Gentlemen of the House. In response to the question of the good Representative from North Berwick, no decision has been made on that. That question was answered individually on many occasions last week. I would state and be very honest that it will be very difficult, in my understanding from talking this weekend with officials of Bath Iron Works, it would be very difficult to find someone who can, in this country, build that. I have not heard, as recently as Saturday night, that it was going to be built in the People's Republic of China.

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

Representative CAMPBELL: Madam Speaker, Men and Women of the House. I want to offer my understanding of how this contract will work in terms of an employer employing his or her own employee. First of all, the contractor must be a union shop. Then, in terms of the employees that he might or she might bring to the job site, it is my understanding from the explanations of representatives from BIW that the employee who will automatically go would be superintendent, foreman and key personnel only. Individual employees of the company, whether they have an interest in the company, part ownership or whatever, or simply an employee, must then go to the union hall, sign up, sit at the end of the bench and if all the union members with seniority are hired and there are no longer members with seniority, then the employers and employees will then be hired and only then.

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

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

The SPEAKER: The Representative may pose his question.

Representative MURPHY: Madam Speaker, Men and Women of the House. This would be to the gentleman from Berwick, if the Chinese Communist Government is successful in winning that contracting, will those Chinese workers be required to join the union?



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 Waterboro, Representative McAlevey.

Representative MCALEVEY: Madam Speaker, Men and Women of the House. I probably hold the distinct honor of being the only person in this body that has spoken on this issue so I have to say it. This is more of a rhetorical question than anything else, but I remember last year during our debate about this issue, we have heard a lot of questions about corporate welfare. I would ask is this union welfare?

The SPEAKER: The Chair recognizes the Representative from Bar Harbor, Representative Jones.

Representative JONES: Madam Speaker, Men and Women of the House. I find this really quite an interesting argument that we have here today. We are not discussing really the BIW contract. We are not discussing union or anti-union. What we are discussing is corporate welfare. Once we hand tax breaks to a corporation, are we going to turn around and say that we get to look at your book, we get to look at your contract, we get to amend the confidentiality laws so we can mess around in your business. I prefer that. If you folks are arguing for corporate welfare, like you did for the welfare of young mothers, that is fine. I will do it. I will send the little old lady the welfare nightmare lady that comes by your house and says, are you buying too many diapers? Do you have a boyfriend living with you? You want to discuss that bill, which is what we are doing, corporate welfare. Any day of the week I will buy onto that. I will sign onto that. I will sponsor it, but you have made this a union/anti-union bill. That is what you have done. This order, that is all it does.

Let me tell you where I am coming from in unions. I haven't said this on the floor. It is very hard for me to talk about it. My great-grandfather probably started this whole nightmare in the South Wales Mining Federation. He wrote the constitution to that. It was a long, long time ago. After he wrote that, he was banned from every colliery in Wales. He was doing it for a reason. He wanted to keep his kids out of the mines. I couldn't vote anti-union. I would probably be struck by lightning if I walked out of this building. I have no problem with that. Both my parents were union. I used to be president of the UAW in Maine. You have made this a corporate welfare battle. You are going to lose it because you are going to come around next session when that bill comes in front of you and you are going to say that you don't want it. We don't want corporate welfare. We don't want to analyze every contract and every minutia that is going to happen after we give out this tax break. We have given off the tax break. I voted against it, but I am playing by the rules of the game. There is no corporate welfare law on the books that I know of. I am just going to let it slide through. You made it union/anti-union. I won't abide by it. Thank you very much Madam Speaker.

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

Representative PLOWMAN: Madam Speaker, Men and Women of the House. This bill is a lot of things. It is union versus anti-union. It is BIW having contractors that are from Maine or from the People's Republic of China. It is welfare, corporate welfare. When we give food stamps to someone, we tell them they can spend it and how they can't. When they apply for a rent subsidy check, it goes to the landlord. When we give a Medicaid card, it is for certain kinds of things and not for others. We step in and we say how it can be spent and where it can be spent. We do send people to see if a boyfriend is living in there. That is called giving up your freedoms because you want the government to help you. Every time you give the government control over your life, you lose a little bit of your freedom. Bath

Iron Works didn't understand the word corporate welfare, but they do now. I bet you they do.

Union versus anti-union, my granddad was in the union. He worked for US Steel, which by the way, barely, if at all, exists anymore in Alabama. They can't even light the streets in Birmingham because they were undersold by a foreign country. Wages were so high and there were no give backs. It got to the point in Birmingham, Alabama when unemployment benefits ran out that if you walked to your car with your groceries an armed guard took you there so that your groceries made it to your car and you got to go home. That is what happens when unions fail. That is what happens when companies fail and union people are out of work. Do we want Bath Iron Works to fail? No. Do I want my money, your money to go to the People's Republic of China? No. Unions came about to help people to direct the way that they would be able to live and work. It was an honorable laudable change in the way business was done. It has done incredible things. When I see the weakened brought to you by the unions, I appreciate it. When I see union dues must be paid by a non-union worker performing a job that they would do at any other company, then I think the union has come back around and started to force people into doing things they didn't want to do, which is exactly why the unions were started.

The unions were honorable institutions and when the good Representative talks about his great-grandfather being banned. I understand it and so will a whole lot of other workers who would like to work at Bath Iron Works on that contract. The reason they are being banned is because they choose not to join the union. Maybe, I have it backwards, maybe a union is only to succeed for the union at all others expense and not to succeed for the people who wish to be part of a union. That is what I would see a union to be. It is a brotherhood, not a prisoner. You don't force your brother to join you if your brother doesn't want to. You don't force somebody to come into your union. Many people may want to join the union. That is fine, but there are people who are philosophically opposed to unions, believe it or not. I have friends who have been sued and had to join unions. The part that I missed somewhere in the history of how unions developed, is where you have to be in it because, darn it, it is good for you.

I don't understand the kind of goodness that we propose has to be forced on people. I just don't get it and neither do 82 percent of the workforce of the State of Maine. That is 82 percent of the workforce of the State of Maine. When people join, sure those numbers are going to go up with unions and we will be collecting some more dues and the Teamster's bank account will look a little better than it does this week. As we all know from reports, those Teamster's bank accounts are looking a little bit limp these days. I couldn't shame anybody into going back to what unions used to be for. You couldn't do it. It wasn't possible. The people who worked for unions when they began did it for common ground and brotherhood. Now it is forced upon them. It is not the same union. It is not the same thing. It is a union/anti-union thing. It is also Cianbro versus the People's Republic of China. We can't find someone in the United States to do this job. It seems to me the Democratic Party has given enough to the People's Republic of China.

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

Representative VIGUE: Madam Speaker, Ladies and Gentlemen of the House. Last year when we voted on the BIW subsidy, I was initially totally opposed to it and did not fully support it until I started getting letters and a list of the many, many businesses in the State of Maine that depended on BIW for its support. I had in my area some businesses that did a million dollars with BIW. It leads me to wonder whether or not

this should be going on at the present time at this level. I think what we are doing by debating this is feeding the petition that is presently being circulated to reverse this subsidy that we provided BIW. If this happens, we will put these jobs in jeopardy. This troubles me a great deal. I don't want to look at it as a union/non-union issue because I think that traditionally BIW has used labor from whatever source it could to provide the job and do it well. I hope that this is something that will continue and that we are debating a non-issue here. I will not be opposing the pending motion. I will be supporting Indefinite Postponement for the simple reason that I am opposed to jeopardizing this contract and making the possibility of harming our many employees that depend on BIW. I will supporting Indefinite Postponement. Thank you.

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

Representative MUSE: Madam Speaker, Men and Women of the House. With all due respect to Representative Plowman, I would like to think that someday I could be part of a company that fails as well as BIW. I really don't understand why this is being debated to the extent that it is when members of the Carpenters Union pay \$24 a month union dues. That is \$24 a month. In the course of 30 days we are going to ask them to turn in 1 hours pay for their union dues. I don't see that as a dilemma. I don't see that as a problem. I am sitting here thinking to myself, when in Rome, do as the Romans do. When in Bath, do as the good shipbuilders do, pay your dues. It is very simple. Thank you.

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

Representative LAYTON: Madam Speaker, Men and Women of the House. I don't generally get up to speak on a lot of issues, but this one here I feel compelled to. I think all of this talk that we have been hearing back and forth for the past hour is really supercilious. It really goes beyond what is really the problem here. The core issue to this problem is whether or not this body is going to remain consistent in what we do. In the 117th Legislature, we passed legislation that says that if we are going to pass a law, then the bureaucrats cannot change the intent of that law without coming back to the committee of jurisdiction. In other words, they can't change the rules after the law has been passed. If they do, they must come back to the committee. Ladies and gentlemen, we are that committee. The rules were changed afterwards. Nobody knew what was going to happen until after things were done. This should come back to this institution. If we are going to remain consistent in our policies, it has nothing to do with labor versus non-labor. It has nothing to do with corporate welfare. It has to do with integrity, inconsistency. That, ladies and gentlemen, is what we are talking about. Thank you Madam Speaker.

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

Representative HATCH: Madam Speaker, Men and Women of the House. I have sat here during two debates on this issue and boy, I can tell you, when you sit in the back seat and you let the debaters turn completely around. When we started, it was because of the tax break. We have gone around. It looks like we are talking about unions. We have people standing on the House floor misquoting things. We really have to look at the issue again. This is a private agreement. Sure, we gave them the authority to withhold payroll taxes for a period of time. That is not taxpayers money until we collect it folks. It never was and it never will be until we collect it. This is a private agreement with a company that they hire union people to do their construction. I don't know what you and I have to do with it at all. As far as the Teamsters bankrolling all of this money from the union workers,

folks, people don't have people down there as far as I know. It is the IAM, the IBEW and other construction unions. If you want to learn about labor history, you can write to the University of Maine at Orono right now, the Labor Department. You get all kinds of information on labor history. Unless you know it, don't start quoting it. It makes you sound really bad on this House floor. Thank you very much.

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

Representative MAILHOT: Madam Speaker, Ladies and Gentlemen of the House. I will be very brief. Last year in the first year of the 118th, we were asked to vote for a tax break for BIW. It was unanimously passed right by the committee. We voted on it through a lengthy debate. Very shortly, in the past, now a contract for \$2.2 billion has been ordered through Bath Iron Works. There is not a person in this body, in the State of Maine, that was not happy to see that happen. On my way here this morning on the radio, I heard several politicians at the federal level say that this was a win, win, win situation. I say to Bath Iron Works in regards to running your business only three words. Do your job. Keep our people working. I ask for this body three words also. Let's vote now. Thank you.

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

Representative BUCK: Madam Speaker, Ladies and Gentlemen of the House. I agree with the speaker last that we should do our job and BIW should do its job. The nagging question that I still have and the question that hasn't been answered here today was that the agreement that BIW officials made last month appears, to me, to contradict that part of the law that we passed, which says that preference be given to Maine employees and that the project should be competitively priced. No one has answered the question that entering into this PLA will reduce the cost if it was competitively priced.

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

Representative BERRY: Madam Speaker, Ladies and Gentlemen of the House. I would have to respond to the Representative from Yarmouth the definition of competitively priced. What is included in that? Is it strictly wages? Is it quality? Is it history? I can tell you some projects that were done in the paper industry that were great for the railroads. They never stored so much paper for so long in those box cars. We are talking union/non-union. I resent this discussion really in this forum. It is really ridiculous. It has gone to a new low. Representative Plowman really irritated me with her comments and I want to say that publicly. I take great offense to her comments. If we want to talk about labor history in Maine, can we go into the corporate boardrooms and see what the decisions were and why this company or this worker was chosen to work in a job over somebody else. We want to talk about the 12 years of the attack on labor in America. Do we want to talk about that, the administration in Washington at that time? You want to talk about labor history today? I can't believe it. This is a contract between BIW and the workforce. We talk about talking to our constituents this morning. A good friend of mine, he has worked for one of these contractors that is complaining about being cut out of the process. He had some pretty strong allegations about that company. It has nothing to do with this contract. Do we want to do a study? Shall we propose that we do a study of the entire construction industry and their practices of hiring? Let's talk about some union busting tactics. We have seen plenty of that. Like I said the other day in our debate, if it is a contractor, whether it is the trades or anybody. I am sorry Madam Speaker.

The SPEAKER: The Chair recognizes the Representative from York, Representative Ott. Having spoken three times now

requests unanimous consent to address the House a fourth time. Is there objection? Chair hears no objection, the Representative may proceed.

Representative OTT: Madam Speaker, Men and Women of the House. I think the Representative from Cherryfield, Representative Layton, has hit it on the head. This is not a question or debate about union versus non-union. It is question of whether or not we are spending the taxpayers money in the way it was intended. My order would only provide the opportunity for us, as legislators, to be made aware of the public's opinion. Please vote against the pending motion. Allow the light of day to surface and the public to have its input. Thank you.

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

Representative TOWNSEND: Madam Speaker, Men and Women of the House. I just wanted to let you know that later on in this session we will each have the opportunity to vote on a piece of legislation, which will establish the criteria under which corporations may receive assistance from the State of Maine. I intend to support that legislation and I hope you will join me, particularly those of you who are concerned about the piece of legislation which we passed last spring. I would like to suggest that perhaps had that legislation been in place, our questions would have been answered and perhaps the lessons that we should be taking from today's situation is that we might have asked those questions in a more thorough manner last spring rather than passing the bill willy nilly and asking questions later. Please join me in voting to Indefinitely Postpone the Joint Order.

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

Representative SAMSON: Madam Speaker, Men and Women of the House. Just in response to Representative Ott, if he is correct in his statement, then I think we should debate every TIF and STIF that is handed out by this state.

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

**ROLL CALL NO. 432**

YEA - Ahearne, Bagley, Baker, Berry RL, Bigl, Bolduc, Bouffard, Brennan, Brooks, Bruno, Bryant, Bull, Bunker, Cameron, Chartrand, Chick, Chizmar, Clark, Colwell, Cowger, Davidson, Desmond, Driscoll, Dunlap, Etnier, Farnsworth, Fisher, Frechette, Fuller, Gagne, Gagnon, Gamache, Green, Hatch, Honey, Jabar, Jones KW, Jones SL, Kane, Kerr, Kontos, LaVerdiere, Lemaire, Lemke, Mailhot, Mayo, McAlevey, McKee, Meres, Mitchell JE, Morgan, Muse, O'Neal, O'Neil, Paul, Peavey, Pendleton, Perry, Pieh, Pinkham RG, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Stanley, Stevens, Tessier, Thompson, Townsend, Tripp, Tuttle, Vigue, Volenik, Watson, Winglass, Wright, Madam Speaker.

NAY - Barth, Belanger DJ, Belanger IG, Berry DP, Bragdon, Buck, Bumps, Campbell, Carleton, Cianchette, Clukey, Cross, Dexter, Donnelly, Fisk, Foster, Gerry, Gieringer, Goodwin, Gooley, Jones SA, Joyner, Kasprzak, Kneeland, Labrecque, Lane, Layton, Lindahl, Lovett, MacDougall, Mack, Madore, Marvin, McElroy, Murphy, Nass, Nickerson, O'Brien, Ott, Perkins, Pinkham WD, Plowman, Savage, Spear, Stedman, Taylor, Tobin, Treadwell, True, Underwood, Vedral, Waterhouse, Wheeler EM, Wheeler GJ, Winn, Winsor.

ABSENT - Bodwell, Dutremble, Joy, Joyce, Lemont, Saxl JW, Snowe-Mello, Usher.

Yes, 87; No, 56; Absent, 8; Excused, 0.

87 having voted in the affirmative and 56 voted in the negative, with 8 being absent, the Joint Order **INDEFINITELY POSTPONED**.

**SPECIAL SENTIMENT CALENDAR**

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

**Recognizing:**

Nate Sergent, of Gardiner, who has received the prestigious James J. Fitzpatrick Award for his outstanding performance as a receiver for the Class A Gardiner High School "Tigers" football team;

(HLS 1192)

Presented by Representative COLWELL of Gardiner. Cosponsored by Senator TREAT of Kennebec.

On **OBJECTION** of Representative COLWELL of Gardiner, was **REMOVED** from the Special Sentiment Calendar.

**READ.**

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

Representative COLWELL: Madam Speaker, Men and Women of the House. I am not sure if my guests are still here. They were and we had a nice visit with the Chief Executive this morning. I am suffering from a cold here so bear with me. I am really honored to introduce to this chamber a fine young man, Nate Sergent and his parents Buddy and Linda. In Gardiner we take three things very seriously, the education of our kids, the strength of our community and FOOTBALL in capital letters. Nate embodies really all that is right with athletics. He is an excellent student. A hard worker, always willing to pitch in on a community project, a tri-letter winner in basketball, track and football. Most importantly, he is a mentor and a roll model to the kids in Gardiner.

Last year Nate set a new state record for the 100 yard dash. This year he led the Gardiner Tigers to the Eastern Class A Championship and a trip to the state finals. After the football season, the State of Maine discovered what we, in Gardiner, have known for years that Nate is someone special. So special that he won the Fitzpatrick Award as the state's top high school football player this year. Gardiner Area High School has a long tradition of sending our graduates on to play college football and indeed our young women on to play college field hockey and basketball. Currently, we have young men playing for Springfield College, University of Maine at Orono, Plymouth State and Middlebury College to name a few. Nate was recruited by all those and as my son attends Middlebury and plays for them, they were quite disappointed to get his blinding speed, but I am proud to tell you here today that next year Nate will be attending the University of Maine at Orono where he will continue both his academic and football career with the Black Bears. A career that I am sure will show the rest of Maine why we, in Gardiner, are so proud of our native son, Nate Sergent. Thank you.

**PASSED** and sent up for concurrence.

Mr. and Mrs. Clement Smith, David Smith and his family and Jeremiah and Rose Smith and their son Joshua, owners of the Clement Smith farm, of Monmouth, on being named the Farm Family of the Year by the Agricultural Committee of the Maine State Grange. We extend our congratulations to the Smith family on this occasion;

(HLS 1158)

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

On **OBJECTION** of Representative GREEN of Monmouth, was **REMOVED** from the Special Sentiment Calendar.

**READ.**

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

**Representative GREEN**: Madam Speaker, Ladies and Gentlemen of the House. I would like to tell you about Clement Farms in Monmouth, Maine. Charles and Ada Smith, with their son Harold bought the farm in Monmouth in 1911. The original farm was named Lake View, but is now called Clement Farms. It is located on a ridge one mile from Monmouth Center on Route 132 facing Cochnewagon Lake. From the beginning Charles and Harold formed a partnership. Since then, Smith fathers and children have formed partnerships to run the farm. One generation working with another. At present, the farm has a free stall barn with a double four milking parlor and has been milking about 100 cows with each cow averaging 25,000 pounds of milk annually. A new heifer barn has been built, which houses 80 calves and heifers. Corn is no longer raised on this farm, but haulage and dry hay are put up for the herd. Ditches have been put in to improve drainage and to prevent lake pollution. Also, the farm has a large manure and wastewater pit to avoid spreading any manure on the ground. By stopping the raising of corn, they do not use any herbicides on the fields and very little commercial fertilizer. This dairy farm is a fourth generation family farm. It is truly a pleasure to have the Smith Family here with us today. Thank you.

**PASSED** and sent up for concurrence.

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the Canine Good Citizen program and in applauding its efforts to promote responsible dog ownership. The program was developed by the American Kennel Club and teaches pet owners that dogs should exhibit "good citizen" behaviors in the presence of people and other animals;

(HLS 1194)

Presented by Representative BROOKS of Winterport.  
Cosponsored by Senator LONGLEY of Waldo.

On **OBJECTION** of Representative BROOKS of Winterport, was **REMOVED** from the Special Sentiment Calendar.

**READ.**

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

**Representative BROOKS**: Madam Speaker, Ladies and Gentlemen of the House. On a very serious note, a friend of mine from Winterport, Gino Nardi, who has been a long time supporter of mine wanted to be here this morning, but was unable to be here. He wanted me to pass on the message that this sentiment is truly not a dog. This is not the kind of bill that will come back and bite us. This is a truly wonderful program. I just wanted to be able to have this opportunity to recognize the American Kennel Clubs' good citizenship program. In the Health and Human Services Committee that I serve on, we do hear an awful lot of testimony and we consider an awful lot of bills dealing with the hearing impaired and the sight impaired and dogs who help people who are impaired like that almost always and are frequently chosen from the good citizenship award program. The good citizenship award program is a two-part program that not only teaches responsible dog ownership to young children and to adults, but it is also a good manners program for dogs at home and on the street. It is my pleasure to present this sentiment to you this morning. Thank you Madam Speaker.

**PASSED** and sent up for concurrence.

**REPORTS OF COMMITTEE**

**Divided Reports**

Majority Report of the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-846)** on Bill "An Act to Establish a State Disaster Relief Trust Fund"

(H.P. 1097) (L.D. 1540)

Signed:

Senator:

MICHAUD of Penobscot

Representatives:

KERR of Old Orchard Beach  
POULIN of Oakland  
BERRY of Livermore  
TOWNSEND of Portland  
KNEELAND of Easton  
LEMAIRE of Lewiston  
WINSOR of Norway

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

Signed:

Senators:

BENNETT of Oxford  
CLEVELAND of Androscoggin

Representatives:

MARVIN of Cape Elizabeth  
OTT of York

**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. The reason I voted against this measure is that I believe there is statutory language in this area that is very, very broad and would allow for the type of disaster relief that is contained within the bill. At this time, the Governor can access any money it needs to be obtained in case of an emergency. If there was a disaster of the magnitude that we really need emergency money, I think probably the Legislature should be called into session. The ice storm of '98 proved to me that the Legislature needs to be part of this decision making process. Think generators. In addition, I would like to remind us how many groups already want part of that unallocated surplus. I don't think disaster relief should be put on that list. For those reasons, I urge you to vote against the pending motion.

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 does is it sets up a disaster relief trust fund. Money comes from unappropriated surplus and is put in a designated account up to \$2 million. Good Representative Marvin has indicated that the Governor, under the current statute, can access monies without the Legislature. I have a problem with that. I believe that the Legislature should set policy. To me, to be more prudent and fiscally responsible, we should set up a separate account specifically for disaster relief. Up to \$2 million so that the Legislature will not have to be called back in because that costs taxpayers money. I would urge your support for this piece of legislation. Remember that it is the Legislature that sets policy. When we leave here, the budget should not be tampered with. 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. 76 voted in favor of the same and 22 against, the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-846)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Tuesday, March 10, 1998.

Majority Report of the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-847)** on Bill "An Act to Restore Funds Transferred from the Underground Oil Storage Replacement Fund"

(H.P. 1460) (L.D. 2051)

Signed:  
Senators:

MICHAUD of Penobscot  
BENNETT of Oxford  
CLEVELAND of Androscoggin

Representatives:

KERR of Old Orchard Beach  
POULIN of Oakland  
BERRY of Livermore  
TOWNSEND of Portland  
KNEELAND of Easton  
LEMAIRE of Lewiston  
WINSOR of Norway

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

Signed:  
Representatives:

MARVIN of Cape Elizabeth  
OTT of York

**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 Old Orchard Beach, Representative Kerr.

Representative KERR: Madam Speaker, Men and Women of the House. A number of dedicated funds have been established over the years, which are funded by fees imposed by imported petroleum products in the State of Maine. This is one of those areas where fees were tacked on to cover some costs. A groundwater oil cleanup fund, the underground storage replacement fund, the coastal and inland surface water fund and a loan program at the Maine State Housing Authority are just some of these dedicated funds. During the lean years of the early '90s, the Maine economy, we began to borrow money from these accounts from those funds, because we couldn't make those cuts to offset these amounts. Most recently we borrowed \$2 million in the biennial budget from the underground oil storage replacement fund from the Finance Authority of Maine. What this bill, LD 2051, does is to begin to restore \$1 million of those funds to the underground oil storage replacement fund, which will remove the last years \$1 million of the bill. What we are doing is we are blocking the payment of the million dollar transfer that will take place in FY '99. I would urge your support of this legislation. We once again are beginning to pay our bills and take care of a gimmick that was established last session. I urge your support for LD 2051.

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

Representative MARVIN: Madam Speaker, Ladies and Gentlemen of the House. At the public hearing FAME didn't

speak on this bill. In fact, FAME offered the money up on their own. Apparently they felt they no longer need to have this money. I say that any time bureaucrats offer up money, we should take it. The way this money is obtained is by placing a per barrel tax on the oil so that if the fund runs out of money, we can resuscitate that fund by putting the per barrel fee back on the petroleum product. The final point I would like to make on this bill is that once again we are going to punish people who did what they were supposed to do when they did it. The people who took their underground tanks out in a timely fashion did exactly what they were supposed to do and we told other people that if you don't do it in this certain time frame, then you are not going to be eligible to get the funds. Now we are going to bend the rules again and allow them to be able to access those funds. I think we need to let the public know that when we say things, we mean them. If they don't complete a task by a certain date, they are not going to have these funds indefinitely. I urge you to defeat the pending motion. 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. 78 voted in favor of the same and 18 against, the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-847)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Tuesday, March 10, 1998.

Majority Report of the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-848)** on Bill "An Act to Provide Funds for the Maine Apprenticeship Program"

(H.P. 1504) (L.D. 2126)

Signed:  
Senators:

MICHAUD of Penobscot  
BENNETT of Oxford  
CLEVELAND of Androscoggin

Representatives:

KERR of Old Orchard Beach  
POULIN of Oakland  
BERRY of Livermore  
TOWNSEND of Portland  
KNEELAND of Easton  
LEMAIRE of Lewiston

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

Signed:  
Representatives:

WINSOR of Norway  
MARVIN of Cape Elizabeth  
OTT of York

**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 Old Orchard Beach, Representative Kerr.

Representative KERR: Madam Speaker, Men and Women of the House. LD 2126 provides funds for the Maine Apprenticeship Program. I just want to let you know that the Maine Apprenticeship Program consists of on-the-job training and post secondary classroom instruction, which I believe are two very important methods for individuals to learn new skills and new technologies. Federal monies are declining. That was the

purpose of this bill. General Fund monies are needed to continue supported this program. We need to continue to have a skilled workforce to meet our ever-changing workforce needs. This program helps to do that. I urge your support of this piece of legislation. Thank you very much.

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

Representative WINSOR: Madam Speaker, Men and Women of the House. I did not support funding this program because it is expensive on a per training basis. It continues and, in fact, expands the fragmentation of our job training program. Finally, it absorbs the cost of federal programs by the General Fund and it expands that program even more. The bill asks for an appropriation of \$571,300 to be appropriated. It will service about 898 trainees with a grant, which ranges between a low of \$200 to a high of \$464. Currently, this program has 533 people with grants that are set between \$152 and \$422. This is not the Jobs for Maine's Graduates. It is not the Maine Career Advantage Program. It is not the Youth Apprenticeship Program. The programs are related however. The programs I have just mentioned are programs for young people, people who have not yet graduated from high school. This is a post secondary program. It does provide a comprehensive career ladder development program. Currently, the program is administered, however, through the Vocational Technical Institutes, the Coastal Development Foundation, Biddeford Regional Center and eight other locations. The bill, however, establishes a new management structure and on which, in my judgment does not adequately coordinate with our current youth programs. There isn't going to be a logical transition perhaps. The program is very expensive. I believe that it continues to fragment our job training system.

We learned in the 117th Legislature that we expend between \$75 and \$85 million in each budget cycle on job training programs. These programs are spread over many departments, labor, human services, education, technical college, DCED and so on. There is much overlap and very little agreement on how to measure the outcome of these programs. I believe the program we are talking about today can continue without this money by using existing programs within the Maine Technical College System and the same people who administer the Jobs for Maine's Graduates, the Maine Youth Apprenticeship Program. Using job funds as they are needed from the Governor's training initiative. The program is expensive. It deals with very few people, less than 900. It continues to expand an already fragmented job training system. It takes over and expands a program that has lost its federal funding. For those reasons, I could not support it. Thank you.

Representative SAXL of Portland **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought to Pass as Amended** Report.

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

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

Representative WRIGHT: Madam Speaker, Men and Women of the House. I urge you to support this bill. This is very important. Yes, we do have other programs that are taking up some of the slack, but I suggest we don't put all of our eggs in one basket. I serve on the Business Committee. Over and over we hear that there are not enough skilled workers to do the highly trained jobs that are out there. These companies are looking overseas. They are looking to other parts of the world. One other thing is the Maine Chamber and Business Alliance has put out an article supporting this. They said the Business Administration surveys conducted throughout the state have

found 42 percent of Maine employees expect employment levels to increase in the next few years, which is a very good thing. Thirty percent of Maine employers are having difficulty finding skilled workers and skills required by Maine industry do not match those of the available labor force. I urge you to support this bill and help our economy move forward.

The SPEAKER: The Chair recognizes the Representative from Glenburn, Representative Winn.

Representative WINN: Madam Speaker, Ladies and Gentlemen of the House. I am at a loss for words. Most of you know how much I have supported education over the years, but I am going to be voting against this motion. It is basically because while the intent is very, very important and Lord knows, we need qualified workers, the money is very, very poorly spent and nobody has taken a serious look at this program for this entire decade. It was set up a while ago, it keeps running. Nobody ever looks into it and basically we are getting a very, very poor return on our investment. There are much smarter ways to invest our money that will actually help children and employers. That is why I am voting against it. Thank you.

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

Representative HATCH: Madam Speaker, Men and Women of the House. This particular bill was sponsored by me. The money that we are asking for in this program is well spent. Yes, indeed, it is for adults. It is for rectification. You have a gas pipeline that is going in. You have lots of people out there on waiting lists waiting to be certified in skills that they need to do this. If you want Maine jobs to stay here in Maine, I would ask that you indeed do support this. It is not only for union people. It is for anyone who is involved in any of the construction trades. It deals mostly with adults, but, yes, the apprenticeship part of it, 19 year olds are involved. We had one young gentleman who showed up at the hearing in Appropriations and testified that the fact that if it wasn't for this program, that he would probably be in jail. He was one of those youths that had been on the wrong track for a lot of years. They took him into an apprenticeship program. They straightened him out. They trained him. He earns wages while he is training. His employer pays part of the cost. The program picks up some and he has to put in some. I want you to know folks that this is a training program for adults. It is a training program that is desperately needed for those adults who are already in the workforce. Don't kid yourself. We don't just need to train our young people, we need to train our adults. Thank you.

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

Representative MARVIN: Madam Speaker, Ladies and Gentlemen of the House. This is a rather confusing issue because there are lots of different programs that put young people to work. I would say that is one of the problems with this bill. We need to get our efforts coordinated. The issue before us right now is that the federal funding for this has dried up. The refrain we hear over and over again in Appropriations is that it is federal money. It doesn't cost us anything. Here it is, the day of reckoning on these federal funds have arrived. It is time to prove that we can say, okay, the federal funds are up. If the companies who are using this program feel it is valuable, then they should be willing to pay for it. The administration does not support this funding and neither should we. Our not approving funding does not end this program, it simply requires the businesses who are paying for the benefits of this program to pay for it. Please defeat the pending motion. Thank you.

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



Pass as Amended Report. All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 433**

YEA - Ahearne, Bagley, Baker, Belanger IG, Berry RL, Bigl, Bodwell, Bolduc, Bouffard, Brennan, Brooks, Bruno, Bryant, Bull, Bumps, Bunker, Cameron, Carleton, Chartrand, Chick, Chizmar, Clark, Colwell, Cowger, Davidson, Desmond, Driscoll, Dunlap, Etnier, Farnsworth, Fisher, Fisk, Frechette, Fuller, Gagne, Gagnon, Gamache, Gerry, Gieringer, Green, Hatch, Honey, Jabar, Jones KW, Jones SL, Joyner, Kane, Kerr, Kneeland, Kontos, LaVerdiere, Lemaire, Lemke, Lemont, Madore, Mailhot, Mayo, McAlevey, McKee, Meres, Mitchell JE, Morgan, Murphy, Muse, O'Neal, O'Neil, Paul, Pendleton, Perkins, Perry, Pieh, Pinkham RG, Plowman, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Spear, Stanley, Stevens, Tessier, Thompson, Townsend, Tripp, Tuttle, Vigue, Volenik, Watson, Wheeler GJ, Wright, Madam Speaker.

NAY - Barth, Belanger DJ, Berry DP, Bragdon, Buck, Campbell, Cianchette, Clukey, Cross, Dexter, Donnelly, Foster, Goodwin, Gooley, Jones SA, Kasprzak, Labrecque, Lane, Layton, Lindahl, Lovett, MacDougall, Mack, Marvin, McElroy, Nass, Nickerson, O'Brien, Ott, Peavey, Pinkham WD, Savage, Stedman, Taylor, Tobin, Treadwell, True, Underwood, Vedral, Waterhouse, Wheeler EM, Winn, Winsor.

ABSENT - Dutremble, Joy, Joyce, Saxl JW, Snowe-Mello, Usher, Winglass.

Yes, 101; No, 43; Absent, 7; Excused, 0.

101 having voted in the affirmative and 43 voted in the negative, with 7 being absent, the Majority **Ought to Pass as Amended Report was ACCEPTED.**

The Bill was **READ ONCE. Committee Amendment "A" (H-848) was READ** by the Clerk and **ADOPTED.** The Bill was assigned for **SECOND READING** Tuesday, March 10, 1998.

**CONSENT CALENDAR**

**First Day**

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

(S.P. 824) (L.D. 2214) Bill "An Act to Repeal the Laws Governing the Jackman Water District and the Jackman Sewer District" Committee on **UTILITIES AND ENERGY** reporting **Ought to Pass**

(S.P. 720) (L.D. 1963) Bill "An Act to Require the Bureau of Revenue Services to Report on the Incidence of Tax Burdens to Business Sectors of the State's Economy and to Income Classes of Citizens" Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-486)**

(H.P. 1447) (L.D. 2038) Bill "An Act to Enhance the Safety of Snowmobile Rental Operations" Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-852)**

(H.P. 1518) (L.D. 2140) Bill "An Act to Implement the Maine Arts Commission's Arts in Education Program" Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-850)**

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

(S.P. 335) (L.D. 1113) Bill "An Act to Require the Commissioner of Mental Health, Mental Retardation and Substance Abuse Services to Report the Facts of an Unnatural

Death of a Patient under the Care of the Department to the Legislature" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-485)**

On motion of Representative MITCHELL of Portland, was **REMOVED** from the First Day Consent Calendar.

The Committee Report was **READ.**

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

Representative MITCHELL: Madam Speaker, Men and Women of the House. I am not trying to hold this unanimous report back. I simply need to clarify some of the intent of the legislation. There has been some questions. This requires the commissioner to report their finding on an unnatural death of a patient or a consumer within the mental health system. However, this is limited to facilities run by the department. It does not include contracted agencies. Thank you.

The Committee Report was **ACCEPTED.**

The Bill was **READ ONCE. Committee Amendment "A" (S-485) was READ** by the Clerk and **ADOPTED.** The Bill was assigned for **SECOND READING** Tuesday, March 10, 1998.

**CONSENT CALENDAR**

**Second Day**

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

(S.P. 281) (L.D. 889) Bill "An Act to Ensure Fair Claims Settlement Practices" (C. "A" S-482)

(S.P. 564) (L.D. 1721) Bill "An Act Regarding Appointment to the Maine Public Broadcasting Board of Trustees" (C. "A" S-481)

(S.P. 745) (L.D. 2023) Bill "An Act to Restore Services to Maine's Elderly" (C. "A" S-479)

(S.P. 749) (L.D. 2027) Bill "An Act to Ensure Collection of Essential Data by the Department of Public Safety" (C. "A" S-478)

(H.P. 1394) (L.D. 1948) Bill "An Act to Improve Management of Contracted Personnel Services Costs" (C. "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) (C. "A" H-844)

(H.P. 1453) (L.D. 2044) Bill "An Act to Promote Access to Public Higher Education" (C. "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) (C. "A" H-843)

(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)

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

**BILLS IN THE SECOND READING**

**Senate As Amended**

Bill "An Act to Exempt Nonprofit Ambulance and Fire Emergency Services from the State's Sales Tax" (EMERGENCY)

(S.P. 189) (L.D. 607)

(C. "B" S-476)

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.

**TABLED AND TODAY ASSIGNED**

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

HOUSE REPORT - **Ought to Pass as Amended by Committee Amendment "A" (H-830)** - Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Prohibit the Opening of Liquor Stores on the Maine Turnpike" (EMERGENCY)

(H.P. 1303) (L.D. 1846)

TABLED - March 5, 1998 by Representative TUTTLE of Sanford. PENDING - **ACCEPTANCE OF COMMITTEE REPORT**.

Subsequently, the unanimous Committee Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-830)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Tuesday, March 10, 1998.

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 6, 1998 by Representative TUTTLE of Sanford. PENDING - Motion of same Representative to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report.

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

Representative TUTTLE: Madam Speaker, Men and Women of the House. A brief explanation of what this bill does. The Resolve authorizes David Prentiss to sue the State of Maine and individual past and present employees of the Department of Environmental who are covered by liability insurance policy. Essentially the Resolve authorizes Mr. Prentiss to recover damages up to \$250,000 from the Department of Environmental Protection. The proponents of this issue assert that Mr. Prentiss' property backed out of the purchase when he found out that the site was listed on the active site of the DEP uncontrolled site list on the Internet. Mr. Prentiss asserts that he was never notified that the property was included on the list. Had he known, he would have been able to have the question of contamination resolved before he put the property on the market.

After the discovery of the property on the list, Mr. Prentiss contacted DEP, according to his testimony, and monitoring was done and no contamination was found. It was too late. The buyer and the bank had given up. The property was still listed as an active site until about two weeks ago when DEP updated it and changed it. The opponents of the bill feel that the site was included in the uncontrolled site list because it was a former Nike Missile site. Active listing means that there is a potential for contamination and needs further investigation. The inclusion of this list of active sites was not an error on their part. When DEP was made aware of the potential land sale, they quickly responded and monitoring and delisted the site, as I mentioned before, when no contamination was found. The list is developed, as many of us know, for internal DEP use. It is placed on the Internet to alert the public to potential problems, but there is not sufficient staff to constantly update the list for DEP. You probably will hear a number of individuals speak on this. I am

supporting the Ought not to Pass motion on this issue. I ask that you would listen to debate and vote your conscience.

The SPEAKER: The Chair recognizes the Representative from Limestone, Representative O'Neal.

Representative O'NEAL: Madam Speaker, Ladies and Gentlemen of the House. I urge that you help me defeat the pending motion and move on to pass the Majority Ought to Pass Report on this bill. Seven years ago David and Susan Prentiss purchased a former military site and started a very productive auto repair business. Because of health problems in the family, they placed the business for sale in 1997 in March and received a purchase agreement on that date for the 13 acre site. In April, they signed a sales agreement on a home in New Hampshire and they also found employment. David did not actively seek business for his business in Limestone and Susan resigned her nursing position. On June 17, the purchase agreement expired and was not renewed because the company they were dealing with did not want to deal with the DEP and had a date certain to move their existing business.

On June 26, DEP sent a letter to the loaning institution stating that the site would be cleared from the active list to a resolve list after a water test. Between March 5 and the letter of June 26, David and Susan found out from the loaning institution that they were on the active contamination list. They were never notified to the fact that they were on the list and didn't even realize that there was a list on the Internet. They remained on the list until the work session on the bill. DEP didn't feel that they didn't have to notify the landowners and didn't plan on changing the list on the Internet because they claimed they only had 23 employees and didn't have the time to do it. That brought quite a concern to quite a few members of the committee. I asked for an opinion from the Attorney General's Office about a 30 day window for action and asked if it would still be in effect because it was taken from the Internet. I was given the opinion that the window would only be in effect for an administrative process and not for damages. It was suggested that we pursue a settlement not a suit. DEP has refused a settlement claiming that the money would only be found if this bill passed in an upcoming bond issue, which bothers me.

I ask you to defeat the pending motion and move on to the Majority Ought to Pass so that a small family business can have their day in court. In my opinion, state government should be held responsible for their mistakes and not be allowed to hide in the process. There is an amendment that will be presented if this bill is passed. The limit would be \$70,000, which gives some of the committee insurance because they felt the \$250,000 was too much. We had asked the committee to remove the personal liability because it was never intended. You have received on your desk a copy of the statement of losses by the Prentiss'. You will note that the DEP has worked this issue very hard after the work session. I take exception to their talking points. They showed the same inconsistencies that they showed during the committee debate. I thank you.

Representative TUTTLE of Sanford **REQUESTED** a roll call on the motion to **ACCEPT** the Minority **Ought Not to Pass** Report.

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

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

Representative TUTTLE: Madam Speaker, Men and Women of the House. I understand the concerns of Representative O'Neal and many of you who have served on our Committee on Legal Affairs realized that we do receive a number of these bills year after year. In the past, I have supported some, but in this case I can't. I have had my problems with DEP, as I am sure



that all of you have had in your district, but I think that we have to look at the facts here. I will remind you that this is taxpayer money and not our money. If I had been a person who had bought property on a former Nike Missile Site, I might suspect that there may be some environmental problems with the property. I would also advise you that the property in question was assessed at \$60,000 and not \$250,000. I think we have to be prudent in our judgments. That is why I am asking you to support the motion of Ought Not to Pass.

The SPEAKER: The Chair recognizes the Representative from Limestone, Representative O'Neal.

Representative O'NEAL: Madam Speaker, Ladies and Gentlemen of the House. I would like to share with you a letter that I received from the DEP, just one portion. Currently, 27 of these sites have been assigned project managers and these FUD sites appear on the uncontrolled site list. The project managers have contacted all of the property owners, with the exception and in a few cases where the information was sparse and more input from the Army Corps of Engineers is needed. David Prentiss was not notified. They admitted that in the committee. The money is not \$250,000. It is \$70,000. Thank you.

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

Representative COWGER: Madam Speaker, Men and Women of the House. I urge you to support the pending motion. It is my opinion that the Department of Environmental Protection acted responsibly in this situation. I think if we go on to allow Mr. Prentiss to sue the state, we will set a dangerous precedent and that this is not the appropriate time to do such. The Attorney General's Office has ruled that the state did not act wrongfully. Indeed, Mr. Prentiss owned a site that was a former Air Force missile site and had been contaminated by the Air Force activities as well as oil spills by subsequent owners. When this became an issue with the Department of Environmental Protection, they immediately juggled priorities and actually within 22 days, was able to remove the site from the list in question here. The property had been appropriately listed due to onsite contamination. The DEP acted quickly and responsibly to remove it from that list. Again, I urge you to support the pending motion.

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

Representative GAGNE: Madam Speaker, Ladies and Gentlemen of the House. I am on the committee report of Ought Not to Pass along with Representative Tuttle. We listened to the information that we had and yes, the DEP could have removed it from the Internet. However, all of you know that when you deal with house closing that you don't sell your equipment or quit your job before your name is signed and that closing is definite. They did that thinking it was going to work and then it happened that the real estate person looking over the Internet noticed the DEP still had something on there. It was clean. They were told it was clean, but the buyer backed out. Those were circumstances you and I deal with everyday. We have that same situation on closings. People back out when you thought everything was set. They still have the property. If we give them \$70,000, are we buying their property so we can resell it? No, we are just giving them the money and they still have the property. I say, support the motion.

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

Representative TRUE: Madam Speaker, Ladies and Gentlemen of the House. I am on the side opposite this particular Ought Not to Pass for the major reason that somewhere along the line we have got to give our citizens some

protection in order to make some sort of restitution for mistakes which should not have been made. It is quite clear that the DEP, in front of our committee, did state that it should not have been placed on the Internet. It is ironic because they were back in front of our committee in a matter of two or three days to say that they had rectified it. I don't know why someone did not notice it before. What we are doing here primarily is to give this gentleman the right to go to court. If the gentleman and one of our citizens is asking for that right, remember that he is paying for his legal fees whereby the state already has lawyers on the staff and yes, they may be called away from some of the things they are doing. However, it is going to be less of a cost to them than one of our citizens. I ask you to defeat the Ought Not to Pass and go ahead to give this gentleman the right to do as every citizen should have.

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

#### ROLL CALL NO. 434

YEA - Baker, Berry RL, Bolduc, Bouffard, Bragdon, Brennan, Bruno, Bryant, Bull, Cameron, Campbell, Carleton, Chartrand, Chick, Cianchette, Cowger, Davidson, Driscoll, Dunlap, Etnier, Farnsworth, Fisher, Fisk, Fuller, Gagne, Gagnon, Gamache, Goodwin, Honey, Kane, Lemaire, Lemont, Lindahl, Mailhot, McAlevey, Mitchell JE, Morgan, Muse, Nass, O'Brien, O'Neil, Pendleton, Perry, Pieh, Powers, Richard, Rowe, Samson, Shiah, Stevens, Tessier, Thompson, Townsend, Tripp, Tuttle, Vigue, Volenik, Wright.

NAY - Ahearn, Bagley, Barth, Belanger DJ, Belanger IG, Berry DP, Bodwell, Brooks, Buck, Bumps, Bunker, Chizmar, Clark, Clukey, Colwell, Cross, Desmond, Dexter, Donnelly, Foster, Gerry, Gieringer, Gooley, Green, Hatch, Jabar, Jones KW, Jones SL, Jones SA, Joyner, Kasprzak, Kerr, Kneeland, Kontos, Labrecque, Lane, LaVerdiere, Layton, Lemke, Lovett, MacDougall, Mack, Madore, Marvin, Mayo, McElroy, Meres, Murphy, Nickerson, O'Neal, Ott, Paul, Peavey, Perkins, Pinkham RG, Pinkham WD, Plowman, Povich, Quint, Rines, Sanborn, Savage, Saxl MV, Shannon, Sirois, Skoglund, Spear, Stanley, Stedman, Taylor, Tobin, Treadwell, True, Vedral, Waterhouse, Watson, Wheeler EM, Wheeler GJ, Winn, Winsor, Madam Speaker.

ABSENT - Bigl, Dutremble, Frechette, Joy, Joyce, McKee, Poulin, Saxl JW, Snowe-Mello, Underwood, Usher, Winglass.

Yes, 58; No, 81; Absent, 12; Excused, 0.

58 having voted in the affirmative and 81 voted in the negative, with 12 being absent, the Minority **Ought Not to Pass** Report was **NOT ACCEPTED**.

Subsequently, the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. Committee Amendment "A" (H-841) was **READ** by the Clerk and **ADOPTED**.

Under suspension of the rules the Bill was given its **SECOND READING** without **REFERENCE** to the Committee on **Bills in the Second Reading**.

Representative WHEELER of Bridgewater **PRESENTED House Amendment "A" (H-851)** 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. All this bill does is limit the lawsuit to \$70,000 and takes off the emergency. I would ask for your support.

**House Amendment "A" (H-851) was ADOPTED.**

LEGISLATIVE RECORD - HOUSE, March 9, 1998

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-841) and House Amendment "A" (H-851)** and sent up for concurrence.

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On motion of Representative MAILHOT of Lewiston, the House adjourned at 12:30 p.m., until 9:00 a.m., Tuesday, March 10, 1998.