

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
35th Legislative Day
Wednesday, March 18, 1998

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

Prayer by Reverend Birger Johnson, South Portland (retired).
National Anthem by Greenville High School Band.
Pledge of Allegiance.
Doctor of the day, Stephen Jendzejec, D.O., York.
The Journal of yesterday was read and approved.

SENATE PAPERS

Non-Concurrent Matter

Bill "An Act to Modify the Retirement Laws for the 38th Training Troop of the Maine State Police"

(H.P. 1304) (L.D. 1847)

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-858) in the House on March 12, 1998.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-858)** and **SENATE AMENDMENT "A" (S-512)** in **NON-CONCURRENCE**.

The Chair moved that the House **RECEDE AND CONCUR**.

Representative JOYCE of Biddeford **REQUESTED** a roll call on the motion to **RECEDE AND CONCUR**.

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

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

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

The **SPEAKER**: The Representative may pose his question.

Representative JOY: Madam Speaker, Men and Women of the House. To anyone who may be able to answer, does the amendment that was put on in the other body create an unfunded liability? Thank you.

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

Representative HATCH: Madam Speaker, Men and Women of the House. Just in answer to that question from the good Representative from Crystal, no, it does not. It would be funded out of the General Fund.

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

ROLL CALL NO. 461

YEA - Ahearne, Bagley, Baker, Barth, Belanger DJ, Belanger IG, Berry DP, Berry RL, Bigl, Bouffard, Bragdon, Brooks, Bruno, Bryant, Bull, Bunker, Carleton, Chick, Chizmar, Cianchette, Clark, Clukey, Colwell, Cowger, Cross, Davidson, Desmond, Dexter, Donnelly, Driscoll, Dunlap, Dutremble, Farnsworth, Fisher, Frechette, Fuller, Gagne, Gagnon, Gamache, Gerry, Gieringer, Goodwin, Gooley, Hatch, Jabar, Jones KW, Jones SL, Joyner, Kane, Kneeland, Kontos, LaVerdiere, Layton, Lemaire, Lemke, Lemont, Lindahl, Lovett, Mailhot, Marvin, Mayo, McAlevey, McElroy, Meres, Morgan, Muse, Nickerson, O'Brien, O'Neal, O'Neil, Ott, Paul, Peavey, Pieh, Pinkham RG, Pinkham WD, Plowman, Povich, Powers, Richard, Rines, Rowe, Samson, Sanborn, Savage, Saxl JW, Saxl MV, Shannon, Sirois, Skoglund, Snowe-Mello, Spear,

Stevens, Tessier, Thompson, Tobin, Townsend, Tripp, True, Tuttle, Usher, Vigue, Volenik, Watson, Wheeler EM, Wheeler GJ, Winglass, Winn, Winsor, Wright, Madam Speaker.

NAY - Buck, Campbell, Foster, Jones SA, Joy, Joyce, Kasprzak, Labrecque, Lane, MacDougall, Mack, Murphy, Nass, Pendleton, Perkins, Stedman, Taylor, Treadwell, Vedral, Waterhouse.

ABSENT - Bodwell, Bolduc, Brennan, Bumps, Cameron, Chartrand, Etnier, Fisk, Green, Honey, Kerr, Madore, McKee, Mitchell JE, Perry, Poulin, Quint, Shiah, Stanley, Underwood.

Yes, 111; No, 20; Absent, 20; Excused, 0.

111 having voted in the affirmative and 20 voted in the negative, with 20 being absent, the House voted to **RECEDE AND CONCUR**.

COMMUNICATIONS

The Following Communication: (H.C. 435)

STATE OF MAINE

**ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON UTILITIES AND ENERGY**

March 13, 1998

The Honorable Mark W. Lawrence

President of the Senate

The Honorable Elizabeth H. Mitchell

Speaker of the House of Representatives

118th Maine Legislature

State House

Augusta, Maine 04333-0003

Dear President Lawrence and Speaker Mitchell:

Pursuant to the Government Evaluation Act, Maine Revised Statutes, Title 3, chapter 35, we submit the findings and recommendations of the Joint Standing Committee on Utilities and Energy with respect to the Office of the Public Advocate.

The committee has concluded that the Office is operating in accordance with its statutory authority. We are generally satisfied that the Office is conducting its work in accordance with its duties under the law and believe the Office is doing an adequate job fulfilling its statutory mandate. We have also concluded that due to recent increases in work load occasioned by, among other things, the restructuring of the electric industry, the Office should receive an increase in funding for this biennium. The committee is divided, however, over the amount of increased funding that is required. Our report provides further detail about our conclusions and our recommendations. Pursuant to Title 3, section 954, we are submitting with our report legislation that would implement our recommendations.

Sincerely,

S/Richard J. Carey

Senate Chair

S/Kyle W. Jones

House Chair

READ and with accompanying papers **ORDERED PLACED ON FILE**.

The Following Communication: (H.C. 436)

STATE OF MAINE

**ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON APPROPRIATIONS AND FINANCIAL
AFFAIRS**

March 16, 1998

Honorable Mark W. Lawrence, President of the Senate

Honorable Elizabeth H. Mitchell, Speaker of the House

118th Maine Legislature

State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Mitchell:

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

- L.D. 1658 An Act to Authorize a General Fund Bond Issue to Implement a Statewide Economic Improvement Strategy
- L.D. 1810 An Act to Authorize a General Fund Bond Issue in the Amount of \$6,000,000 for Critical Marine Infrastructure and Technology Investments
- L.D. 2045 An Act to Authorize a General Fund Bond Issue in the Amount of \$8,000,000 to Provide Affordable and Accessible Housing for Persons Who Are Mentally Retarded

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

Sincerely,
S/Sen. Michael H. Michaud
Senate Chair
S/Rep. George J. Kerr
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 437)

**STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON BUSINESS AND ECONOMIC
DEVELOPMENT**

March 16, 1998
Honorable Mark W. Lawrence, President of the Senate
Honorable Elizabeth H. Mitchell, Speaker of the House
118th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Mitchell:

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

- L.D. 2128 An Act Regulating the Practices of Feature Motion Picture Exhibitors and Distributors or Licensors and Providing Remedies for Violations

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

Sincerely,
S/Sen. John T. Jenkins
Senate Chair
S/Rep. Marc J. Vigue
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 438)

**STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON HEALTH AND HUMAN SERVICES**

March 16, 1998
Honorable Mark W. Lawrence, President of the Senate
Honorable Elizabeth H. Mitchell, Speaker of the House

118th Maine Legislature
State House

Augusta, Maine 04333

Dear President Lawrence and Speaker Mitchell:

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

- L.D. 2156 Resolve, to Ensure the Safety of Maine Children with Mental Health Problems

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

Sincerely,
S/Sen. Judy Paradis
Senate Chair
S/Rep. J. Elizabeth Mitchell
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 439)

**STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON INLAND FISHERIES AND WILDLIFE**

March 16, 1998
Honorable Mark W. Lawrence, President of the Senate
Honorable Elizabeth H. Mitchell, Speaker of the House
118th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Mitchell:

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

- L.D. 1162 An Act to Clarify the Duties of the Maine Atlantic Salmon Authority

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

Sincerely,
S/Sen. Marge L. Kilkelly
Senate Chair
S/Rep. Norman R. Paul
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 440)

**STATE OF MAINE
ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON JUDICIARY**

March 16, 1998
Honorable Mark W. Lawrence, President of the Senate
Honorable Elizabeth H. Mitchell, Speaker of the House
118th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Mitchell:

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

- L.D. 1729 An Act to Require Health-care Providers to Honor Do Not Resuscitate Orders
- L.D. 2090 An Act to Protect Victims of Domestic Abuse from Eviction

L.D. 2168 An Act to Encourage Adoptions and Reduce the Number of Children in Foster Care in the State

L.D. 2183 An Act to Amend the Laws Regarding Intellectual Property Rights

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

Sincerely,
S/Sen. Susan W. Longley
Senate Chair
S/Rep. Richard H. Thompson
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 441)

STATE OF MAINE

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

March 16, 1998

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

Dear President Lawrence and Speaker Mitchell:

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

L.D. 2100 An Act to Permit a Local Development Commission to Assess a User Fee

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

Sincerely,
S/Sen. Richard P. Ruhlin
Senate Chair
S/Rep. Verdi L. Tripp
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 442)

STATE OF MAINE

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

March 16, 1998

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

Dear President Lawrence and Speaker Mitchell:

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

L.D. 2164 Resolve, to Enhance the Economy and Tourism Industry in Hancock County and Western Washington County by Requiring the Implementation of the Biennial Transportation Improvement Program Regarding Shared Use of the Calais Branch Rail Line

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

Sincerely,
S/Sen. William B. O'Gara

Senate Chair
S/Rep. Joseph D. Driscoll
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 443)

STATE OF MAINE

**ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON UTILITIES AND ENERGY**

March 16, 1998

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

Dear President Lawrence and Speaker Mitchell:

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

L.D. 2208 An Act to Encourage the Development of Small Distributed Generation Technologies That Reduce Pollution

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

Sincerely,
S/Sen. Richard J. Carey
Senate Chair
S/Rep. Kyle W. Jones
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 444)

STATE OF MAINE

**ONE HUNDRED AND EIGHTEENTH LEGISLATURE
COMMITTEE ON AGRICULTURE, CONSERVATION AND
FORESTRY**

March 12, 1998

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

Dear Mr. President and Madam Speaker:

Pursuant to Title 3 Maine Revised Statutes, chapter 35, we are pleased to submit the findings and recommendations of the Joint Standing Committee on Agriculture, Conservation and Forestry from the review and evaluation of the Department of Agriculture, Food and Rural Resources under the State Government Evaluation Act. In its review, the committee found that the Department is operating within its statutory authority. However, the committee does make recommendations for statutory and administrative changes that are outlined in the report. Pursuant to 3 MRSA §955, sub-§5, we request permission for the committee to meet once in August or September to review the department's progress in meeting the recommendations of the committee report.

Sincerely,
S/Sen. Marge L. Kilkelly
Senate Chair
S/Rep. George H. Bunker, Jr.
House Chair

READ and with accompanying papers **ORDERED PLACED ON FILE.**

SPECIAL SENTIMENT CALENDAR

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

Recognizing:

the following members of the Winslow High School Hockey Team, the Black Raiders, who have won the 1998 Class B State Hockey Championship: Robbie Fortin, Chris Couturier, Jeff Paquette, Mike Loubier, Nick McCann, David Sheehan, Travis Bickford, Wes Zemrak, Nick Roy, Jared Poulin, Ryan Siviski, Sean Bridges, Jake Fraser, Ben Fraser, Brad White, Jared Bailey, Chris Marcoux, Mark Gunning, Jon Taylor, Dom Soucie, Joey Sturtevant, Heath Hotham, Todd Mathiew, Nate Poulin, Coach Lee Bureau, Assistant Coach Spat Roy, JV Coach Dave Miranda and managers Michelle Ayotte, Missy Morneau and Dan Michaud. We extend our congratulations and best wishes to them;

(HLS 1255)

Presented by Representative VIGUE of Winslow.
Cosponsored by Senator CAREY of Kennebec, Senator DAGGETT of Kennebec.

On **OBJECTION** of Representative VIGUE of Winslow, was **REMOVED** from the Special Sentiment Calendar.

READ.

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

Representative VIGUE: Madam Speaker, Men and Women of the House. We in Winslow are truly proud of the accomplishments of this truly fine hockey team, not only because of the accomplishments on the ice, but their conduct off the ice. They are a team to be really recognized and held in high esteem. This is a three peat for Winslow. This is something that is seldom done in any sport, never mind in hockey. You figure it has been done three years in a row. They were recently selected by NESN as the number nine hockey team in the northeast, which is quite an accomplishment coming from a small town like Winslow. The school has a three year record of 64 wins, 6 losses and 2 ties. There are many outstanding players on this team, but one very outstanding player is Mark Gunning. He has a good first name. Not only has he got a fine first name, but he is the high scoring team player. He has 152 goals in four years and 141 assists for a total of 293 points, which is the high school record for the Town of Winslow. Jon Taylor the goalie has four year stats of 74 wins and 16 losses and three ties for a 2.49 against average. The head coach of this fine team is Lee Bureau, a friend of mine for years and years. We go back so many years that we probably both had black hair at the time. The assistant coach, I won't say anything about his hair, has been there for many, many years and has done a fine job. We congratulate all the members of the team and the coaching staff. I thank you very much.

PASSED and sent up for concurrence.

Officer Michail "Mike" Grizkewitsch III, who assisted Julie Clancy with the delivery of her baby. A healthy 8 lb. 6 oz. baby girl was delivered to Julie Clancy. We extend our appreciation to Officer Grizkewitsch for his continued efforts in helping the people of the State;

(HLS 1261)

Presented by Representative GAGNON of Waterville.

Cosponsored by Senator CAREY of Kennebec, Representative JABAR of Waterville, Representative TESSIER of Fairfield.

On **OBJECTION** of Representative GAGNON of Waterville, was **REMOVED** from the Special Sentiment Calendar.

READ.

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

Representative GAGNON: Madam Speaker, Men and Women of the House. This is really a great story. I wanted to just read a piece of the newspaper article that came out at the time that this event took place. It is from our local Sentinel. It said, "Mike Grizkewitsch played three roles Friday morning, police officer, obstetrician and ambulance driver. The police officer, while patrolling, delivered a baby girl after responding to a 911 emergency call that a woman was in labor. After rushing up to the third floor apartment, I saw a lady lying on the mattress. She seemed to be in extreme pain. When I looked at her, I saw the baby's head was sticking out. Grizewitsch determined that she could not finish the process on her own. She couldn't push because she was in so much pain. I was able to put my hands on the chest and side area. At the time I didn't think the baby was living. I pulled gently. After the birth he believed the baby was stillborn. The baby didn't appear to be breathing. I cleared the mouth and rubbed the baby's chest and she cried. The cry was weak and not sustained. Once the other rescue workers arrived, they began caring for the newborn baby and the girl. Because the mother was in so much pain, they had to divide their attention between the mother and the child. That left them one member short of their crew. They didn't have an ambulance driver. Mike drove the ambulance making a safe delivery of the baby for the second time." The people of Waterville are pretty proud of Officer Mike and his accomplishments in Waterville. He still stays in touch with the mother and the baby, baby Ashley and the mother Julie Clancy because you see, his name is on the birth certificate. It will always be there throughout their baby's life. Madam Speaker, I would just like to recognize one of Waterville's finest, but also one of Maine's finest. Thank you.

PASSED and sent up for concurrence.

the following members of the Massabesic High School Wrestling Team, winners of the 1998 Maine State Class A Championship: Zenas Gagnon, Justin Fisk, Daryl DeWitt, Aaron Dube, Christopher Rich, Michael Archambault, Jon Smith, Stephen Clegg, Seneca Wilson, Christopher LeClair, Stephen Thyng, Michael Petrarca, Ian Crowley, Jeremy Mead, Kenneth Hall, Jared Archambault, Jared Harvey, Luke Brochu, Owen Brochu, Justin St. Onge, Edward Hernandez, Jonathan Tibbetts and Karl Anderson; coaches Win Phillips, Tom Costello and Craig Cakouros; and managers Misty Richardson and Dawn Gagnon. We extend our congratulations and best wishes to them on this achievement;

(HLS 1273)

Presented by Representative McALEVEY of Waterboro. Cosponsored by Senator LIBBY of York, Representative NASS of Acton, Representative JOYNER of Hollis.

On **OBJECTION** of Representative McALEVEY of Waterboro, was **REMOVED** from the Special Sentiment Calendar.

READ.

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

Representative McALEVEY: Madam Speaker, Men and Women of the House. We are excited back home in SAD 57, which comprises the towns of Waterboro, Limerick, Alfred,

Shapleigh and Newfield. It is a very rural school district. It is the second largest school district in the state. We have a group of young adults here who have really distinguished themselves this year by making a personal commitment to their school, their community and themselves to be the very best that they can be. As you can see, not only are they the Class A State Champions, but they also won the Sportsmen's Banner, which is awarded to that team who consistently presents themselves in a professional courteous manner. I am very, very proud of our scholar athletes that are here today. I just can't say enough about their accomplishments and how great they got to feel, personally, individually and as a team for their accomplishments. Thank you.

PASSED and sent up for concurrence.

Merle E. Porell of Sanford/Springvale for a lifetime of service to his community and to Kiwanis as a long-time town meeting member and moderator and as a co-founder of the Sanford Kiwanis Free Clinics program;

(HLS 1276)

Presented by Representative PAUL of Sanford.
Cosponsored by Senator MacKINNON of York, Representative TUTTLE of Sanford, Representative CHICK of Lebanon.

On **OBJECTION** of Representative PAUL of Sanford, was **REMOVED** from the Special Sentiment Calendar.

READ.

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

Representative PAUL: Madam Speaker, Ladies and Gentlemen of the House. Mr. Porell is unable to be here today, but I have known Mr. Porell for a good many years and I always found him to be a true gentlemen and a hardworking community leader. This evening the Sanford Kiwanis will be hosting a special event in honor of Mr. Porell. I hope to be there to present him with this Legislative Sentiment. Thank you.

PASSED and sent up for concurrence.

REPORTS OF COMMITTEE

Divided Reports

Majority Report of the Committee on **TRANSPORTATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-515)** on Bill "An Act to Broaden the Farm Stand Exemption"

(S.P. 735) (L.D. 2013)

Signed:
Senators:

O'GARA of Cumberland
CASSIDY of Washington

Representatives:

DRISCOLL of Calais
WINGLASS of Auburn
FISHER of Brewer
JOYCE of Biddeford
CLUKEY of Houlton
LINDAHL of Northport
BOUFFARD of Lewiston
SAVAGE of Union
WHEELER of Eliot

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

Signed:

Representative:

CHARTRAND of Rockland

Came from the Senate with the Majority **UGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-515).**

READ.

Representative DRISCOLL of Calais moved that the House **ACCEPT** the Majority **Ought to Pass as Amended** Report.

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

Representative CHARTRAND: Madam Speaker, Men and Women of the House. I would urge you to vote against this motion. As you can see, I am the only member of the committee that didn't support this report. I supported Ought Not to Pass on this bill and I will briefly tell you why. The farm stand exemption referred to in this bill is an exemption that allowed farm stands to have signs on public highways during the summer during the season they sell goods from their farm. The farm stand exemption, as we have it today, I think, is a very good law that allows farm stands a limited exemption to the strict sign laws we have in Maine. As you know, we are different than a lot of states that we don't allow billboards and we don't allow a lot of signs littering our highways. Some years ago the Legislature chose to exempt farm stands from that in a very limited degree in that they can have signs advertising food they sell on their farm from June 15 to November 15. You see those during the summer often saying corn or peas and pointing to the farm stand that might be a mile or two away from where you see those signs.

In the 117th the Transportation Committee had a bill just like this asking for a greater exemption to allow more kinds of products and more signs. It is a constant pressure to open the farm stand exemption further than it is now. This bill was similar. In the 117th we rejected it, but it came back again in a slightly different form. What this would do would allow three more months of signs on the roads. It would go from May 1 to December 31. It would also allow a lot more commodities under the exemption. We would move from things like vegetables and fruits to also Christmas trees and wreaths, ornamental flowers, maple syrup and all kinds of things. Although in all those businesses a case can be made to deserve the exemption too, I would say that if we are going to open it even further, then next year we are going to have requests from an even greater number of businesses. I don't see why my business can't have a sign on the road too, if a farm does. Our seafood businesses might want to have them. Literally any small business in Maine would like the kind of exemptions that farm stands have enjoyed for a few years. I think if you open it as far as this bill goes, it is going to be an unending route to more and more signs on the road. Not only that, but what this bill allows is going to considerably increase the amount of signs we have on our roads all year in Maine. The committee kind of felt compelled to help small business, as it were, which we all like to say we do, but I think you have to draw a line somewhere when it starts covering the roads of Maine with signs for one small group of businesses, which is farmers who already have an exemption. I would hate to see this happen and I think if it happens, you will see a tremendous increase in the amount of signs in our roads during the summer. I urge you to vote against the motion and vote Ought Not to Pass after that. Thank you.

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

Representative WHEELER: Madam Speaker, Men and Women of the House. This bill is a compromise over many weeks of work from the committee. Some of us felt very strongly that there shouldn't be any restrictions on these small farm stands. Small farm stands in the State of Maine are becoming a

thing of the past. If we keep putting laws into effect that are going to drive them right out of business, it is going to hurt all of us. I urge you to support the long, hard work that the committee did on this. As you can see, it is a Majority Report and I urge your support. Thank you.

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

Representative SAVAGE: Madam Speaker, Men and Women of the House. This is a good bill. Tomorrow is Agriculture Day and we all know that agriculture is very special to the State of Maine and what we can do to help those people who raise those products, distribute and sell those products. I want to tell you that not only was the biggest part of the committee in support of this bill, but after we reworked the bill, we had the blessing of the DOT and the Department of Agriculture. I guess that tells us that we all should support this bill and I would appreciate your support for the farmers of the State of Maine.

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

Representative LINDAHL: Madam Speaker, Men and Women of the House. This amendment also allows the producer of agricultural products to erect signs only on private property between May 1 and December 31. That will take in wreaths and Christmas trees and all the farm stand products we get out of gardens in the summer time. These products have to be grown by the producer themselves. This can't be something they import. It has to be on private property and they are limited to four signs within five miles of their business. It is not a huge broadening of the law. Thank you.

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

Representative CHICK: Madam Speaker, Ladies and Gentlemen of the House. I stand here this morning to ask your support for the work that was done by the committee and bring to your attention that for all of you that travel about the State of Maine, I am sure you have seen some of the finest products that the consumer uses and I would recommend that you support this measure.

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. 97 voted in favor of the same and 4 against, the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (S-515)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** later in today's session.

Majority Report of the Committee on **BANKING AND INSURANCE** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-905)** on Bill "An Act to Revise and Update the Charter of the Maine Employers' Mutual Insurance Company in Furtherance of its Mission"
(H.P. 1593) (L.D. 2222)

Signed:
Senators:

LaFOUNTAIN of York
MURRAY of Penobscot
ABROMSON of Cumberland

Representatives:

MAYO of Bath
PERRY of Bangor
DAVIDSON of Brunswick
CARLETON of Wells
SAXL of Bangor

WINN of Glenburn
O'NEIL of Saco
BRUNO of Raymond
STANLEY of Medway

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

Signed:

Representative:

JONES of Pittsfield

READ.

On motion of Representative SAXL of Bangor the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-905)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** later in today's session.

Majority Report of the Committee on **UTILITIES AND ENERGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-906)** on Bill "An Act to Require All Regulated Public Utilities to Report to the Public Utilities Commission the Sale, Lease or Other Transfer of Assets Paid for by Ratepayers"

(H.P. 1477) (L.D. 2076)

Signed:
Senator:

CLEVELAND of Androscoggin

Representatives:

JONES of Bar Harbor
KONTOS of Windham
USHER of Westbrook
O'NEAL of Limestone
LaVERDIERE of Wilton
COLWELL of Gardiner

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

Signed:

Senators:

CAREY of Kennebec
HARRIMAN of Cumberland

Representatives:

VEDRAL of Buxton
BERRY of Belmont
JOY of Crystal
TAYLOR of Cumberland

READ.

Representative JONES of Bar Harbor moved that the House **ACCEPT** the Majority **Ought to Pass as Amended** Report.

On further motion of the same Representative, **TABLED** pending his motion to **ACCEPT** the Majority **Ought to Pass as Amended** Report and specially assigned for Thursday, March 19, 1998.

CONSENT CALENDAR
First Day

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

(H.P. 955) (L.D. 1318) Bill "An Act to Clarify the Doctrine of Res Judicata in Workers' Compensation Cases" Committee on **LABOR** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-907)**

(S.P. 606) (L.D. 1803) Bill "An Act to Encourage the Payment of Delinquent Taxes" Committee on **TAXATION** reporting

Ought to Pass as Amended by Committee Amendment "A" (S-513)

(H.P. 1291) (L.D. 1836) Bill "An Act to Facilitate Delegation of the Federal Waste Discharge Permitting Program" Committee on **NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-910)**

(H.P. 1495) (L.D. 2094) Bill "An Act to Facilitate Local Distribution of Natural Gas" Committee on **UTILITIES AND ENERGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-908)**

(H.P. 1529) (L.D. 2151) Bill "An Act to Regulate the Functioning of End-stage Renal Disease Facilities" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-912)**

(H.P. 1545) (L.D. 2174) Bill "An Act to Implement the Recommendations of the Commission to Study Insurance Fraud" Committee on **BANKING AND INSURANCE** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-914)**

(H.P. 1581) (L.D. 2211) Resolve, to Repeal a Prior Resolve Authorizing the Exchange of a Parcel of Land Owned by the State with One Owned by Luke Bolduc Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-909)**

(H.P. 1585) (L.D. 2216) Bill "An Act to Implement the Recommendations of the Commission to Study the Restructuring of the State's Fiscal Policies to Promote the Development of High-technology Industry in Maine" Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-911)**

(H.P. 1591) (L.D. 2220) Resolve, Regarding Legislative Review of Chapter 301: Rules for Standard Offer Service, a Major Substantive Rule of the Public Utilities Commission (EMERGENCY) Committee on **UTILITIES AND ENERGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-913)**

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

There being no objection, the Senate Paper was **PASSED TO BE ENGROSSED AS AMENDED** in concurrence and the House Papers were **PASSED TO BE ENGROSSED AS AMENDED** and sent up for concurrence.

**CONSENT CALENDAR
Second Day**

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

(S.P. 611) (L.D. 1812) Bill "An Act to Authorize Department of Transportation Bond Issues in the Amount of \$79,500,000 to Match Available Federal Funds for Improvements to Municipal and State Roads, State and Local Bridges, Airports, State Ferry Vessels and Terminals and Rail and Marine Facilities" (C. "A" S-510)

(S.P. 747) (L.D. 2025) Bill "An Act to Reduce Technical Violations of Maine's Laws Regarding the Protection of Underground Utilities" (C. "A" S-507)

(H.P. 1586) (L.D. 2217) Bill "An Act to Authorize the Director of the Bureau of Parks and Lands to Grant a License for Groundwater Extraction at Range Ponds State Park" (C. "A" H-903)

(H.P. 1613) (L.D. 2239) Bill "An Act to Amend the Law Concerning Tax Base Sharing" (C. "A" H-902)

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 AS AMENDED** and sent up for concurrence.

**BILLS IN THE SECOND READING
Senate**

Bill "An Act Relating to the Qualifications of the Director of the Bureau of Human Resources" (S.P. 787) (L.D. 2114)

House As Amended

Bill "An Act to Conform Maine's Safe Drinking Water Laws with the 1996 Amendments of the Federal Safe Drinking Water Act"

(H.P. 1441) (L.D. 2005)
(C. "A" H-904)

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

ENACTORS

Emergency Measure

An Act to Simplify the Process of Transferring Ownership of a Business Licensed by the Board of Barbering and Cosmetology in Cases of Death or Divorce

(S.P. 701) (L.D. 1946)
(C. "A" S-491)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 135 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Appropriate Funds for the Interpreter Service for the Deaf and Hard of Hearing

(S.P. 722) (L.D. 1965)
(C. "A" S-490)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 120 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Allow the Department of Transportation to Provide Privately Contracted Ferry Services

(S.P. 788) (L.D. 2115)
(C. "A" S-496)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 123 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Increase Economic Security for the State's Low-income Children and Families and Prevent Additional Costs to Municipalities

(S.P. 791) (L.D. 2118)
(C. "A" S-497)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 124 voted in favor of the same and 3 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Mandate

An Act to Require Law Enforcement Agencies to Collect Data Regarding Public Intoxication, to Extend Immunity from Liability to Law Enforcement Officers and to Establish a Group to Study Involuntary Commitment of Persons Suffering from Chronic and Life-threatening Substance Abuse

(H.P. 562) (L.D. 753)
(S. "B" S-503 to C. "A" H-798)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. In accordance with the provisions of Section 21 of Article IX of the Constitution, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 113 voted in favor of the same and 15 against, and accordingly the Mandate was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Acts

An Act to Clarify Various Marine Resources Violations and Enhance the Collectibility of Associated Penalties

(S.P. 476) (L.D. 1478)
(C. "A" S-493)

An Act to Create the Consumer Health Care Division within the Bureau of Insurance

(H.P. 1305) (L.D. 1848)
(H. "B" H-886 to C. "A" H-820)

An Act to Clarify the Role of Design Professionals under the Maine Human Rights Act

(H.P. 1480) (L.D. 2079)
(C. "A" H-855)

An Act to Simplify Corporate Filings

(H.P. 1498) (L.D. 2097)
(C. "A" H-854)

An Act to Equalize and Clarify the Tax on Hard Cider

(H.P. 1517) (L.D. 2139)
(C. "A" H-856)

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

Resolve

Resolve, to Name the New Bridge on Route 157 in Medway the Harold C. Beathem Bridge

(S.P. 809) (L.D. 2187)
(C. "A" S-495)

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

UNFINISHED BUSINESS

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

SENATE REPORT - **Ought to Pass** pursuant to Joint Order (S.P. 859) - Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Provide Funding for Law Enforcement and Emergency Medical Services Personnel"

(S.P. 860) (L.D. 2276)

- In Senate, Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.

TABLED - March 17, 1998 (Till Later Today) by Representative SAXL of Portland.

PENDING - **ACCEPTANCE OF COMMITTEE REPORT**.

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

The Bill was **READ ONCE** and was assigned for **SECOND READING** later in today's session.

An Act to Clarify the Tax-exempt Status of the Maine School of Science and Mathematics (EMERGENCY)

(H.P. 1488) (L.D. 2087)
(C. "A" H-843)

TABLED - March 17, 1998 (Till Later Today) by Representative KONTOS of Windham.

PENDING - **PASSAGE TO BE ENACTED**.

On motion of Representative KONTOS of Windham, **TABLED** pending **PASSAGE TO BE ENACTED** and later today assigned.

TABLED AND TODAY ASSIGNED

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

HOUSE DIVIDED REPORT - Majority (7) **Ought to Pass as Amended by Committee Amendment "A" (H-900)** - Minority (4) **Ought Not to Pass** - Committee on **LABOR** on Bill "An Act to Give Collective Bargaining Rights to Legislative Employees"

(H.P. 1497) (L.D. 2096)

TABLED - March 17, 1998 by Representative HATCH of Skowhegan.

PENDING - Motion of same Representative to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

On motion of Representative HATCH of Skowhegan, **TABLED** pending her motion to **ACCEPT** the **Majority Ought to Pass as Amended** Report and later today assigned.

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

An Act to Clarify the Tax-exempt Status of the Maine School of Science and Mathematics (EMERGENCY)

(H.P. 1488) (L.D. 2087)
(C. "A" H-843)

Which was **TABLED** by Representative KONTOS of Windham pending **PASSAGE TO BE ENACTED**.

On motion of Representative TRIPP of Topsham, the rules were **SUSPENDED** for the purpose of **RECONSIDERATION**.

On further motion of the same Representative, the House **RECONSIDERED** its action whereby the Bill was **PASSED TO BE ENGROSSED**.

The same Representative **PRESENTED House Amendment "A" (H-928)** which was **READ** by the Clerk.

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

Representative DONNELLY: Madam Speaker, Men and Women of the House. Could the Representative please explain a little bit of what this amendment does. Thank you.

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

Representative TRIPP: Madam Speaker, Men and Women of the House. It strips the emergency off and it also reduces the amount of the reduction of the General Fund revenue and dedicated revenue to the local government fund by significant amounts. It removes the emergency preamble and the emergency clause from the bill.

House Amendment "A" (H-928) was ADOPTED.

The Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-843) and House Amendment "A" (H-928) in NON-CONCURRENCE** and sent up for concurrence.

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

ORDERS

On motion of Representative MITCHELL of Portland, the following Joint Order: (H.P. 1645)

ORDERED, the Senate concurring, that Bill, H.P. 1500, L.D. 2122, "An Act to Support the Long-term Care Steering Committee" and all its accompanying papers be recalled from the Governor's desk to the House.

READ and PASSED.

Sent up for concurrence. **ORDERED SENT FORTHWITH.**

TABLED AND TODAY ASSIGNED

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

HOUSE DIVIDED REPORT - Majority (8) **Ought to Pass** - Minority (5) **Ought Not to Pass** - Committee on **LABOR** on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Establish a Contractual Obligation for Members of the Maine State Retirement System

(H.P. 735) (L.D. 999)

TABLED - March 17, 1998 by Representative HATCH of Skowhegan.

PENDING - Motion of same Representative to **ACCEPT** the Majority **OUGHT TO PASS** Report.

On motion of Representative HATCH of Skowhegan, **TABLED** pending her motion to **ACCEPT** the Majority **Ought to Pass** Report and specially assigned for Thursday, March 19, 1998.

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

COMMUNICATIONS

The Following Communication: (S.C. 635)

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

March 17, 1998

The Honorable Joseph W. Mayo

Clerk of the House

State House Station 2

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 Regarding the Taxation of Goods Purchased in Connection with the Operation of a High-stakes Beano or High-stakes Bingo Game" (H.P. 1307) (L.D. 1855).

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

Senator Beverly C. Daggett of Kennebec

Senator S. Peter Mills of Somerset

Senator Richard J. Carey of Kennebec

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

READ and ORDERED PLACED ON FILE.

Reference is made to Bill "An Act Regarding the Taxation of Goods Purchased in Connection with the Operation of a High-stakes Beano or High-Stakes Bingo Game"

(H.P. 1307) (L.D. 1855)

In reference to the action of the House on Thursday, March 12, 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 TUTTLE of Sanford

Representative GAGNON of Waterville

Representative SPEAR of Nobleboro

CONSENT CALENDAR

First Day

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

(H.P. 40) (L.D. 65) Bill "An Act to Amend the Laws Regarding Reimbursement to the Counties for Community Corrections" Committee on **CRIMINAL JUSTICE** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-919)**

(H.P. 535) (L.D. 726) Bill "An Act to Increase the Bonding Limits of the Maine Turnpike Authority" Committee on **TRANSPORTATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-922)**

(H.P. 1437) (L.D. 2001) Bill "An Act to Amend the Maine Indian Claims Settlement Act Regarding Education Funding" Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-918)**

(H.P. 1478) (L.D. 2077) Bill "An Act to Create an Economic Development and Expansion Zone in Aroostook County" Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-917)**

(H.P. 1512) (L.D. 2134) Bill "An Act to Amend the Charter of the Kennebunk Light and Power District" Committee on **UTILITIES AND ENERGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-921)**

(H.P. 1527) (L.D. 2149) Bill "An Act to Implement the Recommendations of the Working Group on Motor Vehicle Fines, Enforcement and Reimbursement" Committee on **TRANSPORTATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-926)**

(H.P. 1571) (L.D. 2203) Bill "An Act to Create the Maine Economic Opportunity Advisory Committee" Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-924)**

There being no objections, the above items were ordered to appear on the Consent Calendar later in today's session under the listing of Second Day.

(H.P. 1138) (L.D. 1594) Bill "An Act to Transfer State Ownership of Certain Railroad Rights-of-way, Create the Calais to Eastport Rail Authority and Authorize a General Fund Bond Issue in the Amount of \$4,500,000 to Fund Establishment of Freight Rail Service between Calais and Eastport" Committee on **TRANSPORTATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-925)**

On motion of Representative GOODWIN of Pembroke, was **REMOVED** from the First Day Consent Calendar.

The Committee Report was **READ** and **ACCEPTED**. The Bill was **READ ONCE**. **Committee Amendment "A" (H-925)** was **READ** by the Clerk.

On motion of Representative SAXL of Portland, **TABLED** pending **ADOPTION** of **Committee Amendment "A" (H-925)** and later today assigned.

ORDERS

On motion of Representative BUNKER of Kossuth Township, the following Joint Order: (H.P. 1646)

ORDERED, the Senate concurring, that the Joint Standing Committee on Agriculture, Conservation and Forestry report out legislation regarding forestry to the House.

READ and **PASSED**.

Sent up for concurrence. **ORDERED SENT FORTHWITH**.

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **CRIMINAL JUSTICE** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-923)** on Bill "An Act to Create the Crime of Insurance Fraud and Require Reporting of Convictions to Licensing Authorities"

(H.P. 1553) (L.D. 2182)

Signed:

Senator:

O'GARA of Cumberland

Representatives:

MUSE of South Portland

O'BRIEN of Augusta

PEAVEY of Woolwich

McALEVEY of Waterboro

TOBIN of Dexter

BUNKER of Kossuth Township

FRECHETTE of Biddeford

WHEELER of Bridgewater

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

Signed:

Senators:

MURRAY of Penobscot

MITCHELL of Penobscot

Representatives:

POVICH of Ellsworth

JONES of Greenville

READ.

Representative POVICH of Ellsworth moved that the House **ACCEPT** the Majority **Ought to Pass as Amended** Report.

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

Representative POVICH: Madam Speaker, Men and Women of the House. I wish to speak against my motion. Twenty-two years ago, a thoughtful and far seeing Legislature, not as thoughtful and as far seeing as the 118th, I hasten to add, created a new criminal code. The one they had worked with, such as it was, was a mess. As a result, our current criminal code serves as a national model. LD 2182 came to us and proposed the creation of a new crime. The crime of insurance fraud. We were told by the insurance lobby that insurance fraud is a problem nationwide and costs consumers in the long run. I respect that. I have no quarrel with that statement. We were also told that Maine's District Attorney's are not doing the job and prosecuting those crimes.

Early on in the discussion before the Criminal Justice Committee, the committee sent the original bill back for wholesale revisions. We asked the insurance interests to collaborate with the Attorney General to present the committee with a bill that would pass constitutional muster. Their work product came back in an unusable form and was sent back twice more. My problem with the bill is multi-faceted. Existing Maine law provides for ample prosecution for fraud, any kind of fraud, including insurance fraud. In fact, under Title 17A, Subsection 351, it allows for more prosecution because LD 2182 makes prosecution more difficult by adding standards not required for theft and fraud. The Criminal Law Advisory Committee objects to this bill. The Maine prosecutors believe the law is unnecessary and asked which cases were not being prosecuted. They thought they were doing the job. Just tell us where, no hot air, we are not doing the job. We asked that question. We asked a special investigator, Mr. McCarthy, that question. When pressed, he admitted that of the 94 cases that are brought to the DA, he said, "I had no problem with the audience that the DA's provided me." In fact, in southern Maine last week a former police officer from Portland was just sentenced for cheating an insurance company by dumping his truck into Casco Bay. People who know me well know it is not my custom to overly praise southern Maine.

LD 2182 is an unbalanced bill. If, for example, a person with diabetes or someone who is HIV positive were to lie on his application for insurance, that person could be committing a felony. If an insurance agent misrepresented his product or if he were a person selling insurance for a company that actually did not exist, the worst crime that was being committed would be a misdemeanor. What is more, the information provided on that application for insurance could be abused by the company come settlement time for a quick settlement not beneficial to the consumer. Threats of legal prosecution could be abused by the company.

In summary and to simplify, insurance fraud is currently a crime. It is wrong. It should be prosecuted, but it is being prosecuted by our 22 year old criminal code. Imagine this, just to simplify a little bit, current Maine law defines murder. LD 2182 creates a new crime called murder by knife. It is not needed and it could be devastating to policy holders. Please oppose the motion.

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

Representative MCALEVEY: Madam Speaker, Men and Women of the House. This bill also does something else and that was at the request of Representative Tobin. It also creates the crime if an insurance agent misrepresents the policy holder in order to sell it. That is new for the first time in our criminal statute. The knife cuts both ways. It is interesting to note that the prosecutors are against this crime and it is the prosecutors

who most of the insurance industry say they are having a hard time to prosecute these crimes. You are asking the kettle to call the pot black.

The committee worked at your direction all summer and all of the participants of the committee were stakeholders in the industry as well as the public and private bar and concerned citizens. Yes, we do have a theft statute. We have a number of crimes of theft consolidated into that statute. Yes, you could prosecute someone for fraud using the existing statute. What this does is moves into that statute a titled crime called insurance fraud, which we as policy makers, which, hopefully, through passing this will send a statement to the public and insurance companies that we will not tolerate insurance fraud. It is a very easy thing to overlook and say they are big companies and they can afford to lose that money. The companies aren't losing the money. Every time someone defrauds an insurance company it is coming out of your pocket and my pocket and the pocket of our constituents because that leads to higher premiums. We are paying the bill, not the insurance companies. I would ask you to support the bill and enact it into law. Thank you.

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

Representative O'NEIL: Madam Speaker, Colleagues of the House. I rise to get you to support the Ought to Pass as Amended report. I was a member of the commission to study insurance fraud, which worked over the summer as the good Representative from Waterboro said. Let me give you an idea of what the problem is. If you want to hear numbers, these ought to wake you up a little bit. It is really sobering. Again, these are estimates based on insurance industry and flocks of other folks bringing us statistics. The reason why there are estimates is because right now we don't have any documentation. We don't have any reporting. Part of what this bill does is provide for that so that we can put a finger on it. Let me tell you this. Forty-two states currently define claims fraud as a specific crime. Maine is one of the eight who don't. Thirty-three of those states have created a bureaucracy called a Fraud Bureau. We chose not to do that. We thought we would be sensible. Of those folks who have enacted laws for three or more years, every one of them have seen an increase in prosecution for this particular crime and a decrease in the subsequent fraud or the result in fraud. We had people, not only the insurance industry, we heard from everybody from the Attorney General to the Maine Civil Liberties Union, the Maine Medical Association, Medicare, Coalition Against Insurance Fraud, the National Association of Insurance Commissioners, the National Insurance Crime Bureau, the State Fire Marshal's Office, DHS and from local law enforcement.

The problem is if you figure the estimates nationwide are the 10 to 20 percent of all claims are fraudulent. In Maine, that translates to \$100 million to \$200 million a year that comes out of your pocket and mine whenever we pay an insurance bill. Two hundred million dollars when we are quibbling over putting \$150 into somebody's pocket by reducing this tax or that tax, let's pay a little attention to this too. We heard stories about all different manners of insurance fraud. Sure the police officer in Portland is a high profile case and I submit to you that that one may not have even been prosecuted had it not been that police officers were the perpetrators of the crime. The fact of the matter is we have people who will go out and get a jet ski in May with six months before their first payment and right about Labor Day they sink it in the bottom of a lake and they go back and they get a ski doo under the same terms and they lose that some place up around the Allagash in March. Little things like that that nickel and dime us to death are a major share of the problem.

The extent of the problem is widespread. We don't know exactly what it is. The opposition to the bill really came from the

prosecutors. The District Attorneys and I might add the very good Representative from Ellsworth can serve as a direct conduit to the DA from Hancock County. You may or may not know. The DAs came in and I saw them oppose this bill, not because it was a problem to them, but because it was an opportunity for them to say, hey Appropriations, Hey Legislature, Hey Governor, we are overworked remember, and we are underpaid. I don't dispute that. I am one of the folks that advocate for enhancing their ability to prosecute. That is not a reason to shy away from it. The problem isn't that they aren't prosecuting because they can't. The problem is one step below that. Enforcement doesn't bring these folks in. Enforcement investigations can't or they have too many barriers to pinning this crime on people. It is easier for people to go out and catch a kid for stealing a bike or lighting a fire or shoplifting than it is to try to prosecute this crime.

Again, at least up to \$200 million in excess premiums that you and I pay can be dented if we take this first step. Again, I urge you to accept the Ought to Pass as Amended Report. Thank you.

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

Representative TOBIN: Madam Speaker, Ladies and Gentlemen of the House. I will try to be brief. I am urging you to vote Ought to Pass on LD 2182. My major reason is that it protects the consumer. I have had members of my own family who have felt that they have had insurance and later found out that they didn't. Just recently in regards to IRAs many insurance companies tell the owners of policies and contracts that they cannot receive or begin to receive payments until they are 59 and a half. Whereas that is not true. If they terminate their employment and spread their benefits over a period of their lifetime, they can begin to receive them without penalty. I ask you to vote in favor of this bill. It is as much for the insuree as it is the insurer. Thank you.

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

Representative PEAVEY: Madam Speaker, Ladies and Gentlemen of the House. I urge you to support the Majority Report as Amended. This bill is a result of a very extensive study committee that worked over the summer and through the fall. It creates a new crime of insurance deception within the criminal code, chapter on theft. It also creates a new crime of deceptive insurance practices within the criminal code chapter on fraud. It brings the statutes that are already current in our statute and criminal code into one place making it very clear to insurance companies, potential offenders and the prosecutors that insurance fraud is a crime.

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. 94 voted in favor of the same and 9 against, the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-923)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** later in today's session.

The House recessed until 4:30 p.m.

(After Recess)

The House was called to order by the Speaker.

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

Bill "An Act to Transfer State Ownership of Certain Railroad Rights-of-way, Create the Calais to Eastport Rail Authority and Authorize a General Fund Bond Issue in the Amount of \$4,500,000 to Fund Establishment of Freight Rail Service between Calais and Eastport"

(H.P. 1138) (L.D. 1594)

Which was **TABLED** by Representative SAXL of Portland pending **ADOPTION** of **Committee Amendment "A" (H-925)**.

Representative GOODWIN of Pembroke **PRESENTED House Amendment "A" (H-946)** to **Committee Amendment "A" (H-925)**, which was **READ** by the Clerk.

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

Representative GOODWIN: Madam Speaker, Men and Women of the House. Item G in this bill changes one word from three to one. One member who represents an economic development agency in an area located along the state owned railroad right away. Thank you Madam Speaker.

House Amendment "A" (H-946) to **Committee Amendment "A" (H-925)**, was **ADOPTED**.

Committee Amendment "A" (H-925) as Amended by **House Amendment "A" (H-946)** thereto was **ADOPTED**.

The Bill was assigned for **SECOND READING** Thursday, March 19, 1998.

SENATE PAPERS

The following Joint Order: (S.P. 862)

ORDERED, the House concurring, that the Joint Standing Committee on Agriculture, Conservation and Forestry report out, to the Senate, a resolve pertaining to a sustainable forestry initiative.

Came from the Senate, **READ** and **PASSED**. **READ** and **PASSED** in 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" (S-523)** on Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$20 Million to Stimulate the Maine Economy through Research and Development"

(S.P. 819) (L.D. 2205)

Signed:
Senators:

CLEVELAND of Androscoggin
BENNETT of Oxford
MICHAUD of Penobscot

Representatives:

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

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (S-524)** on same Bill.

Signed:

Representatives:

OTT of York
MARVIN of Cape Elizabeth
WINSOR of Norway

Came from the Senate with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-523)**.

READ.

On motion of Representative KONTOS of Windham, **TABLED** pending **ACCEPTANCE** of either Report and later today assigned.

Majority Report of the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-927)** on Bill "An Act to Correct and Supplement Funding for the Maine School of Science and Mathematics" (EMERGENCY)

(H.P. 1450) (L.D. 2041)

Signed:
Senators:

BENNETT of Oxford
MICHAUD of Penobscot

Representatives:

KERR of Old Orchard Beach
POULIN of Oakland
BERRY of Livermore
STEVENS of Orono
LEMAIRE of Lewiston
KNEELAND of Easton
WINSOR of Norway
MARVIN of Cape Elizabeth
OTT of York

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

Signed:
Representative:

TOWNSEND of Portland

READ.

On motion of Representative KONTOS of Windham, **TABLED** pending **ACCEPTANCE** of either Report and later today assigned.

Majority Report of the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass** on Bill "An Act to Create the Kennebec Regional Development Authority" (EMERGENCY)

(H.P. 1612) (L.D. 2238)

Signed:
Senators:

JENKINS of Androscoggin
MacKINNON of York
RAND of Cumberland

Representatives:

VIGUE of Winslow
BODWELL of Brunswick
MURPHY of Kennebunk
FARNSWORTH of Portland
CAMERON of Rumford
SIROIS of Caribou
SHANNON of Lewiston

MacDOUGALL of North Berwick
WRIGHT of Berwick

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

Signed:
Representative:

MACK of Standish

READ.

On motion of Representative VIGUE of Winslow the Majority **Ought to Pass** Report was **ACCEPTED**.

The Bill was **READ ONCE** and was assigned for **SECOND READING** Thursday, March 19, 1998.

Majority Report of the Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-935)** on Bill "An Act to Establish the Office of Mental Health and Human Services Ombudsman" (H.P. 1573) (L.D. 2207)

Signed:
Senator:

MITCHELL of Penobscot

Representatives:

BROOKS of Winterport
FULLER of Manchester
KANE of Saco
LOVETT of Scarborough
JOYNER of Hollis
BRAGDON of Bangor
SNOWE-MELLO of Poland

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (H-936)** on same Bill.

Signed:
Senators:

PARADIS of Aroostook
LONGLEY of Waldo

Representatives:

MITCHELL of Portland
PIEH of Bremen
QUINT of Portland

READ.

On motion of Representative KONTOS of Windham, **TABLED** pending **ACCEPTANCE** of either Report and later today assigned.

Majority Report of the Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-915)** on Bill "An Act to Allow Liquor Licenses for Commercial Vessels" (EMERGENCY) (H.P. 1502) (L.D. 2124)

Signed:
Senators:

DAGGETT of Kennebec
CAREY of Kennebec
FERGUSON of Oxford

Representatives:

LABRECQUE of Gorham
CHIZMAR of Lisbon
BIGL of Bucksport
TUTTLE of Sanford
GAMACHE of Lewiston
TRUE of Fryeburg
BELANGER of Wallagrass

TESSIER of Fairfield
FISHER of Brewer

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

Signed:
Representative:

GAGNE of Buckfield

READ.

On motion of Representative TUTTLE of Sanford the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-915)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Thursday, March 19 1998.

Majority Report of the Committee on **TRANSPORTATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-920)** on Resolve, Relating to Commercial Vehicle Fee Reciprocity with New Brunswick (H.P. 1501) (L.D. 2123)

Signed:
Senator:

O'GARA of Cumberland

Representatives:

WINGLASS of Auburn
FISHER of Brewer
CLUKEY of Houlton
LINDAHL of Northport
DRISCOLL of Calais
BOUFFARD of Lewiston
SAVAGE of Union
WHEELER of Eliot

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

Signed:
Senator:

CASSIDY of Washington

Representatives:

CHARTRAND of Rockland
JOYCE of Biddeford

READ.

On motion of Representative DRISCOLL of Calais the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-920)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Thursday, March 19, 1998.

Majority Report of the Committee on **UTILITIES AND ENERGY** reporting **Ought to Pass pursuant to the Maine Revised Statutes, Title 3, section 955, subsection 4** on Bill "An Act to Implement the Recommendations of the Majority of the Joint Standing Committee on Utilities and Energy Arising from Its Government Evaluation Act Review of the Office of the Public Advocate" (EMERGENCY) (H.P. 1647) (L.D. 2277)

Signed:
Senators:

CAREY of Kennebec
CLEVELAND of Androscoggin

Representatives:

JONES of Bar Harbor
KONTOS of Windham
COLWELL of Gardiner

LaVERDIERE of Wilton
TAYLOR of Cumberland
JOY of Crystal
BERRY of Belmont
VEDRAL of Buxton

Minority Report of the Committee on **UTILITIES AND ENERGY** reporting **Ought to Pass pursuant to the Maine Revised Statutes, Title 3, section 955, subsection 4** on Bill "An Act to Implement the Recommendations of the Minority of the Joint Standing Committee on Utilities and Energy Arising from its Government Evaluation Act Review of the Office of the Public Advocate" (EMERGENCY)

(H.P. 1648) (L.D. 2278)

Signed:
Senator:

HARRIMAN of Cumberland

READ.

On motion of Representative JONES of Bar Harbor the Majority **Ought to Pass** Report was **ACCEPTED**.

The Bill was **READ ONCE** and was assigned for **SECOND READING** Thursday, March 19, 1998.

CONSENT CALENDAR

First Day

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

(H.P. 277) (L.D. 341) Bill "An Act to Open a Discount State Liquor Store in Calais" Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "B" (H-934)**

(S.P. 505) (L.D. 1567) Bill "An Act to Reinstate Limited Rehabilitation Benefits under the Maine Workers' Compensation Act of 1992 for Those with Long-term Disabilities" Committee on **LABOR** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-519)**

(S.P. 696) (L.D. 1931) Bill "An Act to Create Incentives for Employers to Contribute toward the Costs of Comprehensive Health Insurance for Families" Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-521)**

(H.P. 1384) (L.D. 1938) Resolve, Directing the Preparation of a Bill to Make Nonsubstantive Changes to the State's Criminal Statutes (EMERGENCY) Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-943)**

(H.P. 1385) (L.D. 1939) Bill "An Act to Amend Certain Motor Vehicle Laws" Committee on **TRANSPORTATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-930)**

(H.P. 1401) (L.D. 1953) Bill "An Act to Implement the Recommendations of the Maine Indian Tribal-State Commission Relating to the Names of Geographic Features in Passamaquoddy Territory" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-944)**

(H.P. 1440) (L.D. 2004) Bill "An Act to Ensure Long-term Funding of the Maine Agricultural Experiment Station Research Farms Connected with Land Grant Colleges" (EMERGENCY) Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-929)**

(H.P. 1483) (L.D. 2082) Bill "An Act to Improve the Integrity of the Citizen Initiative Process" Committee on **LEGAL AND**

VETERANS AFFAIRS reporting **Ought to Pass as Amended by Committee Amendment "A" (H-938)**

(H.P. 1503) (L.D. 2125) Bill "An Act to Improve Public Sector Labor Relations" Committee on **LABOR** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-937)**

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

(H.P. 1461) (L.D. 2052) Resolve, Authorizing Dan Corey and Nu Seed Corporation of Monticello to Sue the State of Maine Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-933)**

On motion of Representative SPEAR of Nobleboro, was **REMOVED** from the First Day Consent Calendar.

The Committee Report was **READ**.

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

Representative SPEAR: Madam Speaker, Men and Women of the House. I wonder if everyone has looked at this one real carefully. We are awarding some \$250,000 with, I believe, not a lot of proof put into this bill. We have an individual here who asked the Department of Agriculture to test their potatoes. The department conducted three tests of all which showed a presence of a bacteria. An independent laboratory in North Dakota also confirmed that these three tests were positive also. This bill pertains to Dan Corey's seed samples, which did test positive for bacterial ring rot by all three tests conducted by the certified seed laboratory operated by the Department of Agriculture. As I stated, an independent laboratory in North Dakota confirmed the presence of this pathogen also by three additional laboratory tests.

The certified seed rules only require one lab test to declare a seed lot positive. The department went above and beyond testing doing this test and they also, by doing a second test, and having the results positive and also by an independent lab. This is something that if the department had ignored these test results, which they are trying to do and allowed seed potatoes to be sold and the disease had spread, probably we would see a lot more bills before us to compensate farmers for the problems that it would have caused. The department has a very short window of time to decide whether to let these potatoes be planted. Testing was conducted in early April of last year and immediate sale and planting time was to follow. There was not time to grow these potatoes out to see if the disease had developed. I really question if the department was at real fault here. I can't see where they were. They had to make a decision in a short period of time. The tests that they conducted were positive. They had an independent lab in North Dakota prove that also it was positive.

Finally, to come out with a bill that says they are going to give an individual \$250,000, I heard first that it was \$200,000, but they decided on maybe \$250,000. There has been no detailed review of the alleged damages. The question is, has there been an independent review? I think there are a lot more questions here before we start handing people \$250,000. Therefore, I would ask for a division when we go to vote on this. Thank you.

The same Representative **REQUESTED** a division on the motion to **ACCEPT** the Committee Report.

On motion of Representative DONNELLY of Presque Isle, **TABLED** pending **ACCEPTANCE** the Committee Report and specially assigned for Thursday, March 19, 1998. (Division Requested)

CONSENT CALENDAR

Second Day

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

(H.P. 40) (L.D. 65) Bill "An Act to Amend the Laws Regarding Reimbursement to the Counties for Community Corrections" (C. "A" H-919)

(H.P. 1437) (L.D. 2001) Bill "An Act to Amend the Maine Indian Claims Settlement Act Regarding Education Funding" (C. "A" H-918)

(H.P. 1478) (L.D. 2077) Bill "An Act to Create an Economic Development and Expansion Zone in Aroostook County" (C. "A" H-917)

(H.P. 1512) (L.D. 2134) Bill "An Act to Amend the Charter of the Kennebunk Light and Power District" (C. "A" H-921)

(H.P. 1527) (L.D. 2149) Bill "An Act to Implement the Recommendations of the Working Group on Motor Vehicle Fines, Enforcement and Reimbursement" (C. "A" H-926)

(H.P. 1571) (L.D. 2203) Bill "An Act to Create the Maine Economic Opportunity Advisory Committee" (C. "A" H-924)

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

(H.P. 535) (L.D. 726) Bill "An Act to Increase the Bonding Limits of the Maine Turnpike Authority" (C. "A" H-922)

On motion of Representative DONNELLY of Presque Isle, was **REMOVED** from the Second Day Consent Calendar.

The Committee Report was **READ** and **ACCEPTED**. The Bill was **READ ONCE**. **Committee Amendment "A" (H-922)** was **READ** by the Clerk.

On motion of Representative DONNELLY of Presque Isle, **TABLED** pending **ADOPTION** of **Committee Amendment "A" (H-922)** and later today assigned.

BILLS IN THE SECOND READING

Senate

Bill "An Act to Provide Funding for Law Enforcement and Emergency Medical Services Personnel"

(S.P. 860) (L.D. 2276)

Senate As Amended

Bill "An Act to Broaden the Farm Stand Exemption"

(S.P. 735) (L.D. 2013)

(C. "A" S-515)

House As Amended

Bill "An Act to Create the Crime of Insurance Fraud and Require Reporting of Convictions to Licensing Authorities"

(H.P. 1553) (L.D. 2182)

(C. "A" H-923)

Bill "An Act to Revise and Update the Charter of the Maine Employers' Mutual Insurance Company in Furtherance of its Mission"

(H.P. 1593) (L.D. 2222)

(C. "A" H-905)

Reported by the Committee on **Bills in the Second Reading**, read the second time, the Senate Papers were **PASSED TO BE ENGROSSED** or **PASSED TO BE ENGROSSED AS AMENDED** in concurrence and the House Papers were **PASSED TO BE ENGROSSED AS AMENDED** 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-939)** on Bill "An Act to Preserve the State House and to Renovate State Facilities"

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

Signed:

Senator:

MICHAUD of Penobscot

Representatives:

KERR of Old Orchard Beach

POULIN of Oakland

BERRY of Livermore

STEVENS of Orono

LEMAIRE of Lewiston

KNEELAND of Easton

WINSOR of Norway

TOWNSEND of Portland

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

Signed:

Senator:

BENNETT of Oxford

Representatives:

MARVIN of Cape Elizabeth

OTT of York

READ.

On motion of Representative KERR of Old Orchard Beach the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-939)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Thursday, March 19, 1998.

Majority Report of the Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-942)** on Bill "An Act to Amend the Uniform Health Care Decisions Law"

(H.P. 51) (L.D. 76)

Signed:

Senators:

LONGLEY of Waldo

LaFOUNTAIN of York

BENOIT of Franklin

Representatives:

THOMPSON of Naples

WATSON of Farmingdale

ETNIER of Harpswell

JABAR of Waterville

MAILHOT of Lewiston

POWERS of Rockport

NASS of Acton

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

Signed:

Representatives:

PLOWMAN of Hampden

MADORE of Augusta

WATERHOUSE of Bridgton

READ.

Representative THOMPSON of Naples moved that the House **ACCEPT** the Majority **Ought to Pass as Amended** Report.

On further motion of the same Representative, **TABLED** pending his motion to **ACCEPT** the Majority **Ought to Pass as Amended** Report and later today assigned.

Majority Report of the Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-940)** on Resolve, Regarding Legislative Review of Rules Governing the Implementation of Hypodermic Apparatus Exchange Programs, a Major Substantive Rule of the Department of Human Services (EMERGENCY)

(H.P. 1607) (L.D. 2234)

Signed:
Senators:

LONGLEY of Waldo
LaFOUNTAIN of York
BENOIT of Franklin

Representatives:

THOMPSON of Naples
WATSON of Farmingdale
ETNIER of Harpswell
MAILHOT of Lewiston
JABAR of Waterville
POWERS of Rockport
MADORE of Augusta
NASS of Acton

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (H-941)** on same Resolve.

Signed:

Representatives:

PLOWMAN of Hampden
WATERHOUSE of Bridgton

READ.

Representative THOMPSON of Naples moved that the House **ACCEPT** the Majority **Ought to Pass as Amended** Report.

On further motion of the same Representative, **TABLED** pending his motion to **ACCEPT** the Majority **Ought to Pass as Amended** Report and later today assigned.

Majority Report of the Committee on **UTILITIES AND ENERGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-947)** on Bill "An Act to Dissolve the Ogunquit Sewer District and Establish a Sewerage Department" (EMERGENCY)

(H.P. 1592) (L.D. 2221)

Signed:
Senators:

CAREY of Kennebec
CLEVELAND of Androscoggin

Representatives:

JONES of Bar Harbor
KONTOS of Windham
USHER of Westbrook
O'NEAL of Limestone
LaVERDIERE of Wilton
COLWELL of Gardiner
VEDRAL of Buxton
BERRY of Belmont
TAYLOR of Cumberland

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

Signed:

Senator:

HARRIMAN of Cumberland

Representative:

JOY of Crystal

READ.

Representative JONES of Bar Harbor moved that the House **ACCEPT** the Majority **Ought to Pass as Amended** Report.

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

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

On motion of Representative KONTOS of Windham, **TABLED** pending the motion of Representative JONES of Bar Harbor to **ACCEPT** the **Majority Ought to Pass as Amended** Report and later today assigned. (Roll Call Ordered)

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

HOUSE DIVIDED REPORT - Majority (11) **Ought to Pass as Amended by Committee Amendment "A" (H-927)** - Minority (1) **Ought to Pass** - Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act to Correct and Supplement Funding for the Maine School of Science and Mathematics" (EMERGENCY)

(H.P. 1450) (L.D. 2041)

Which was **TABLED** by Representative KONTOS of Windham pending **ACCEPTANCE** of either Report.

On motion of Representative KERR of Old Orchard Beach the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

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 authorizes an expenditure of \$50,000 in FY 98 and \$100,000 in FY 99. It is one time money to spend outstanding bills for the magnet school. On the amendment that was offered, it changes the reporting requirements to add the Appropriations Committee and there will be quarterly financial statements. Also, another addition would mean that instead of a biennial or one report every two years, the three committees will be receiving reports. That is the Appropriations Committee, the Education Committee and the Governor will be receiving reports on a yearly basis as an annual report. That is this bill in its entirety.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-927)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Thursday, March 19, 1998.

SENATE DIVIDED REPORT - Majority (10) **Ought to Pass as Amended by Committee Amendment "A" (S-523)** - Minority (3) **Ought to Pass as Amended by Committee Amendment "B" (S-524)** - Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$20 Million to Stimulate the Maine Economy through Research and Development"

(S.P. 819) (L.D. 2205)

Which was **TABLED** by Representative KONTOS of Windham pending **ACCEPTANCE** of either Report.

Representative KERR of Old Orchard Beach moved that the House **ACCEPT** the Majority **Ought to Pass as Amended** Report.

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

Representative OTT: Madam Speaker, Men and Women of the House. Just a point of clarification. The motion is to remove the Majority Report with Committee Amendment "A."

The SPEAKER: The Chair would answer in the affirmative. There is a Minority Report with Committee Amendment "B." The pending motion is Committee Amendment "A," the Majority Report.

Representative OTT: I guess I have no further comments.

The Chair ordered a division on the motion to **ACCEPT** the Majority **Ought to Pass as Amended** Report.

Representative MARVIN of Cape Elizabeth **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 Cape Elizabeth, Representative Marvin.

Representative MARVIN: Madam Speaker, Ladies and Gentlemen of the House. The reason you are seeing a Minority Report on this item is that the R & D is taking up \$20 million of our bond capacity. If we vote this out at the \$20 million rate and we vote the transportation piece in, that is it. If we want to adhere to our 90 percent rule and I feel a strong commitment to doing so, that would be it. We had put forward another option which was \$15 million, which left another \$5 million of bonding capacity for other issues that other people in this chamber may be interested in. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Fairfield, Representative Tessier.

Representative TESSIER: Madam Speaker, Men and Women of the House. I was a member of the Research and Development Committee that came up with the recommendation for a \$20 million bond. The State of Maine is 50th in funding of research and development at the university level, 50th. If you add in the District of Columbia, we would be 51st. I think it is time that we began funding the research and development that is necessary to bring the good jobs and businesses to the State of Maine in the high technology fields. We see all of the older businesses that are beginning to close and move out. It is time to bring in some new businesses. This is an opportunity to do that and I ask that you support this. 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. 462

YEA - Ahearne, Bagley, Baker, Barth, Belanger DJ, Belanger IG, Berry DP, Berry RL, Bigl, Bodwell, Bolduc, Bouffard, Bragdon, Brennan, Brooks, Bruno, Bryant, Bull, Bumps, Bunker, Campbell, Carleton, Chartrand, Chick, Chizmar, Cianchette, Clark, Clukey, Colwell, Cowger, Cross, Davidson, Desmond, Dexter, Donnelly, Driscoll, Dunlap, Farnsworth, Fisher, Foster, Frechette, Fuller, Gagne, Gagnon, Gamache, Gerry, Gieringer, Goodwin, Gooley, Green, Hatch, Jabar, Jones KW, Jones SL, Jones SA, Joy, Joyce, Joyner, Kane, Kerr, Kneeland, Kontos, Labrecque, Lane, Lemaire, Lemke, Lemont, Lindahl, Lovett, MacDougall, Madore, Mailhot, Mayo, McAlevey, McElroy, McKee, Meres, Mitchell JE, Morgan, Murphy, Nickerson, O'Brien, O'Neal, Ott, Paul, Peavey, Pendleton, Perkins, Pieh, Pinkham RG, Plowman, Poulin, Povich, Powers,

Quint, Richard, Rines, Rowe, Samson, Sanborn, Savage, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Snowe-Mello, Spear, Stanley, Stevens, Tessier, Thompson, Tobin, Townsend, Treadwell, Tripp, Tuttle, Usher, Vedral, Vigue, Volenik, Watson, Wheeler EM, Wheeler GJ, Winglass, Winn, Wright, Madam Speaker.

NAY - Kasprzak, Layton, Mack, Marvin, Nass, Pinkham WD, Taylor, Waterhouse, Winsor.

ABSENT - Buck, Cameron, Dutremble, Etnier, Fisk, Honey, LaVerdiere, Muse, O'Neil, Perry, Stedman, True, Underwood.

Yes, 129; No, 9; Absent, 13; Excused, 0.

129 having voted in the affirmative and 9 voted in the negative, with 13 being absent, the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (S-523)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Thursday, March 19, 1998.

HOUSE DIVIDED REPORT - Majority (11) **Ought to Pass as Amended by Committee Amendment "A" (H-947)** - Minority (2) **Ought Not to Pass** - Committee on **UTILITIES AND ENERGY** on Bill "An Act to Dissolve the Ogunquit Sewer District and Establish a Sewerage Department" (EMERGENCY)

(H.P. 1592) (L.D. 2221)

Which was **TABLED** by Representative KONTOS of Windham pending the motion of Representative JONES of Bar Harbor to **ACCEPT** the Majority **Ought to Pass as Amended** Report. (Roll Call Ordered)

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

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

The SPEAKER: The Representative may pose his question.

Representative MACK: Madam Speaker, Right Honorable Men and Women of the House. To anyone who cares to answer. Would someone please explain what this does?

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

Representative KONTOS: Madam Speaker, Men and Women of the House. This is LD 2221. It is available on your desk. It has to do with the Ogunquit Sewer District. I would be happy to talk to the Representative behind the glass.

The SPEAKER: The Chair recognizes the Representative from Buxton, Representative Vedral.

Representative VEDRAL: Madam Speaker, Men and Women of the House. I am sorry that there was such a terse answer to the good Representative from Standish. I think there may be some confusion because this bill is titled "An Act to Dissolve the Ogunquit Sewer District and Establish a Sewerage Department." In the Majority Report from the committee, the title has been changed to "An Act to Amend the Charter of the Ogunquit Sewer District." What we have done in the Majority Committee Report is give the people of the sewer district the ability to recall the board of directors and we have further defined other amendments. It does not dissolve the sewer district as the title says.

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

Representative WHEELER: Madam Speaker, Men and Women of the House. This is my bill. It is a good bill. It was a good compromise that the Utilities Committee worked out with the sewer district and the town selectmen. It was a hard fought

battle, but it is a very good compromise and there is a recall provision and the other provision is that with a petition of 50 signatures or better, they can call a special meeting of the sewer district and bring up a matter that may be of importance to the residents of Ogunquit. 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. 463

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

NAY - Belanger IG, Joy, Kasprzak, Mayo, Waterhouse.

ABSENT - Buck, Cameron, Dutremble, Etnier, Fisk, Fuller, Honey, LaVerdiere, Muse, O'Neil, Perry, Stedman, True, Underwood.

Yes, 132; No, 5; Absent, 14; Excused, 0.

132 having voted in the affirmative and 5 voted in the negative, with 14 being absent, the **Majority Ought to Pass as Amended Report was ACCEPTED.**

The Bill was **READ ONCE. Committee Amendment "A" (H-947)** was **READ** by the Clerk and **ADOPTED.** The Bill was assigned for **SECOND READING** Thursday, March 19, 1998.

HOUSE DIVIDED REPORT - Majority (10) **Ought to Pass as Amended by Committee Amendment "A" (H-942)** - Minority (3) **Ought Not to Pass** - Committee on **JUDICIARY** on Bill "An Act to Amend the Uniform Health Care Decisions Law"

(H.P. 51) (L.D. 76)

Which was **TABLED** by Representative THOMPSON of Naples pending his motion to **ACCEPT** the Majority **Ought to Pass as Amended Report.**

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

Representative WATERHOUSE: Madam Speaker, Men and Women of the House. For those of you who don't know what this bill does, a little while ago, I think it was in the 117th, we did some expanding on the surrogate power to make life and death decisions for somebody who had a terminal illness or was in a permanent vegetative state. This continuation of expansion in this bill goes further than that. You probably heard some people say that right now under the bill that we have in law now, we can make the most serious decisions concerning somebody, which is life and death. The difference between that and this bill is that these decisions can be made for competent people who can't make the decision for themselves because they are temporarily incapacitated and they can make life and death decisions for

those people. Not incompetent people. These are people who are temporarily incapacitated. When we had this bill in, I think it was the 117th, an organization, a national legal set up for the medically dependent and disabled incorporated, was vehemently against the expansion of the surrogate power. They had great fears that people with disabilities would be vulnerable to this kind of expansion.

This present expansion of LD 76 of surrogate powers, if it is passed, Maine will have one of the most far reaching laws in the nation allowing surrogates to make decisions to deny lifesaving surgery or medicine to patients who are incapacitated, but who are not terminally ill. Who does this impact? It impacts the mentally retarded or mentally ill adults who have become temporarily or permanently incapacitated. Somebody who has just suffered a stroke and has never expressed medical care intentions. I will give you an example. A 52 year old woman who suffers a stroke and arrives at the hospital. Currently, the presumption is to treat her. The basic philosophy of health care institutions. This is done because Maine law allows the implied consent of an incapacitated patient. However, under this new bill, doctors would now search for a surrogate and questions that person whether they believe further treatment is necessary. The surrogate would probably be a family member, but if none are reasonably available, then it would be someone who is familiar with the patients value. The bill is ripe for abuse by family members or others who may not have the best interest of the patient. If a family member is not available, perhaps your next door neighbor could decide your death.

Two years ago the same legislative committee, the Judiciary Committee, rejected this extreme measure. It was no better then than it is now. Currently, the law allows the ultimate power, as you might have heard some people say. This change simply allows the surrogate to make lesser decisions. That is what I heard on the committee, that is any other health care decisions. The current law does allow a surrogate to withhold or withdraw life sustaining treatment. However, that is for patients who are at the last stages of their life. They are either terminally ill or they are in a permanent vegetative state. This change applies to patients who may otherwise be healthy, but will very likely want to live if they could communicate. They become permanently or temporarily incapacitated. A surrogate will now have the power to deny treatment for this class of people. Treatment that is necessary to save their life. You might add what the difference between life sustaining treatment and life saving surgery. The language we want in there is life saving surgery as opposed to life sustaining treatment.

It is a good question that we heard around the committee. Life sustaining treatment by definition in statute only applies to medical procedures or interventions that serve only to prolong the dying process and applies only to those who are terminally ill or in a permanent vegetative state. Life saving surgery would be surgery or medicine necessary to save a person's life. A person who may otherwise be healthy and may very likely want to live if they could communicate, but is currently temporarily incapacitated. This measure goes way beyond the pale and makes sections of our community vulnerable and I don't think we want to be the first in the nation to go this far. Madam Speaker, I move Indefinite Postponement of this bill.

Representative WATERHOUSE of Bridgton moved that the Bill and all accompanying papers be **INDEFINITELY POSTPONED.**

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

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

The SPEAKER: The Representative may pose his question.

Representative BUMPS: Madam Speaker, Ladies and Gentlemen of the House. Both questions are directed to perhaps people from the Judiciary Committee. The first question is whether or not this bill pertains only to patients who are currently in a health care facility or whether or not it might pertain to patients who are living at home? The second and obvious question would be, whether or not the withholding of these procedures pertains only to physicians or whether it provides for the retention of those treatments for pre-hospital care providers, such as EMTs and paramedics?

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

Representative THOMPSON: Madam Speaker, Men and Women of the House. This bill pertains to anyone who is being treated by a physician. This involves the relationship with a physician on behalf of a person who is being treated. I listen to a lot of explanation on this bill and I would like to give you what I believe the explanation of what the bill does. Very simply, it keeps the decision for treatment with the people, where it belongs. It says if there is no court appointed guardian and there is no health care directive naming an agent, then the surrogate gets to make decisions for that person if that person is not capable of making the decisions themselves. Who best to make this decision? The first priorities are to family members. It gives them the authority to make decisions regarding treatment, but it specifically excludes that you cannot withhold or withdraw life sustaining treatment. If an operation is needed to sustain life, you have no authority under this statute to withhold that treatment. This bill makes sense. It is a Majority Report. A 10 to 3 report of the Judiciary Committee. We studied this bill in very extensive detail. I would ask that you vote against the motion to Indefinitely Postpone.

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

Representative PLOWMAN: Madam Speaker, Men and Women of the House. I would urge you to support the motion on the floor to Indefinitely Postpone this bill. This bill came before us in the 117th and again in the 118th. We adopted a majority of the bill in the 117th. What troubled the committee in the 117th was the question that we asked of a hospital administrator regarding, say a 70 year old Alzheimer patient who is not on life support system, so we are not talking life sustaining treatment. This patient comes down with pneumonia and this patient is in no condition or lacks the capacity to make decisions regarding his health. When asked, the hospital administrator could not answer whether a spouse could deliberately withhold and make the decision to withhold antibiotics from an Alzheimer patient with pneumonia because it is not life sustaining. Life sustaining involves feeding tubes, artificial respiration. Life saving involves antibiotics and surgery. You will have people who are at their most vulnerable without knowing it. With very little protection, yes, it would be family members who make the decision. In a recent study done where they interviewed patients and asked, would you rather live longer and have these measures done? Patients answered yes, when they asked their family members, do you think your mom would rather live longer or no? It was exactly the opposite answer in most of the cases. You can't always be sure you are making the right decision. However, the point that I must stress is that this amendment still contains the word life sustaining treatment. No, you may not withdraw life sustaining treatment, but you are not required to authorize life saving measures. That is where the difference is. I would ask you to Indefinitely Postpone this bill in order to protect patients who may end up in this very situation. Thank you.

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

Representative WATERHOUSE: Madam Speaker, Ladies and Gentlemen of the House. I just want to address one point the good Representative from Naples spoke to as far as surrogates. Who do you want making those decisions? I stress again that the decision is not being made for somebody who is terminally ill or in a permanent vegetative state. It goes beyond that. It makes decisions for people who are temporarily incapacitated, the vulnerable. Currently, and I want to quote a little paragraph here, "Currently patients who have become temporarily or permanently incapacitated, patients who can't express their wishes and have never expressed their wishes received treatment 100 percent of the time. Under this change, many will not receive this treatment and therefore could possibly die because a surrogate could decide otherwise." Many times because they feel that the patient might be a burden. I know we like to think that wouldn't happen, but in real life it does. There should be no presumption that a third party, even one closely related to the patient will act in the patient's best interest, especially if the patient is not terminally ill or in a permanent vegetative state. That surrogate may not be a family member, ladies and gentlemen. It may be somebody who just knows their personal values. If they make a reasonable search in the hierarchy of surrogates and they can't find a family member, they can go down the latter of hierarchy and find somebody who just knows your personal values and good luck to that folks.

Madam Speaker, I ask for the yeas and nays when the vote is taken.

The same Representative REQUESTED a roll call on his motion to **INDEFINITELY POSTPONE** the Bill and all accompanying papers.

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

On motion of Representative THOMPSON of Naples, **TABLED** pending the motion of Representative WATERHOUSE of Bridgton to **INDEFINITELY POSTPONE** the Bill and all accompanying papers and later today assigned. (Roll Call Ordered)

HOUSE DIVIDED REPORT - Majority (8) **Ought to Pass as Amended by Committee Amendment "A" (H-935)** - Minority (5) **Ought to Pass as Amended by Committee Amendment "B" (H-936)** - Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Establish the Office of Mental Health and Human Services Ombudsman"

(H.P. 1573) (L.D. 2207)

Which was **TABLED** by Representative KONTOS of Windham pending **ACCEPTANCE** of either Report.

On motion of Representative MITCHELL of Portland the Minority **Ought to Pass as Amended Report was ACCEPTED.**

On motion of Representative BRAGDON of Bangor, the House **RECONSIDERED** its action whereby the Minority **Ought to Pass as Amended Report was ACCEPTED.**

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

Representative BRAGDON: Madam Speaker, Ladies and Gentlemen of the House. I just quickly wish to explain why this report was divided and what the Majority Report seeks to do. The Majority Report sets up a task force to study the possibility of an ombudsman for the Department of Mental Health. The Minority Report does the same thing except for it also funds two child advocate positions so that there would be three child advocate positions throughout the whole state. The majority

concern was that we did not have enough evidence as a committee to justify these two additional child advocate positions. It was actually just mentioned in passing by one of the people testifying. However, we did think the concept of the bill, which was an ombudsman office within the Department of Mental Health was a good thing. We set up a task force to study that issue further. I would request that the members of the House vote against the pending motion and go on to accept the Majority Report.

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

Representative MITCHELL: Madam Speaker, Men and Women of the House. I thank Representative Bragdon for explaining the report as I was about to do. Representative Donnelly brought this bill to our committee. It was actually a very good bill. The entire committee agreed that establishing an ombudsman position for the Department of Mental Health and Human Services was a very good idea. Any of us who have tried to navigate that system understand the problems. However, there was some concern that we didn't know exactly who would be qualified to do this, how much it would cost and what their office would be. The entire committee also agreed to support a task force to study the creation of this position. There is no dissent there. We agreed unanimously to this. The difference in the two reports, as Representative Bragdon has explained, is that there was clarity among a number of us that there was an urgent need for advocates for children to departments. Currently, there is one person who advocates for children in the Department of Mental Health. That one person serves a lot of needs, serves a lot of families. We didn't feel that we needed to study the situation further to know that there was a pressing need, an urgency here. We believe that we could also include in our report the establishment of two additional positions for child advocates within the department. I support either of these motions. I believe that both will accomplish something. However, I also believe that there is urgency to creating advocacy for children within the Department of Mental Health. Thank you.

The Chair ordered a division on the motion to **ACCEPT** the Minority **Ought to Pass as Amended** Report.

Representative CAMPBELL of Holden **REQUESTED** a roll call on the motion to **ACCEPT** the Minority **Ought to Pass as Amended** Report.

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

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

Representative PLOWMAN: Madam Speaker, may I request a ruling from the Chair?

The SPEAKER: The Representative may.

Representative PLOWMAN: Madam Speaker, would you determine the germaneness of House Amendment (H-936) as it relates to the title? I am sorry. Excuse me, Committee Amendment.

The SPEAKER: The Chair would advise the Representative that your request would be appropriate when the amendment is before us. The pending question at this point is adoption of the Minority Ought to Pass as Amended Report.

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

ROLL CALL NO. 464

YEA - Ahearne, Bagley, Baker, Berry RL, Bolduc, Brennan, Bryant, Bull, Chartrand, Chizmar, Clark, Colwell, Cowger, Davidson, Desmond, Driscoll, Dunlap, Farnsworth, Fisher,

Frechette, Gagne, Gerry, Gieringer, Green, Hatch, Jabar, Jones KW, Jones SL, Kontos, Lemaire, Lemke, McKee, Meres, Mitchell JE, O'Neal, Paul, Pieh, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Stanley, Stevens, Thompson, Townsend, Tripp, Tuttle, Usher, Vigue, Volenik, Watson, Wright, Madam Speaker.

NAY - Barth, Belanger DJ, Belanger IG, Berry DP, Bigl, Bodwell, Bouffard, Bragdon, Brooks, Bruno, Bumps, Campbell, Carleton, Chick, Cianchette, Clukey, Cross, Donnelly, Foster, Gagnon, Gamache, Goodwin, Gooley, Jones SA, Joyce, Joyner, Kane, Kerr, Kneeland, Labrecque, Lane, Layton, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, Mailhot, Marvin, Mayo, McAlevey, Morgan, Murphy, Nass, Nickerson, O'Brien, Ott, Pendleton, Perkins, Pinkham RG, Pinkham WD, Plowman, Savage, Snowe-Mello, Spear, Taylor, Tessier, Tobin, Treadwell, Vedral, Waterhouse, Wheeler EM, Wheeler GJ, Winglass, Winn.

ABSENT - Buck, Bunker, Cameron, Dexter, Dutremble, Etnier, Fisk, Fuller, Honey, Joy, Kasprzak, LaVerdiere, McElroy, Muse, O'Neil, Peavey, Perry, Stedman, True, Underwood, Winsor.

Yes, 64; No, 66; Absent, 21; Excused, 0.

64 having voted in the affirmative and 66 voted in the negative, with 21 being absent, the Minority **Ought to Pass as Amended** Report was **NOT ACCEPTED**.

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

The Bill was **READ ONCE**. **Committee Amendment "A" (H-935)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Thursday, March 19, 1998.

HOUSE DIVIDED REPORT - Majority (10) **Ought to Pass as Amended by Committee Amendment "A" (H-942)** - Minority (3) **Ought Not to Pass** - Committee on **JUDICIARY** on Bill "An Act to Amend the Uniform Health Care Decisions Law"

(H.P. 51) (L.D. 76)

Which was **TABLED** by Representative THOMPSON of Naples pending the motion of Representative WATERHOUSE of Bridgton to **INDEFINITELY POSTPONE** the Bill and all accompanying papers. (Roll Call Ordered)

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

ROLL CALL NO. 465

YEA - Ahearne, Belanger DJ, Belanger IG, Berry DP, Bragdon, Campbell, Chick, Clark, Cross, Dunlap, Foster, Gerry, Jones SL, Joyce, Lane, Layton, MacDougall, Mack, Madore, Meres, O'Brien, Pinkham RG, Pinkham WD, Plowman, Richard, Snowe-Mello, Spear, Stanley, Taylor, Tobin, Treadwell, Tuttle, Vedral, Waterhouse, Winglass.

NAY - Bagley, Baker, Barth, Berry RL, Bigl, Bodwell, Bolduc, Bouffard, Brennan, Brooks, Bruno, Bryant, Bull, Bumps, Carleton, Chartrand, Chizmar, Cianchette, Clukey, Colwell, Cowger, Davidson, Desmond, Donnelly, Driscoll, Farnsworth, Fisher, Frechette, Gagne, Gagnon, Gamache, Gieringer, Goodwin, Gooley, Green, Hatch, Jabar, Jones KW, Jones SA, Joyner, Kane, Kerr, Kneeland, Kontos, Labrecque, Lemaire, Lemke, Lemont, Lindahl, Lovett, Mailhot, Marvin, Mayo, McKee, Mitchell JE, Morgan, Murphy, Nass, Nickerson, O'Neal, Ott, Paul, Pendleton, Perkins, Pieh, Poulin, Povich, Powers, Quint, Rines, Rowe, Samson, Sanborn, Savage, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Stevens, Tessier, Thompson,

Townsend, Tripp, Usher, Vigue, Volenik, Watson, Wheeler EM, Wheeler GJ, Winn, Wright, Madam Speaker.

ABSENT - Buck, Bunker, Cameron, Dexter, Dutremble, Etnier, Fisk, Fuller, Honey, Joy, Kasprzak, LaVerdiere, McAlevey, McElroy, Muse, O'Neil, Peavey, Perry, Stedman, True, Underwood, Winsor.

Yes, 35; No, 94; Absent, 22; Excused, 0.

35 having voted in the affirmative and 94 voted in the negative, with 22 being absent, the motion to **INDEFINITELY POSTPONE** the Bill and all accompanying papers **FAILED**.

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

The Bill was **READ ONCE**. **Committee Amendment "A" (H-942)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Thursday, March 19, 1998.

Bill "An Act to Increase the Bonding Limits of the Maine Turnpike Authority"

(H.P. 535) (L.D. 726)

(C. "A" H-922)

Which was **TABLED** by Representative DONNELLY of Presque Isle pending **ADOPTION** of **Committee Amendment "A" (H-922)**.

Representative JOYCE of Biddeford **PRESENTED House Amendment "A" (H-954)** to **Committee Amendment "A" (H-922)**, which was **READ** by the Clerk.

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

Representative JOYCE: Madam Speaker, Men and Women of the House. The Committee Amendment that you have before you increases the bonding cap for the Maine Turnpike Authority to accomplish two things. One, the widening of the turnpike and also to complete some modernization projects, which include paving, ditching and moving some bridge abutments back to accommodate the widening. The House Amendment that I am offering, what it does is after the turnpike borrows up to the higher cap and pays for the widening and the modernization projects, the bonding cap would go back down to its original level that it is at right now. Thank you Madam Speaker.

Representative WHEELER of Eliot moved that **House Amendment "A" (H-954)** to **Committee Amendment "A" (H-922)** be **INDEFINITELY POSTPONED**.

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

Representative WHEELER: Madam Speaker, Men and Women of the House. The committee talked about this and, again, we do not want to fool around with the widening of the turnpike. The people voted they wanted the turnpike widening. We don't have crystal balls. We don't know when it will be done. We need to keep this intact the way it is. The rest of the committee heard this argument and you can see how they voted. Please vote with me to Indefinitely Postpone this amendment. Thank you.

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

Representative JOYCE: Madam Speaker, Men and Women of the House. This floor amendment doesn't affect the widening whatsoever. All it does is it says that after the widening and the modernization projects are completed, then the bonding cap will go back down to the original level of \$116 million. Essentially we are letting the turnpike borrow one time money for a one time project. Thank you.

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

Representative DRISCOLL: Madam Speaker, Men and Women of the House. The Transportation Committee worked hard on this and we had many discussions over many days and we came up with a decision of the Majority Ought to Pass and I hope you will go with the Transportation Committee and Indefinitely Postpone this amendment.

The Chair ordered a division on the motion to **INDEFINITELY POSTPONE House Amendment "A" (H-954)** to **Committee Amendment "A" (H-922)**.

A vote of the House was taken. 79 voted in favor of the same and 33 against, **House Amendment "A" (H-954)** to **Committee Amendment "A" (H-922)** was **INDEFINITELY POSTPONED**.

Subsequently, **Committee Amendment "A" (H-922)** was **ADOPTED**. The Bill was assigned for **SECOND READING** Thursday, March 19, 1998.

On motion of Representative MORGAN of South Portland, the House adjourned at 6:30 p.m., until 9:00 a.m., Thursday, March 19, 1998.