

MAINE STATE LEGISLATURE

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House Legislative Record
of the
One Hundred and Eighteenth Legislature
of the
State of Maine

Volume III

Second Regular Session

March 19, 1998 - March 31, 1998

Second Special Session

April 1, 1998 - April 8, 1998

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ONE HUNDRED AND EIGHTEENTH LEGISLATURE
 SECOND REGULAR SESSION
 38th Legislative Day
 Monday, March 23, 1998

The Speaker resumed the Chair.

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

Prayer by Honorable Jay MacDougall, North Berwick.

National Anthem by Lake Region High School Band, Naples.

Pledge of Allegiance.

The Journal of Friday, March 20, 1998 was read and approved.

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

SENATE PAPERS

The following Joint Resolution: (S.P. 863)

JOINT RESOLUTION IN HONOR OF THE 150TH ANNIVERSARY OF HANCOCK LUMBER COMPANY

WHEREAS, Hancock Lumber Company is one of the largest and oldest lumber companies in northern New England and owns and manages 14,000 acres of timberland, 2 sawmills, 9 contractor lumber yards and a construction financing company in Maine and New Hampshire; and

WHEREAS, Hancock Lumber Company was founded in 1848, when Nathan and Spencer Decker of Casco contracted with Ambrose Wight to build a sawmill on Meadow Brook west of Pleasant Lake 6 generations ago; and

WHEREAS, as Hancock Lumber Company has evolved over the years, their philosophy of "always changing to remain the same" has stayed true to the values and principles that have served it so well these 150 years; and

WHEREAS, Maine has been blessed with abundant and beautiful forests and has a rich history of lumbering, Hancock Lumber Company has developed a sense of stewardship of those resources; and

WHEREAS, Hancock Lumber Company truly exemplifies the best of the Maine business community, remaining a local business that is sincere and community-minded; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Eighteenth Legislature, now assembled in the Second Regular Session, take this occasion to recognize the 150th Anniversary of Hancock Lumber Company and to congratulate the Hancock family, their employees, customers and the communities served by Hancock Lumber Company, and to extend to all our very best wishes for continued success; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to Hancock Lumber Company.

Came from the Senate, **READ** and **ADOPTED**.

READ.

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

Representative THOMPSON: Madam Speaker, Men and Women of the House. I am pleased to stand here and make a few comments about this Joint Resolution. Hancock Lumber is a fixture in my district. They are headquartered in Casco, Maine. They are a company that represents the best in businesses in the State of Maine. Not only do they run a truly great business organization and an organization that cares for their employees and cares for their business, they are stewards of the land that

they own, but they are also a very integral part of the community in every area in which they do business. They are instrumental in community organizations. They encourage their employees to participate in community organizations and are especially concerned and especially active in the areas pertaining to children. In addition, they are always there to help whenever there is a fundraising drive or that type of an event. They are to be commended. I hope you will join me in congratulating Hancock Lumber on their 150th Birthday. Thank you.

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

Representative SAXL: Madam Speaker, Men and Women of the House. It gives me great pleasure to see my good friends Kevin and Allison Hancock in the chamber with us today celebrating what is a wonderful occasion, 150 years of a family owned business surviving and thriving in the State of Maine. Hancock Lumber has been a tradition which I have felt the warmth of through my years of knowing Allison and Kevin, whether it be from my comradeship with Kevin in school and watching him throw three point shots in from the very far outside or meeting his father and learning about Camp Sunshine and their commitment to all Maine people. I think that Hancock Lumber is the very embodiment of what we, in the Legislature, work to enhance and help and we are fortunate to have them with us here today. Thank you.

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

Representative DONNELLY: Madam Speaker, Men and Women of the House. It seems we are all enthusiastic about expressing our appreciation for the employers who helped create the jobs that help pay the bills and the taxes in this state today in this chamber. It seems even more enthusiastic as we talked about the forestry debate and we talk about what the effects are. To have a company that has been leading in stewardship, leading the state in how exactly a good corporate citizen ought to behave. Having only spoken with members of the Hancock family and their management team on the phone on numerous occasions I can speak to the floor as to exactly how easily accessible they are and how wonderful they are to talk with and how committed they are to the future of our great state. We have heard from other speakers about the college experience and about their reputation in the community and to that there is no more attestation needed today other than to say congratulations on your 150th Birthday Hancock Lumber.

ADOPTED in concurrence.

SENATE PAPERS

Non-Concurrent Matter

Bill "An Act to Amend the Laws Concerning Access to Capital for Maine Businesses"

(H.P. 1489) (L.D. 2088)

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-880) AS AMENDED BY HOUSE AMENDMENT "A" (H-931) thereto in the House on March 19, 1998.

Came from the Senate with that body having **INSISTED** on its former action whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-880) in NON-CONCURRENCE.**

On motion of Representative VIGUE of Winslow, the House voted to **INSIST** and ask for a **COMMITTEE OF CONFERENCE**. Sent up for concurrence.

Non-Concurrent Matter

Bill "An Act to Improve Public Sector Labor Relations"
(H.P. 1503) (L.D. 2125)

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-937) in the House on March 19, 1998.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-937) AS AMENDED BY SENATE AMENDMENT "A" (S-569)** thereto in **NON-CONCURRENCE**.

On motion of Representative HATCH of Skowhegan, the House voted to **RECEDE AND CONCUR**.

COMMUNICATIONS

The Following Communication: (H.C. 456)

**MAINE STATE LEGISLATURE
AUGUSTA, MAINE 04333**

March 20, 1998

The Honorable Mark W. Lawrence, President
Maine State Senate

The Honorable Elizabeth H. Mitchell, Speaker
Maine House of Representatives

State House

Augusta, Maine 04333

Dear President Lawrence and Speaker Mitchell:

This letter is to inform you that the Commission to Study the Use of Pharmaceuticals in Long-term Care Settings has submitted the attached report including recommended legislation to the Legislative Council and the Joint Standing Committee on Health and Human Services pursuant to Resolves 1997, chapter 71. Copies of the report have also been placed on file with the Law and Legislative Reference Library.

Sincerely,
S/Michael J. Fiori
Chair

Commission to Study the Use of
Pharmaceuticals in Long-term
Care Settings

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

The Following Communication: (S.C. 650)

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

March 20, 1998

The Honorable Elizabeth H. Mitchell

Speaker of the House
118th Maine Legislature

2 State House Station

Augusta, Maine 04333

Dear Speaker Mitchell:

In accordance with Joint Rule 506, please be advised that the Senate today confirmed, upon the recommendation of the Joint Standing Committee on State and Local Government the nominations of David M. Gauvin of Brewer and Frederick T. Hayes of Old Orchard Beach for reappointment as members of the Workers' Compensation Board.

Thank you for your attention to this matter.

Sincerely,
S/Joy J. O'Brien
Secretary of the Senate

READ and **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 Lake Region High School Boys Alpine Ski Team, who won the 1998 State Alpine Championship for the 5th time in the last 6 years: Justin Gibbons, Ben Rand, Adam Breton, Nate Stuart, Eric Sirois, Austin Gerber, Sid Doyle, Norm Judkins, Brett Irving, Charles O'Brien, Garrett Powell, Frank Pike, Jake Moore, Rob Corcoran, Josh Zaidman, Ryan Davis, Nick Stuart, Rick LeBlanc, Steve Thomas, Nick Palestini, Coaches Sonny Davis and Jenn Swett. We acknowledge their hard work on winning this event and congratulate them on their victory;

(HLS 1290)

Presented by Representative THOMPSON of Naples.

Cosponsored by Senator BENNETT of Oxford, Representative WATERHOUSE of Bridgton.

On **OBJECTION** of Representative THOMPSON of Naples, was **REMOVED** from the Special Sentiment Calendar.

READ.

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

Representative THOMPSON: Madam Speaker, Men and Women of the House. This is kind of a Lake Region Day at the House of Representatives. We have had the Lake Region High School Band and now I have some of the seniors that were on the Alpine Ski Team here in the gallery today. They recently won the 1998 Alpine Ski Championship. This makes an amazing five out of the last six years that they have won that championship. They have quite an organization going over there. The coaches are outstanding and the caliber of students that are involved in this program is of the highest quality. We are happy to have these boys representing us on the ski team and not only that, they represent the entire lake region community as they travel around the state in being involved in these athletic activities. I am proud to say that they are representing these boys. I hope you will join me in welcoming them. Thank you.

PASSED and sent up for concurrence.

REPORTS OF COMMITTEE

Change of Committee

Report of the Committee on **TAXATION** on Bill "An Act to Implement the Recommendations of the Blue Ribbon Commission on Hunger and Food Security"

(S.P. 542) (L.D. 1661)

Reporting that it be **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES**.

Came from the Senate with the Report **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES**.

Report was **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **HEALTH AND HUMAN SERVICES** in concurrence.

Divided Reports

Majority Report of the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-554)** on Bill "An Act to Amend the Laws Regarding the Consensus Revenue Forecasting Process"

(S.P. 783) (L.D. 2110)

Signed:
Senators:

BENNETT of Oxford
MICHAUD of Penobscot

Representatives:

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

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

Signed:
Representatives:

WINSOR of Norway
MARVIN of Cape Elizabeth
OTT of York

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-554)**.

READ.

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

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

Representative KERR: Madam Speaker, Men and Women of the House. Just for those who are not familiar with the Revenue Forecasting Committee, this was established for the purpose of providing the Governor, the Legislature and the state budget officer with an analysis so that they could make recommendations relating to projects of revenues for the General Fund and the Highway Fund based on economic assumptions recommended by the Consensus Economic Forecasting Commission. Currently there are five members of this commission. Two of which are appointed by the Governor. They are, the state budget officer, the state tax assessor, the state economist and the director of the Office of Fiscal and Program Review, which currently is John Wakefield. The chancellor appoints one economist from the University of Maine. What this bill proposes is to add another member from the Office of Fiscal and Program Review. What that would do is increase the number from five to six. As we all know, these people are to reach a consensus. The other changes in this proposed legislation is that the final revenue forecasting would be taken away from the state budget officer. He could not take unilateral action on his own to make changes to the Revenue Forecasting Committee. If, in fact, any modifications were to be made, they would come back to the committee and a vote would be taken. Again, to reach a consensus. That is basically what this bill does and I would urge your support for the Ought to Pass Report. Thank you.

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

Representative OTT: Madam Speaker, Men and Women of the House. The information that we received when this bill was presented, that may conclude that we really don't need it. We have this five member committee that does the revenue forecasting. The only thing that the bill would do is add an additional committee member. My understanding is that we have been within 3 to 4 percent of the revenue projections as far as

the rate of accuracy is concerned, which is as good or better than many states. If we were to make a change, it might be to improve the model that we use to make the forecast or to change the type of data that is presented in doing that forecast. It wouldn't be to just add a new member for the sake of increasing the membership. I urge you to vote against the pending motion. Thank you.

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

Representative WINSOR: Madam Speaker, Men and Women of the House. There is one other thing about this bill that I think we should consider as we go. We may very well be in conflict with Section 665. This is the section which gives the Executive the authority to establish revenues for the biennial budget. The change that is recommended here would essentially, after the biennial budget revenues are projected, any new projections in revenue would have to go to the committee. Currently, as the chairman stated, the state budget officer makes that decision. This committee acts really in an advisory capacity. It is exactly that significant change in public policy, I think it very well could be make this very non-political process quite political. I am concerned about that. I am concerned about the conflict and the different process between the ongoing revenue projections and the projection of revenues for the biennial budget that I think it is inadvisable to make this change now. Thank you very much.

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. 80 voted in favor of the same and 46 against, the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (S-554)** 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 **INLAND FISHERIES AND WILDLIFE** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-530)** on Bill "An Act to Adopt Long-range Changes in the Methods by Which Whitewater Rafting Trips Are Allocated among Licensees"

(S.P. 604) (L.D. 1801)

Signed:
Senators:

KILKELLY of Lincoln
HALL of Piscataquis

Representatives:

PAUL of Sanford
CLARK of Millinocket
CHICK of Lebanon
TRUE of Fryeburg
USHER of Westbrook
CROSS of Dover-Foxcroft

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (S-531)** on same Bill.

Signed:
Representatives:

DUNLAP of Old Town
GOODWIN of Pembroke
PERKINS of Penobscot

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-530)**.

READ.

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

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

Representative DUNLAP: Madam Speaker, Men and Women of the House. I would like to welcome the House to a rare divided report out of our committee. I will not belabor this point. The Majority and Minority Report are actually almost exactly the same. The exception is that the Majority Report allows for an increase in allocations on the rivers in question for whitewater rafting and I had some serious concerns about that and I wanted to share them with my colleagues. The whitewater rafting laws have been in place in one form or another for the last 20 years. They have worked relatively well. They are rather ungainly. They are complicated and we sought to address that in committee to make it easier for the department to manage this program in terms of distributing allocations to the outfitters and making a quality product essentially for the customers of those companies and make it easier for the companies themselves to exchange these allocations as business assets. That has been accomplished in either version of the bill. However, again, I do have some serious concerns about the extra allocations. I don't believe that the rivers are any bigger now than they were 20 years ago and we do have to consider multiple uses. With that in mind, I have decided to go against the Majority Report. I hope my colleagues will join me and to give them that opportunity, Madam Speaker, I would request that when the vote be taken, it be taken by the yeas and nays.

Representative DUNLAP of Old Town **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 Penobscot, Representative Perkins.

Representative PERKINS: Madam Speaker, Colleagues of the House. I am on the Minority Report here. I haven't heard all the debate so far. I am sure it was explained to you by Representative Dunlap that this amendment would allow the department to clean up some of the things that have been bothering them, but not give the new allocations. The request for further allocations is similar to the one we had here a couple of years ago that was so hotly debated. At that time, the industry was split. It is a limited entry, more or less, system as you know. About 14 industry people. The industry was split two years ago. When this one came before us, the industry seems to be all for it, for the majority, that is. The testimony against it was mainly from individual people who use the river, canoeing, kayaking and rafting. I just heard something five minutes ago that is very troubling about this whole situation. I am not sure how to share it. I will just be as frank as possible. A reporter from one of our major papers just called me and asked me if I knew that one of the people who actually wrote this bill for the department has resigned and is now working for one of the major whitewater rafting companies. That department person was in all our committee hearings and was answering questions about this and as I understand it was one of the authors of the majority bill and is now working for one of these outfitters. I just don't know if there is anything wrong here, but it makes me nervous. I wish somebody could table this. I certainly don't know how to do that, as I am sure you realize. I just wanted to share that. Thank you.

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

Representative CLARK: Madam Speaker, Men and Women of the House. I stand today in support of the Majority Ought to

Pass Report. All this bill does is gives the allocations from 800, what it is presently today, to 1,000 with the cap of 120 per outfitter. Fifteen of the 17 rafting companies are in unison with this proposal. Just a comment for the Representative from Penobscot, that gentleman does not start work, it took the major department to put this together, not just that individual. Thank you.

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

Representative CHICK: Madam Speaker, Ladies and Gentlemen of the House. I appear on the side of the Ought to Pass. I have listened to the debate about whitewater rafting, the allocations. I have never heard any comments, but what the service offered by all of the companies is satisfactory. My only concern here and it doesn't appear in anything written on this report that there are allocations available and they haven't been issued. This is a concern to me when we think about the economy in the State of Maine and the money that would be provided. I would suggest that you support the Ought to Pass. Thank you.

On motion of Representative CAMPBELL of Holden, **TABLED** pending the motion of Representative PAUL of Sanford to **ACCEPT** the **Majority Ought to Pass as Amended** Report and later today assigned. (Roll Call Ordered)

Majority Report of the Committee on **TRANSPORTATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-563)** on Bill "An Act to Reduce Motor Vehicle Fatalities and Injuries among Young Drivers" (S.P. 782) (L.D. 2109)

Signed:

Senators:

O'GARA of Cumberland
CASSIDY of Washington

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 to Pass as Amended by Committee Amendment "B" (S-564)** on same Bill.

Signed:

Representatives:

CHARTRAND of Rockland
JOYCE of Biddeford

Came from the Senate with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-563).**

READ.

Representative DRISCOLL of Calais 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.

Committee of Conference

Report of the Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act to Implement the Recommendations of the Interagency Committee on Outdoor Trash Burning"

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

has had the same under consideration, and asks leave to report:

That the House **RECEDE; INDEFINITELY POSTPONE** House Amendment "B" (H-816) to Committee Amendment "A"; **READ** and **ADOPT** Conference Committee Amendment "A" (H-995) to Committee Amendment "A"; **ADOPT** Committee Amendment "A" as amended by Conference Committee Amendment "A" thereto and **PASS THE BILL TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-797) AS AMENDED BY CONFERENCE COMMITTEE AMENDMENT "A" (H-995)** thereto in **NON-CONCURRENCE**.

That the Senate **RECEDE** and **CONCUR** with the House.

Signed:

Representatives:

JONES of Greenville
DUNLAP of Old Town
WHEELER of Bridgewater

Senators:

TREAT of Kennebec
NUTTING of Androscoggin
BUTLAND of Cumberland

READ.

On motion of Representative JONES of Greenville the Committee of Conference Report was **ACCEPTED**.

The House voted to **RECEDE**.

House Amendment "B" (H-816) to Committee Amendment "A" (H-797) was **INDEFINITELY POSTPONED**.

Conference Committee Amendment "A" (H-995) to Committee Amendment "A" (H-797) was **READ** by the Clerk and **ADOPTED**.

Committee Amendment "A" (H-797) as Amended by Conference Committee Amendment "A" (H-995) thereto was **ADOPTED**.

The Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-797) as Amended by Conference Committee Amendment "A" (H-995)** thereto in **NON-CONCURRENCE** and sent up for concurrence.

CONSENT CALENDAR

First Day

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

(S.P. 494) (L.D. 1525) Bill "An Act to License Massage Therapists under the Board of Complementary Health Care Providers" Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-561)**

(H.P. 1380) (L.D. 1935) Bill "An Act to Ensure the Transferability of the Generating Assets of Electric Utilities" Committee on **UTILITIES AND ENERGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-984)**

(S.P. 727) (L.D. 1969) Bill "An Act to Protect Students of Barbering, Cosmetology and Other Proprietary Schools" Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-565)**

(H.P. 1470) (L.D. 2061) Bill "An Act to Establish the Endowment Incentive Program" Committee on **EDUCATION**

AND CULTURAL AFFAIRS reporting **Ought to Pass as Amended by Committee Amendment "A" (H-1000)**

(H.P. 1492) (L.D. 2091) Bill "An Act Providing for Additional Elections for Ties for School Board Membership" Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-988)**

(H.P. 1615) (L.D. 2241) Resolve, Regarding Legislative Review of Chapter 113: Regulations Governing the Licensing and Functioning of Assisted Living Facilities, a Major Substantive Rule of the Department of Human Services (EMERGENCY) Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-1002)**

(S.P. 838) (L.D. 2246) Bill "An Act to Require Expedious Action in Child Protection Cases" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-560)**

(H.P. 1621) (L.D. 2251) Bill "An Act to Permit Direct Contracting with State Governmental Entities for the Provision of Services to Eligible Participants in Government Health Programs" (EMERGENCY) Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-992)**

(H.P. 1629) (L.D. 2257) Bill "An Act to Make Public the Records of the Department of Corrections Relating to Inmate Furloughs and Requests under the Uniform Act for Out-of-State Parolee Supervision" Committee on **CRIMINAL JUSTICE** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-991)**

(H.P. 1643) (L.D. 2275) Bill "An Act to Modify the Law Pertaining to Personal Sports Mobile Franchises" Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-999)**

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

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

BILLS IN THE SECOND READING

Senate As Amended

Bill "An Act to Implement the Recommendations of the Judicial Compensation Commission"

(S.P. 322) (L.D. 1062)

(C. "B" S-542)

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

House As Amended

Bill "An Act to Implement the Recommendations Relating to the Review of the Department of Professional and Financial Regulation's Office of the Commissioner, Office of Consumer Credit Regulation and Office of Licensing and Registration under the State Government Evaluation Act"

(H.P. 1565) (L.D. 2198)

(C. "A" H-952)

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

On motion of Representative VIGUE of Winslow, was **SET ASIDE**.

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **Committee Amendment "A" (H-952)** was **ADOPTED**.

The same Representative **PRESENTED House Amendment "A" (H-982)** to **Committee Amendment "A" (H-952)**, which was **READ** by the Clerk.

On motion of the same Representative, **TABLED** pending his motion to **ADOPT House Amendment "A" (H-982)** to **Committee Amendment "A" (H-952)** and later today assigned.

ENACTORS

Emergency Measure

An Act to Amend the Maine Indian Claims Settlement Act Regarding Education Funding

(H.P. 1437) (L.D. 2001)
(C. "A" H-918)

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. 134 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 Clarify the Law Requiring the Appointment of the Pineland Development Authority

(S.P. 737) (L.D. 2015)
(C. "A" S-534)

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 Facilitate Local Distribution of Natural Gas

(H.P. 1495) (L.D. 2094)
(C. "A" H-908)

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. 128 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 Related to the Service Territory of the Kennebunk Light and Power District

(H.P. 1512) (L.D. 2134)
(C. "A" H-921)

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

Emergency Measure

Resolve, Regarding Legislative Review of Chapter 301: Rules for Standard Offer Service, a Major Substantive Rule of the Public Utilities Commission

(H.P. 1591) (L.D. 2220)
(C. "A" H-913)

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. 129 voted in favor of the same and 0 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

Emergency Mandate

An Act to Amend the Laws Regarding Reimbursement to the Counties for Community Corrections

(H.P. 40) (L.D. 65)
(C. "A" H-919)

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

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

Bond Issue

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)
(C. "A" S-523)

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

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

Acts

An Act to Require the Workers' Compensation Board to Evaluate Rehabilitation in the Workers' Compensation System and to Develop a System for Collecting Rehabilitation Data

(S.P. 505) (L.D. 1567)
(C. "A" S-519)

An Act to Create Incentives for Employers to Contribute toward the Costs of Comprehensive Health Insurance for Families

(S.P. 696) (L.D. 1931)
(C. "A" S-521)

An Act to Restore Advocacy Services for Handicapped Students

(H.P. 1521) (L.D. 2143)
(C. "A" H-898)

An Act to Implement the Recommendations of the Working Group on Motor Vehicle Fines, Enforcement and Reimbursement

(H.P. 1527) (L.D. 2149)
(C. "A" H-926)

An Act to Regulate the Functioning of End-stage Renal Disease Facilities

(H.P. 1529) (L.D. 2151)
(C. "A" H-912)

An Act to Improve State House Utilization

(S.P. 796) (L.D. 2154)
(C. "A" S-533)

An Act to Encourage Hospitality Industry Development in the State

(S.P. 797) (L.D. 2155)
(C. "A" S-532)
An Act to Implement the Recommendations of the
Commission to Study Insurance Fraud

(H.P. 1545) (L.D. 2174)
(C. "A" H-914)

An Act to Create the Maine Economic Opportunity Advisory
Committee

(H.P. 1571) (L.D. 2203)
(C. "A" H-924)

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

(H.P. 1585) (L.D. 2216)
(C. "A" H-911)

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

(H.P. 1586) (L.D. 2217)
(C. "A" H-903)

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)

An Act to Amend the Law Concerning Tax Base Sharing

(H.P. 1613) (L.D. 2239)
(C. "A" H-902)

An Act to Amend the Charter of Great Northern Paper, Inc.

(S.P. 854) (L.D. 2267)

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.

Resolves

Resolve, to Establish the Task Force to Increase Primary and
Secondary Forest Product Manufacturing

(H.P. 1478) (L.D. 2077)
(C. "A" H-917)

Resolve, to Allow the Estate of Barbara Maxfield to Sue the
State

(S.P. 800) (L.D. 2157)
(S. "A" S-529 to C. "A" S-494)

Resolve, to Repeal a Prior Resolve Authorizing the Exchange
of a Parcel of Land Owned by the State with One Owned by Luke
Bolduc

(H.P. 1581) (L.D. 2211)
(C. "A" H-909)

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

An Act to Clarify the Application of Law in Workers'
Compensation Cases

(H.P. 955) (L.D. 1318)
(C. "A" H-907)

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

On motion of Representative HATCH of Skowhegan, was
SET ASIDE.

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

Representative HATCH: Madam Speaker, Men and Women
of the House. I am pleased to rise in support of LD 1318. This
bill was reported unanimously Ought to Pass out of the Labor
Committee. It is intended to reverse the decision of the Maine
Supreme Court in the cases of *Ray vs. Tallon Construction* and
Pelletier vs. Maine Medical Center. In those cases, the court
interpreted Maine's Workers' compensation law in such a way as
to ignore the provisions of the 1992 Workers' Compensation Act,
which prohibited retroactive application of that law in any way
which would reduce the benefits of employees who had
sustained injuries prior to January 1, 1993. In 1992, the
Legislature made very clear to the public and to themselves and
to those who have previously been injured that the changes
passed in 1992 to be effective January 1, 1993, would not have
any adverse implications on the benefits of those injured prior to
that day. The reason the decision in *Pelletier* and *Ray* was
contrary to the Legislature's direction in that regard, this bill
is designed to clarify and reinforce the Workers' Compensation Act
so as to make clear that it is not to be applied retroactively in
such a way as to reduce benefits. *Pelletier* and *Ray* were cases
in which the employees had sustained injury before and after
January 1, 1993. The court determined that the benefit law in
effect at the time of the last injury would control those two injuries
had combined to produce disability. Through this bill, the
Legislature will make clear that the benefits available to an
employee under a pre-1993 injury continued to be available to
the employee. Only if those benefits are not available do the
benefits available under the 1993 law take affect. This bill is an
attempt to make this very clear to the court and I believe it will
achieve that affect. The Legislature made a solemn pledge in
1992 and this bill unanimously reported from the committee
fulfills that pledge. Thank you.

Subsequently, the Bill was **PASSED TO BE ENACTED**,
signed by the Speaker and sent to the Senate.

An Act to Expand the Maine Seed Capital Tax Credit
Program

(S.P. 814) (L.D. 2196)
(C. "A" S-528)

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

On motion of Representative SAXL of Portland, was **SET
ASIDE**.

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

UNFINISHED BUSINESS

The following matters, in the consideration of which the
House was engaged at the time of adjournment Friday, March
20, 1998, have preference in the Orders of the Day and continue
with such preference until disposed of as provided by House
Rule 502.

HOUSE DIVIDED REPORT - Majority (8) **Ought to Pass as
Amended by Committee Amendment "A" (H-983)** - Minority (4)
Ought Not to Pass - Committee on **MARINE RESOURCES** on
Bill "An Act Concerning the Taking of Marine Resources by
Members of the Passamaquoddy Tribe" (EMERGENCY)
(H.P. 1523) (L.D. 2145)

TABLED - March 20, 1998 (Till Later Today) by Representative
ETNIER of Harpswell.

PENDING - Motion of same Representative to **ACCEPT** the
Minority **OUGHT NOT TO PASS** Report.

The SPEAKER: The Chair recognizes the Representative from the Passamaquoddy Nation, Representative Moore.

Representative MOORE: Madam Speaker, Men and Women of the House. This bill, LD 2145, as has been expressed previously in several committee meetings and subcommittee meetings on the same bill and numerous other meetings with the Maine Indian Tribal State Commission and the task force on tribal state relations, is probably the most important bill that the Passamaquoddy people could have before this Legislature in a long time. I cannot stress enough the importance of this bill to the preservation of Passamaquoddy culture and traditional practices. It would go a long way in demonstrating that we do have a unique culture. We have a way of life. We have our own language. The bill would go a very long way in demonstrating that there is room for Passamaquoddy culture in Maine. I would ask the members to defeat the pending motion. Thank you.

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

Representative DONNELLY: Madam Speaker, Men and Women of the House. Sorry about my enthusiasm that gave you some feedback, but perhaps it gave you attention so I don't have to start off with a joke, which is the traditional way. Defeating this bill is no laughing matter. What we are talking about here today is 100 centuries of tradition. We are talking about compromise between the Passamaquoddy people and the government of the State of Maine. I say compromise in that the legal challenges could go on that there were previously 100 centuries of fishing unregulated in this state. One hundred centuries of heritage and people who preceded even the oldest ancestors of any of us in the chamber of fishing and using the natural resources for sustenance. The Passamaquoddy name, as you see on your fax sheet that I will read from, not just the 100 centuries of heritage, but the Passamaquoddy name refers particularly to the life on the sea. It means people who take pollock. Having been a person of Polish descent, I think I am happy about this. It is important for us to focus on what is really going on here.

The compromise that I mentioned earlier is in that the Passamaquoddy people have agreed to abide by all other laws that the Department of Marine Resources will put forth. In our chamber for us to say that we will obey with the state laws is not a big deal. We pass them and we abide by them. Although I have seen some people drive by me and they don't, but it is important for us to recognize it when the Passamaquoddy people participated in this process that they also conceded things in order to maintain 100 centuries of precedent. There are things in this bill that allow for them to remain the Passamaquoddy, true to their name. There are things in this bill that allow the State of Maine to continue to regulate the resources that are so important to our state. To defeat this bill today would be a shame. To defeat this bill today, I believe, would be a huge mistake. I hope you will follow the lead and the request of Representative Moore and defeat this bill and go on and to promote the harmony that can and should occur on our oceans between people who take pollock and the Department of Marine Resources.

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

Representative DONNELLY of Presque Isle **REQUESTED** a roll call on the motion to **ACCEPT** the Minority **Ought Not to Pass** Report.

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

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

Representative LEMKE: Madam Speaker, Men and Women of the House. A couple of weeks ago we recognized the uniqueness of the fishing community on Monhegan Island. It is

true that there was a way of life there that goes back literally hundreds of years. We saw fit to recognize that uniqueness and to protect them. What we have before us to me is quite similar except we are talking about, as the good Representative Donnelly has mentioned, 10,000 years or 10 millennia. We are just about on the verge of the second millennia since the birth of Christ. Frankly, for eight millennia before that, the Passamaquoddy were conducting fishing in this area. I think we should recognize that history and that tradition and be respectful of that culture in the vote we take today. Thank you.

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

Representative GOODWIN: Madam Speaker, Men and Women of the House. LD 2145 now looks nothing like the original bill. I support the Majority Report as Amended. The amended version "A" (H-983) finally, each time the full committee met with the amendments we even had to form a subcommittee within the committee to pull it together. The meetings included the Executive Office staff of legal people, the Attorney General's staff of legal people, the Department of Marine Resources, the Tribal Governor, the Tribal Lieutenant Governor, the Tribal Council and other members. We had several caucuses within the subcommittee to resolve amendments. Compromise was the order of the day. Compromise was accomplished. The amendment does not give authority to the tribe to issue driver's licenses, to license doctors, pharmacists or other state controlled people within our community. It does allow the tribe with a small number of fishermen to issue licenses to fish in salt water. This is to ensure that their Passamaquoddy heritage continues. The department has agreed with the amended bill. The majority of the committee agrees with the amended bill. I ask this House to defeat the Minority Report and accept the Majority Report. I thank the Speaker.

The SPEAKER: The Chair recognizes the Representative from Bremen, Representative Pieh.

Representative PIEH: Madam Speaker, Men and Women of the House. I, too, was on the subcommittee working through this bill. It really is nothing like it was before. In fact, now it is so like the department bill that was offered last April that I am surprised there is any opposition at all to it. I am going to talk about a few of the technical details. There is an issue of whether this bill was part of the Maine Indian Claims Settlement Act of 1980. In that bill there is addressing Inland Fisheries and Wildlife and land issues. Marine Resources are not addressed. The Passamaquoddy felt that in that bill they did not give up their marine rights. The tribes, in fact, felt that. The state felt that they had given it up. That is currently in the courts. That is not something our committee was willing to deal with or even think about dealing with because we didn't feel that was our place. We did feel that if we could reach a compromise, it would allow the Passamaquoddy to fish and that would be a good idea.

What we came up with was very simple. The Passamaquoddy will basically issue the Maine State License under Maine State Law. It will say Passamaquoddy fishing license. They will have sustenance rights and ceremonial use. All of these things were at one point suggested by the Department of Marine Resources from the Executive. What I found in this work towards compromise was one side that moved a lot. The Passamaquoddy Tribe moved a lot. They moved forward. They said, let's try this. Let's try that. The Executive moved backward and I still don't know why. I felt like I was feeling, once again, with the Monhegan/Friendship kind of an issue. I really couldn't understand why the Executive moved backwards. At one point, it became a question. The Attorney General's Office said any law that affects any tribe is, in fact, a settlement act issue. We have many laws that affect tribes that

are on the books that aren't in the settlement acts. Two examples are the Passamaquoddy issue their own fishing licenses and hunting licenses and we said there would be no fee for that. Another is around all the Beano that we have approved. The AG did say it was debatable whether it is a part so we put in the amendment a blowup clause that they said would be effective that if it was ever taken to court and ever found to be part of the settlement act, it would not be valid anymore.

I encourage you to support the Majority Ought to Pass Report and remember that we continually, in this body with my support, do not permit increasing of gambling on the reservation. I think that we need to be supporting their cultural way of life. They are not breaking any Maine State Laws by this with their commercial fishing licenses. I encourage you to join me on a Majority Ought to Pass Report. Thank you.

The SPEAKER: The Chair recognizes the Representative from Machias, Representative Bagley.

Representative BAGLEY: Madam Speaker, Ladies and Gentlemen of the House. I rise to ask you to support the Ought Not to Pass report. I have heard from so many of my fishermen and what they are saying is we do not mind if the Passamaquoddy are able to have licenses, but they should come into the fishery the same way that the lobster fishermen and the urchin fishermen have to come in. Everybody should be playing by the same rules. Thank you.

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

Representative ETNIER: Madam Speaker, Ladies and Gentlemen of the House. One thing I want to straighten away before we get too far down this path and I forget, the department does not support this Committee Amendment. They were involved in probably all of the discussions, but they certainly do not support this amendment, as was implied earlier. There has been much eloquent discussion for the Passamaquoddy culture. There is a handout on it. It is very important that you understand the Passamaquoddy culture as a Maine citizen yourself. Let me tell you something, what is true about the Passamaquoddy culture today, as you heard, was certainly true in 1980 when tribal leadership and Passamaquoddy tribal membership ratified the Maine Indian Claims Settlement and no where in that settlement is any mention made of unique treatment for the tribe regarding marine resources. Nothing has changed regarding their culture. An agreement was made in 1980 based on that culture in which they did not receive any unique treatment. In fact, specifically, there is language regarding inland fish and wildlife issues that occur on tribal lands, but there is no mention of coastal or open ocean marine harvesting. The tribes in the nation have the status of a municipality and a municipality only. What has been made very clear by the Attorney General's Office of this state is because they are not mentioned anywhere in this act, they fall under Section 6204, the laws of the state to apply to Indian lands. What that says is, briefly, "Except as otherwise provided in this act, all Indians in the nations and tribes and bands of Indians in the state and any other lands or other natural resources owned by them." It goes on with a lot of gobbley gook. The bottom line is it says, "Shall be subject to the laws of the State and to the civil and criminal jurisdiction of the courts of the state to the same extent as any other person or land or other natural resources therein."

The position of the Attorney General's Office in the state, if that is an interest to you, as this was discussed, it was covered. There is extensive written documentation on it. I have it on my desk. I have read it. Because it was not brought up in the act and specifically excluded. That does not mean that we cannot amend the act, which is what this bill is attempting to do. I just want to make that real clear that it was not mentioned in the act.

In the act was a very important additional piece of information was the creation of Maine Union Tribal State Commission. This was meant to be the means for addressing all future disputes between the state and the tribe. It has equal representation. Two members from the Penobscot Nation and Two members from the Passamaquoddy Tribe, four members appointed by the Governor. We have four/four and the chair to be voted on jointly. That is where this bill should have gone. It did not go there. Let me make that very clear. It did not go there. We received nothing from MITSC regarding this bill and its enormous magnitude. Why? It was not brought before them. I think that is important to also understand. The legitimate means for addressing these legitimate grievances, concerns of the Passamaquoddy Tribe were not brought before the Joint Indian Tribal State Commission as they should have been.

Passamaquoddy Tribal members have been eligible for all Maine fishing licenses to the same extent of all other Maine people. Let me make that clear. You have heard rumors that they have been excluded from Maine licenses. This is not true at all except in instances where there have been moratoriums placed and other folks were excluded as well. They have not been excluded from getting Maine licenses, in any case. Tribal members, in fact, have off and on purchased a number of these commercial fishing licenses. This bill, I view as an end run around two years worth of negotiations between the state and the Department of Marine Resources and the tribe. This bill is an end run around legitimate means of resolving these issues, which is the only place for this issue to be taken up. I also view this bill as an attempt to influence the outcome in an ongoing court case. Let me make reference to that. The *State of Maine vs. Ally Beal*, 13 members in total includes violation of closed area digging and undersized shellfish violations and various commercial license violations. This is in the courts now. This bill, especially in its original form, LD 2145, had in particular a Whereas clause saying this was an emergency because members are being prosecuted in the criminal courts of this state for engaging in traditional travel uses and marine resources. I view this bill as an attempt to influence a very substantive court case before our courts now.

I would like to, as briefly as humanly possible, go through the amendment. There is a lot of warm and fuzzy talk here, but this is where the rubber hits the road. It is going to take me a minute. I apologize for that, but I greatly appreciate you listening. The definition of sustenance found here and in the IF & W section of the bill bears no resemblance to each other. In the Inland Fish and Wildlife Department and in the act itself the Passamaquoddy Tribe has been given sustenance use for individual sustenance only. Let me read to you what sustenance means under this Committee Amendment. Sustenance use means all non-commercial consumption or non-commercial use by any person within the Passamaquoddy reservation at Pleasant Point or Indian Township or any location within the state by tribal members, immediate family or within a tribal members household. That does not include sale, however. Also, sustenance use or ceremonial use would be exempt from any season that is set for the fishery. Say urchins, at the moment, are limited to a 120 day season in this state. They would be exempted from that 120 day season. Harvesting elvers is a 90 day season for the rest of us in the state. They would be exempted from that as well.

I question how that could ever be enforced by one of our warden service, this definition of sustenance given there is no limit on the amount of quantity or who it is distributed to. It is basically unenforceable. There is another very important issue of the handing out of 24 lobster licenses. Tribal members have been eligible right along and could still get student or non-

commercial licenses for family sustenance lobstering if they wished. This bill would hand out 24 lobster licenses, which at the moment if you want to get a lobster license in the State of Maine, you have to go through a two year apprenticeship program. We are talking later today about freezing lobster licenses totally given the concerns from one end of the state to the other about the effort that is being placed on this fishery now and the over-fishing and gear conflict concerns. We are going to be handing out 24 licenses in what is essentially a closed fishery based on purely anecdotal information and nothing more.

Also, we would be handing out 24 urchin licenses. This is a fishery that is in a critical depleted resource state. It is exactly contrary to what the desires of all the urchin fishermen in the state are, which is to reduce efforts drastically. In fact, they came to us earlier this year with a bill that we will have before you later to request that before we allow anyone new into the urchin fishery, five people must leave. That is pretty harsh medicine for people in this state, but they are willing to do that because they recognize that this is a severely depleted resource and they are going to have to bite the bullet on that. In order for these 24 licenses to be issued in the rest of the state, 100 people would have to exit the fishery, but not so for this Committee Amendment. We just hand out 24 based on purely anecdotal information regarding past efforts which has been disputed by members of the non-tribal members. Again, tribal members have been eligible for this license right along. There is also mention of the reporting to MITSC later on in the bill, which is a pure definition of putting the cart before the horse. You pass something now and a year from now you ask for a report on it to come back to you.

There is also one of my favorite parts of the Committee Amendment as what is known to the Attorney General's Office as the blow-up clause. It is an attempt to get around the fact that this is an amendment to the settlement act. The Attorney General's Office of the state told us it was an amendment to the settlement act. Our OPLA staff told us it was an amendment to the settlement act and yet the Majority Report, this Committee Amendment refuses to acknowledge that. Hence, they put in what is called a blow-up clause, which is going to send us directly to court because of course we are going to contest the fact that this is not an amendment to the act. We are going to end up in court. The next thing you know, this whole thing is going to self-destruct anyhow, but it is one of the most peculiar means of addressing or not addressing the sustenance issue I have ever seen.

I appreciate your patience. I am on my last page. I am fighting this all by myself with limited breath so it is taking longer than humanly possible. I find myself in an awkward place with this bill. My lay person non-legislative self is extremely attune to the wrongs committed to Native Americans and generally would wish to redress at every opportunity, but I, like you, took a solemn oath to uphold the laws of this state and are required to look at a far larger picture when considering our rationale for voting in a particular way. Amending the Indian Claims Settlement is a huge issue. It must only be done with the advice of MITSC. Appearing to reward years of flagrant disregard of Maine fisheries laws and potentially influence an ongoing court case is not really wise public policy. Granting dozens of licenses within fisheries that are reeling from limited entry and in the case of urchins, extremely depleted resources is going to justifiably infuriate non-tribal Maine fishermen who would receive no equal treatment. Likewise granting limitless, completely unenforceable sustenance and ceremonial licenses for all marine resources with no limit on season would make this Legislature the laughing stock of the Maine coast. I urge you to respect the 1980 settlement act. I urge you to respect the Maine Indian Tribal

State Commission. I urge you to respect Maine's Marine Resources and our laws. I urge you to respect both tribal and non-tribal fishermen. I urge that you support the pending motion. Thank you.

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

Representative PINKHAM: Madam Speaker, Men and Women of the House. My speech will be a lot less long than the previous speaker. When I get up to speak it is usually because I feel that there is something that really needs to be done. I am not one to get up and waste your time. We worked on this bill for I don't know how many hours, but quite a few, and as Representative Goodwin said, we started out with something like that and now we are down to that. I think this is an issue of fairness. It is a matter of doing the right thing. I think by doing this we restore dignity to the Passamaquoddy Tribe. Thank you very much.

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

Representative THOMPSON: Madam Speaker, Men and Women of the House. First I will tell you I rise to support the pending motion on the floor. It is with some difficulty, but what we have to look at here, I believe, is the process in which the bill came forward. The Indian Land Claims Settlement Act set up what is commonly referred to as MITSC, the Maine Indian Tribal State Commission. MITSC, one of their jobs or one of their duties is to review any proposed changes to the act. For many years MITSC was not very successful. There is some evidence that MITSC has reached a point where it is starting to be somewhat effective. I will give you an example. In the Judiciary Committee, we were referred a number of bills pertaining to changes to the settlement act and none of those bills have been voted on or referred to MITSC. We took the step of sending the bills to MITSC and carrying the bills over for the consideration here in the second session. MITSC got together and, in fact, made a couple of unanimous recommendations for changes. One of those changes will be coming forth in a bill from the Judiciary Committee, which happens to be a divided report, but it was a recommendation from MITSC and to me that is the proper process to be used.

The problem that I have with this bill is not only that it has not gone through what I consider the proper process, but that it is clearly an attempt to whatever you want to call it, amend the act, clarify the act or whatever. It is directly related to the act. I feel very strongly that if changes are going to be made on issues pertaining to the act, then they should be made in the way prescribed in the act. That is if it is going to be something passed by this Legislature, then it should be designated as a change to the act and should be subject to ratification by the tribes. This bill ignores this step and my opinion is that this does not eliminate any of the controversy that is out there. It says that the State of Maine will set as policy the issuance of a certain number of licenses. It does not take away from the tribe any of their claims to sovereignty over marine fisheries. The tribe does not have to ratify this bill. Therefore, there is a strong argument that they are not subject to this bill and that if they have inherited sovereignty rights, they can go on pursuing them.

In effect, it is a compromise, which is not a compromise. It is members of this House trying to make a compromise with the tribes, but the tribe is not having to compromise by giving anything away. If this was an amendment to the act and the tribe had to ratify it, then both sides would be bound by it. It will not do away with the pending court case, in my opinion. It will not prevent further court cases and I am supporting the present motion.

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

Representative PERKINS: Madam Speaker, Colleagues of the House. We just heard from the good Representative that the Passamaquoddy are not giving anything away. I submit that they have been giving something away ever since Pale Face came in the area here. For 10,000 or 15,000 years they have been subsisting and living off the sea. I would like to put a few things into perspective real quickly. The Native Claims Settlement Act and the State of Alaska, the natives out there got the rights to fish on the Copper River with their fish traps. No one else could do it. They got all sorts of rights to the commercial fisheries there compared to what they have here, which is zero. In the State of Washington they were awarded one-half of the allotment of commercial fisheries. One-half of the total allotment of any quota that was set for salmon. The natives got half of it. What we are asking for here or what this would do? Not very much. It asks them to allow to be given their own licenses for one thing, sense of pride, some feeling of autonomy in this sovereign state. We are not giving up sovereignty, of course. They are asking for 24 lobster licenses and 24 urchin licenses. Put that in perspective. There are, I think, 7,000 or 8,000 along the coast. They are asking for 24. They are asking to be able to fish for sustenance reasons and certainly reasons any time of the year, that is a change, but they have to abide by every other state laws for size limit and all that. It just means that they can do it year round like they have been for 10,000 years.

Just a few weeks ago, we had a debate in the committee down there in the Marine Resources Committee. We heard testimony on the bill that was brought in front of us from the people of Monhegan Island. This bill talked in terms of we need to do this for the Monhegan people to preserve their culture and their community? I just wish those same people would think about that in terms of these people. Monheganers, except for about three of the fourteen, they are newcomers there from all over and that is fine. The fishing community was preserved by the act that we passed in here. Now the Passamaquoddy's true traditionalists and natives are asking for a little help here. The last thing I want to say is six years ago when the casino bill came, I wasn't in the Legislature, but I was sitting up there as a citizen. I remember the debate on that. I want to just remind people that said you don't want to give them a casino, but I would do anything else to help them. Anything else to help them in economic development. Personally, I would have voted against casino. Was it this session or the last one on high-stakes bingo? I voted against that. I said to myself and others that I would do anything, but I don't think heading in the way of gambling is the way to go. This is the way to go. Help them with natural resource-based subsistence and industry. This is the way to go. I hope you will vote against the pending motion. Thank you.

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

Representative VOLENIK: Madam Speaker, Men and Women of the House. First, briefly to address the issue of the 1980 Indian Land Claims Settlement Act, anything dealing with tribal state law is a gray area because tribal state and, indeed, tribal US government law is continually evolving. Precisely because our people have supplanted tribal people in many areas including land and resource use. At the time of the 1980 Indian Land Claims Settlement Act the Passamaquoddy understood that salt water fishing would be dealt with at a later date. Under the Settlement Act, Maine has the right to further amend the Settlement Act. I would like to read you one sentence from that act. It says, "The consent of the United States is hereby given to the State of Maine to amend the Maine Implementing Act with respect to either the Passamaquoddy Tribe or the Penobscot

Nation." Maine also has the right to amend state law regarding fishing, including laws affecting the Passamaquoddy. There are two separate legal systems that have been operating in regards to fishing, Maine laws and Passamaquoddy laws. Maine fishermen have been operating under Maine's Marine Resources Laws and the Passamaquoddy have fished under traditional tribal laws.

Recently the Department of Marine Resources have begun to prosecute Passamaquoddy fishermen for fishing without Maine licenses and violating other Maine laws. The Passamaquoddy attempted to negotiate with the tribal state commission, known as MITSC, and with the Department of Marine Resources to have the state recognize their right to sustenance and ceremonial fishing and to recognize their rights to their own commercial fishing license. Negotiations were slow and fruitless. The tribe then came to the Legislature. The Marine Resources Committee formed a sub-committee which worked long and hard and crafted a compromise out of LD 2145. In it, the tribe agreed to abide by Maine's Marine Resource laws in return for the dignity of issuing tribal licenses. In the restricted lobster and urchin fisheries, the tribe agreed to 24 licenses per fishery even though that meant a reduction in the number of tribal urchin harvesters in order to reach agreement. This bill does not increase fishing efforts, it only codifies into law fishing that has gone on for thousands of years outside the laws of the State of Maine. The Passamaquoddy will continue to fish whether or not we pass this law. If we fail to pass it, then conflict will continue. If we pass this law, we will truly have made peace on the waters between our two people and that conflict will cease. If that conflict continues and if we insist on winning by our terms and imposing our laws, we all will lose. Should that happen, what will then become of the Passamaquoddy whose tribal name means, "The people who fish for Pollock." Will we force them to call themselves "The people who work at service jobs" or "The people of the unemployed" or simply "The people who no longer fish?"

I want to be sure that no matter what direction we take our culture, that the Passamaquoddy have the right to take the culture of their own people in the direction that they determine. Please do not destroy their identity. Thank you.

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

Representative AHEARNE: Madam Speaker, Ladies and Gentlemen of the House. This bill is not about returning or taking lands or gaming. It is simply the opinion of this Native American that this bill is about preserving a culture, a 10,000 year culture and ensuring the survival of a traditional, and very proud people. I ask you not to accept the Minority Report.

The SPEAKER: The Chair recognizes the Representative from Bremen, Representative Pieh.

Representative PIEH: Madam Speaker, Men and Women of the House. I feel I must respond to a couple of things that were raised. One was around the fact that there are outstanding charges. I would submit to you that if I was today riding down to Portland and drove 70 miles per hour and got a ticket and next week the law was changed to 75, I would still be accountable for having broken the law. I don't think that this affects pending charges. I don't know how it could. The fact that it is not mentioned in the Settlement Act is the whole reason it is up for dispute. The Passamaquoddy tribal members were told that they would deal with Marine Resource issues later. Let's get this done now and in a last late night we were given documentation with a committee report to some committee somewhere that said that they would be giving up their rights to marine resources. The Passamaquoddy tribes did not know that and did not agree to that. That will not be affected. In fact, we will be surprised

when that does get worked out and their sovereignty issue and marine resources is sorted out in the courts. We may find they get a whole lot more than we are doing right now or suggesting doing.

Another point was raised around sustenance and ceremonial use and the fact that it couldn't be sold. The examples of urchins and elvers were used. I ask you when was the last time you had urchin or elver for supper? The other point is that the tribal commission has not dealt with this yet. It seems to me that we have had our feet in molasses on this. I also had mentioned to you that the only reason I supported the Monhegan bill is because it is going before a task force. It did not go through the lobster industry, whether it was a good idea to set a precedent by putting up barbed wire on the ocean. We are doing nothing like that with this. They are going to administer the Maine State license. They are going to be completely having to serve our Maine State laws. It is not like a big huge deal. The other thing is I have not had one fishermen including the many fishermen that were at the work session when we originally worked through this that has come up to me and said this is a bad idea. I encourage you to support the Majority Ought to Pass Report that I hope comes next. Thank you very much.

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

Representative VIGUE: Madam Speaker, Ladies and Gentlemen of the House. Back in the 116th, I was very, very supportive of the casino issue. The reason being this would have provided an economic out for our people, the Passamaquoddy, and for the tribes of the State of Maine. We made all kinds of promises and people voted against them for numerous reasons, which I still do not understand. At that time, promises were made that we would do numerous things to help generate jobs in this area for both the major tribes. Nothing, nothing, nothing has been done. Ladies and gentlemen, this is an economic issue to give us a fair share all over the state of what the good that we do in the southern part of the state. This is to help our people that have not been helped at all in the last four sessions that I have been here. We made all kinds of promises and here we are talking about a minor thing. Allowing these people to do what they have done for so many years and we are holding back and saying we can't do it. A casino is not going to happen. Jobs are not going to happen. Let's allow them at least to feed themselves and to work in the way that they understand and do well at. Ladies and gentlemen, I oppose the pending motion on LD 2145 and I ask you to support our brothers and the two different tribes. Thank you.

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

Representative DRISCOLL: Madam Speaker, Men and Women of the House. In the 116th Legislature as the Representative from Winslow stated to you, they did defeat the casino bill. Of course, that hurt Calais, not only the surrounding area there, but both reservations. I live right between the both of them. I know them well. I know their unemployment is over 40 percent or close to 50 percent. I know their poverty level is very low or very high. This bill is simply trying to give them a chance to get a couple of jobs that they can work on. Two jobs in the Calais area are on the reservation and not like in Portland, two jobs will be nothing. Down there, it means a lot. I hope you take that into consideration when you talk about this on the floor and also when you vote. This is going to help those tribes tremendously and it is also going to help the area. Thank you.

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

Representative WHEELER: Madam Speaker, Men and Women of the House. Just a couple of quick points, look back in

the history and ask yourself who taught us how to fish. I think you all know the answer. Here we are trying to tell them how to fish. I don't think so. The other thing, we have heard a lot of opinions in here on this debate today, but there is one word that sticks out to me. That is culture. Culture defines the Passamaquoddy. I urge you to defeat the pending motion and go on to pass the Majority Report.

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

Representative TRUE: Madam Speaker, Ladies and Gentlemen of the House. I have supported everything that I can remember since I have been in this Legislature to help the Native Americans. I will continue to support them. The last time I spoke in consideration of any bill for these people, I asked how many of you have gone to the library to read the act which has been spoken of many times this morning. If you haven't, you should. All I hear and have heard is all that we gave these people by this act. We gave them money. We took away all the things that we are trying to take away today. I am very pleased that my learned friend from Eliot spoke about history. Every person in these hallowed halls should remember their history and how many other people have had their heritage and all the things that were important to them taken away. I would have to stand here until the good Madam Speaker told me to sit down in order to enumerate. This is important. I feel that the Native Americans even gave a little bit here. It is about time that we show them that we can help them economically. We can help them keep their heritage. I urge all of you to defeat the pending motion as it is in front of us. Thank you.

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

Representative ETNIER: Madam Speaker, Men and Women of the House. We have heard a lot about jobs up there and how without this bill it would adversely impact jobs on the nation and the tribe perhaps. Nothing could be further from the truth. There is nothing to prevent any member of the Passamaquoddy tribe from holding any Maine marine resources license and going fishing. Yesterday, today or tomorrow those licenses are available to everybody as they have been since this act was passed in 1980. There is no impediment to their culture relative to this. You do have to purchase a Maine State license or maybe give it to them. I am not sure how that works. That doesn't mean they can't go make a living on the water. They have always been able to make a living on the water. There is no impediment to that. Any effort to imply that is extremely misleading. I just wanted to clarify that. This is not an attempt to diversely impact them economically. They can hit the water tomorrow fishing with a license and everyone knows that. Thank you.

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

Representative LAYTON: Madam Speaker, Men and Women of the House. To just address Representative Etnier's concern, it is true that the Passamaquoddies can get a license. The opposition just wants them to go through the apprenticeship program, which is a two-year apprenticeship program which with legislation coming up later on, be extended. The difficulty I have with that is if I were to go to every high school and college in this state and say that all of you students who want to have a fishing license, you can get one and you can fish 15 traps and you need not go through the apprenticeship program. Student licenses you don't have to go through an apprenticeship program. If you stopped and thought of how many students that would be times 150 traps, what the Passamaquoddies are going to do doesn't even impact.

The other item I would like to bring up is that in the committee, we had a representative from the Attorney General's Office address the committee and basically said to us that we can do anything that we wanted to do in the law as long as we made it specific. In order to meet that charge, we formed a subcommittee to make it as specific as they possibly could and they did. I must tell you that the concern here, in my opinion, is the reopening of the Indian Land Claims Settlement Act. That is a concern, I think, that is brought forth by the Executive. So what? The tribe has asked for these 24 licenses, as you have heard, it is not going to be a major impact on the industry. The Attorney General's Office said that we could do whatever we wanted to in committee to put it into law, just be specific. We have done that. Thank you.

The SPEAKER: The Chair recognizes the Representative from the Penobscot Nation, Representative Loring.

Representative LORING: Madam Speaker, Ladies and Gentlemen of the House. I would be remiss if I didn't stand up as Representative of the Penobscot Nation and say that we are in favor of this bill. The cooperation that it took, the work that it took on Representative Moore's part was a lot and it gave up a lot for this. The Penobscots really were watching this very closely because we are interested to see if cooperation between the tribes and the state can really work. I would urge you to vote against this Ought Not to Pass motion. Thank you.

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

ROLL CALL NO. 479

YEA - Bagley, Belanger IG, Bragdon, Bruno, Bunker, Cameron, Carleton, Chartrand, Clukey, Colwell, Cowger, Davidson, Etnier, Fisk, Fuller, Green, Honey, Jabar, Kontos, Madore, Mitchell JE, Nass, Nickerson, O'Neal, Pendleton, Plowman, Powers, Rowe, Saxl JW, Stevens, Thompson, Tripp, Waterhouse, Watson, Wheeler EM.

NAY - Ahearn, Baker, Belanger DJ, Berry DP, Berry RL, Bigl, Bodwell, Bolduc, Bouffard, Brennan, Brooks, Bryant, Buck, Bull, Bumps, Campbell, Chick, Chizmar, Cianchette, Clark, Cross, Desmond, Dexter, Donnelly, Driscoll, Dunlap, Farnsworth, Fisher, Foster, Frechette, Gagne, Gagnon, Gamache, Gerry, Gieringer, Goodwin, Gooley, Hatch, Jones KW, Jones SL, Jones SA, Joy, Joyce, Joyner, Kane, Kasprzak, Kerr, Kneeland, Labrecque, Lane, LaVerdiere, Layton, Lemaire, Lemke, Lemont, Lindahl, Lovett, MacDougall, Mack, Mailhot, Marvin, Mayo, McAlevey, McKee, Meres, Morgan, Murphy, Muse, O'Brien, O'Neil, Ott, Paul, Perkins, Perry, Pieh, Pinkham RG, Pinkham WD, Povich, Quint, Richard, Rines, Samson, Sanborn, Savage, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Snowe-Mello, Spear, Stanley, Stedman, Taylor, Tessier, Tobin, Townsend, Treadwell, True, Underwood, Usher, Vedral, Vigue, Volenik, Wheeler GJ, Winglass, Winn, Winsor, Wright, Madam Speaker.

ABSENT - Barth, Dutremble, McElroy, Peavey, Poulin, Tuttle. Yes, 35; No, 110; Absent, 6; Excused, 0.

35 having voted in the affirmative and 110 voted in the negative, with 6 being absent, the Minority **Ought Not to Pass** Report was **NOT ACCEPTED**.

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

The Bill was **READ ONCE**. **Committee Amendment "A" (H-983)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** later in today's session.

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

Bill "An Act to Implement the Recommendations Relating to the Review of the Department of Professional and Financial Regulation's Office of the Commissioner, Office of Consumer Credit Regulation and Office of Licensing and Registration under the State Government Evaluation Act"

(H.P. 1565) (L.D. 2198)
(C. "A" H-952)

Which was **TABLED** by Representative VIGUE of Winslow pending his motion to **ADOPT House Amendment "A" (H-982)** to **Committee Amendment "A" (H-952)**.

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

Representative VIGUE: Madam Speaker, Ladies and Gentlemen of the House. This was a study done by the Business and Economic Development Committee dealing with the Government Evaluation Act. What it did is recommend numerous changes that should be made in the different departments. The one that was holding up the pending legislation was the plumbers being transferred to the plumbing board. We have resolved this and it will remain where it was. The bill is exactly the way it was shown. Thank you very much.

Subsequently, **House Amendment "A" (H-982)** to **Committee Amendment "A" (H-952)** was **ADOPTED**.

Committee Amendment "A" (H-952) as Amended by **House Amendment "A" (H-982)** thereto was **ADOPTED**.

The Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-952) as Amended by House Amendment "A" (H-982)** thereto and sent up for concurrence.

The House recessed until 4:00 p.m.

(After Recess)

The House was called to order by the Speaker.

HOUSE DIVIDED REPORT - Majority (7) **Ought to Pass as Amended by Committee Amendment "A" (H-956)** - Minority (5) **Ought to Pass as Amended by Committee Amendment "B" (H-957)** - Committee on **UTILITIES AND ENERGY** on Resolve, Regarding Legislative Review of Chapter 820: Requirements for Non-Core Utility Activities and Transactions Between Affiliates, a Major Substantive Rule of the Public Utilities Commission (EMERGENCY)

(H.P. 1611) (L.D. 2237)

TABLED - March 20, 1998 (Till Later Today) by Representative JONES of Bar Harbor.

PENDING - Motion of same Representative to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-957)** Report.

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

Representative JONES of Bar Harbor **WITHDREW** his motion to **ACCEPT** the Minority **Ought to Pass as Amended** Report.

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

The Bill was **READ ONCE**. **Committee Amendment "A" (H-958)** was **READ** by the Clerk and **ADOPTED**.

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

Representative COLWELL of Gardiner **PRESENTED House Amendment "A" (H-960)** which was **READ** by the Clerk.

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

Representative TUTTLE: Mr. Speaker, May I pose a question through the Chair?

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

Representative TUTTLE: Mr. Speaker, Men and Women of the House. Could the author of the amendment please explain what the amendment does?

The **SPEAKER PRO TEM**: The Representative from Sanford, Representative Tuttle has posed a question through the Chair to the Representative from Gardiner, Representative Colwell. The Chair recognizes that Representative.

Representative COLWELL: Mr. Speaker, Men and Women of the House. The amendment merely removes the emergency provision from the LD.

House Amendment "A" (H-960) was **ADOPTED**.

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-958) and House Amendment "A" (H-960)** and sent up for concurrence.

HOUSE DIVIDED REPORT - Majority (7) Ought to Pass as Amended by Committee Amendment "A" (H-906) - Minority (6) Ought Not to Pass - Committee on UTILITIES AND ENERGY 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)

TABLED - March 20, 1998 (Till Later Today) by Representative JONES of Bar Harbor.

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

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Cumberland, Representative Taylor.

Representative TAYLOR: Mr. Speaker, Men and Women of the House. I urge you to reject the Majority Ought to Pass Report and vote no on the pending motion. LD 2076 is another of the electric deregulation bills. On the face of it it is a good bill. It would require the electric utilities primarily to report to the PUC the terms and conditions of any sale, lease or transfer of assets. As we worked the bill it became apparent that the PUC had already the authority it needed in this area and has already required this reporting and made sure all property transfers or sales were proper and in the best interest of ratepayers. The bill requires a review of all transactions back in 1992. It originally included all transactions regardless of value. This would be a horrendous project for both the utilities and the commission. As amended, it only requires reporting transactions of over 50,000 on personal property and 5,000 on real property, which eliminates nearly all of the reporting. The fact that the commission already receives this information it is not necessary. Please support the Minority Report and eliminate this unnecessary bill. Please vote no on the pending motion. Thank you.

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

Representative JONES: Mr. Speaker, Men and Women of the House. My good friend from Cumberland, Representative Taylor and I have worked very hard over the past two years to make sure that we don't stand here and waste any of the valuable time in this body. We do differ on this particular bill and I will give you my specific reason for signing on with the majority. It is true that many of the reporting requirements wouldn't be necessary, but what this bill will also do is to make these documents available to people who may be interveners in the case. If you become an intervener in a public utilities case, you are then sent reams and reams and reams of material from the PUC having to do with that specific case that you have intervened on. You may have intervened because of one issue. This bill will allow you to go in and look at that one thing without becoming an intervener and look at that one document and say that there is really no need for me to intervene here. It is a paperwork saving act and it is a monetary saving. The amount of mailings the PUC does in one year is phenomenal. If you have 200 interveners in a case and there are 1,000 pages per case, you can imagine what that costs the state to send out. They look at it more as a paperwork reduction act than any serious policy issue. Thank you Mr. Speaker.

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

Representative O'NEAL: Mr. Speaker, Ladies and Gentlemen of the House. This bill has been changed because it is now the amendment and not the bill. We had originally asked that they would go back to 1984 and we have now come back to 1992. There has been a lot of compromise on this bill. Of all the bills that have been before our Utilities Committee, this is the second divided report. There are many things we hope this bill will provide for. One thing is, as it is now, every utility is required to record transactions. This will require them to record and report the transactions. I hope that you will join me and support the Majority Ought to Pass Report.

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

Representative JONES of Bar Harbor **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 PRO TEM**: The Chair recognizes the Representative from Buxton, Representative Vedral.

Representative VEDRAL: Mr. Speaker, Men and Women of the House. You heard a little bit of testimony already on this bill. The bill indeed is unnecessary. The testimony we heard in the public hearing in support of this, we heard from people who seemed like they were on a fishing expedition looking for some specific transactions that they thought may have gone on. We didn't receive any evidence that showed us that this bill was necessary. We did, in fact, receive testimony that this information had already been turned over. There is no need for this bill. Common sense only tells us that we don't need to pass this into law in order to get that information out. Please do vote against this motion.

The **SPEAKER PRO TEM**: 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. 480

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

Etnier, Farnsworth, Fisher, Frechette, Fuller, Gagne, Gagnon, Gamache, Gerry, Green, Hatch, Jabar, Jones KW, Kane, Kerr, Kontos, LaVerdiere, Lemaire, Lemke, Mailhot, McKee, Mitchell JE, Morgan, Muse, O'Neal, O'Neil, Paul, Perkins, Perry, Pieh, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Stanley, Stevens, Tessier, Thompson, Townsend, Tripp, Tuttle, Usher, Volenik, Watson, Wheeler EM, Wheeler GJ, Wright, Madam Speaker.

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

ABSENT - Dutremble, Honey, Labrecque, Poulin, Underwood, Winn.

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

78 having voted in the affirmative and 67 voted in the negative, with 6 being absent, the Majority **Ought to Pass as Amended Report was ACCEPTED.**

The Bill was **READ ONCE. Committee Amendment "A" (H-906) was READ** by the Clerk and **ADOPTED.**

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

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-906)** and sent up for concurrence.

HOUSE REPORT - **Ought to Pass as Amended by Committee Amendment "A" (H-974)** - Committee on **JUDICIARY** on Bill "An Act to Provide for Commitment of Sexually Violent Predators"

(H.P. 1277) (L.D. 1807)

TABLED - March 20, 1998 (Till Later Today) by Representative THOMPSON of Naples.

PENDING - **ACCEPTANCE OF COMMITTEE REPORT.**

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

Bill "An Act to Amend the Uniform Health Care Decisions Law"

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

(C. "A" H-942)

TABLED - March 20, 1998 (Till Later Today) by Representative KONTOS of Windham.

PENDING - **PASSAGE TO BE ENGROSSED.**

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

Representative **WATERHOUSE:** Mr. Speaker, Ladies and Gentlemen of the House. Just to briefly refresh the members what this debate was about. It had to do with amending the Uniform Health Care Decisions Act. I might remind you that there are only two states in the nation who have adopted the Uniform Health Care Decisions Act and one of them is Oregon. We adopted it in the 117th and I was on the Judiciary Committee at the time. There was quite a bit of long debate on it. It

expanded the surrogate powers and also included new surrogate members if memory serves me correctly. This bill here, I am going to give you a brief synopsis of what it does. Under current Maine law, it authorizes a surrogate, usually a family member to allow withdrawal or withholding of life sustaining treatment for patients who are terminally ill or in a permanent vegetative state and for whom no agent or guardian has been appointed or is reasonably available. That is patients who are in their last stages of their life. Life sustaining treatment by definition of 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.

The change, and I am talking about the bill before us, allows surrogates to make any health care decisions for incapacitated patients who may otherwise be healthy. Those health care decisions will likely involve decisions about life saving surgery. Life saving surgery, for example, would be surgery or medicine necessary to save a persons life. A person who may otherwise be healthy and may very likely want to live if they could communicate, but are currently incapacitated. The problem I have with this bill and you might here some people saying they might have remembered earlier that this is a decision that family members should make. I am strongly in support of advanced directives and living wills. Especially for people who are in a terminal state, but this bill goes way beyond that. Even though you might hear that the medical associations think that it might expedite the process and some other organizations think it is necessary for a family to make these decisions, the one thing that we should keep in mind is that there is a subset of our community who is extremely vulnerable to these kinds of expansions of this type of surrogate power. I might remind you that a surrogate down the pecking order might be somebody who just may know your value. It doesn't have to be a family member, if they can't find somebody who is a family member. A lot of people don't have family members. Some people don't have family members and it could be your friend who may know your value.

The disabled and handicapped community is extremely fearful of this piece of legislation. They feel as though it makes them extremely vulnerable to decisions and in the perfect world we would have caring family members who would make the right decisions for us, but the world isn't perfect and because of that the handicapped community fears this bill more than they fear the assisted suicide bill. They are deathly afraid of this bill. I urge you not to support passage and Mr. Speaker, I request the yeas and nays.

Representative **WATERHOUSE** of Bridgton **REQUESTED** a roll call on **PASSAGE TO BE ENGROSSED as Amended.**

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

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

Representative **JABAR:** Mr. Speaker, Men and Women of the House. I would like to explain a little bit about what this bill is all about because I think there is a great deal of confusion as to what is trying to be accomplished and I disagree significantly with my good friend and colleague from the Judiciary Committee, the Representative from Bridgton. The last Legislature granted to surrogates and, by the way, surrogates are usually family members. They have a priority beginning with the spouse and then to the parents and then to siblings and going down to find some relatives. In surrogates we are talking, most of the time, about family members. This last Legislature gave to surrogates the power to make decisions as to life and death with life sustaining measures. That was a very significant decision that was given in Maine by this Legislature. The bill before you today

deals with other than life or death situations. You have in front of you literature from the Alzheimer's Association and the Maine Medical Association concerning this bill. What happens in many situations is that a doctor is faced with a medical situation regarding somebody who is incapacitated possibly because of Alzheimer's Disease or possibly because of a coma and possibly because of other mental illness. Many times doctors are afraid to take surgical procedures and medical treatment because they do not have the permission or the consent of the person involved. Too often, they seek council from family members even though the law does not authorize them to get permission from other family members. The alternative is for the family to run to probate court, hire an attorney and get the doctor to sign a statement saying the patient is incapacitated, be appointed the guardian of that person, go back to the hospital and then tell the doctor, yes, you may perform the surgical procedure.

The surgical procedure we are talking about is something that may involve something other than a life or death situation. Many times patients need medical treatment that is not a life or death situation. All this bill does is give the surrogate, again, family member, the right to make decisions rather than make the family have to run to probate court to be able to be appointed the guardian. The doctors support this because they want the protection. They want someone they can talk to and know that they are legally protected when they decide to do a reconstructive surgery of a knee or an elbow or something else that will enhance somebody's quality of life even though it is not a life or death situation. This has no relationship at all with the death with dignity bill or assisted suicide or the withholding of life sustaining measures. It has to do with the day to day dealings that a doctor has with family members on some simple day to day decisions regarding surgery and other medical treatment. I believe the people who testified understood that. The Alzheimer's group understand that. The doctors understand that. There is this fear about someone being taken advantage of and not being given a life saving procedure and is not founded in fact. There was not a great deal of concern brought to our attention relative to these issues.

In conclusion, we are willing to give the surrogate the right to make a decision on life or death, then there certainly isn't harm with giving them a decision making process with something less than life or death. That is the purpose of the bill and I don't think it is going to be a situation as significant as my good friend from Bridgton has indicated. Thank you.

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

Representative AHEARNE: Mr. Speaker, Men and Women of the House. It is not often that I speak on issues that do not fall within the purview of my committee. This issue is so important that I feel I must address this. Last week we began debate on this bill and due to time restrictions, we tabled it. I did, in fact, read a letter from a Robert Robinson a member of the Maine Bar Association and I am compelled to reread it again because it addresses concerns, serious concerns that I have with the broadness of this bill. I think my record reflects how I feel about some of these issues. Once again, I will reread it.

"Dear Representative Ahearne, As a member of the Maine Bar Associations Advanced Directives Committee and being somewhat responsible for some of the language contained in the existing law, I write to you to urge you to vote no on LD 76, 'An Act to Amend the Uniform Health Care Decisions Act.' This bill is intended to make the health care delivery system more efficient, but in reality it is a dangerous measure that would place the most vulnerable in peril. It has been argued by the proponents of this legislation that the existing law of 18-A MRSA, Section 5-805, Uniform Health Care Decision Act, that it is so narrow as to

prevent the surrogate from performing any act or making any health care decision on behalf of his ward or patient, except in those cases where the patient is in a terminal condition or in a persistent vegetative state, thus the need for this amendment. The proposed amendment was intended to broaden the scope of duties of the surrogate to include other health care decisions. This purpose is laudable, but unfortunately the language used to accomplish this purpose is seriously flawed. The statute, as amended authorizes the surrogate to either act or fail to act in the administration of any and all health care decisions, whether the patient is in a terminal condition, persistent vegetative state or otherwise, which is intended to be an improvement over existing law in that something can be done where before nothing could be done by their surrogate except where there was a terminal condition or persistent vegetated state. I am aware that there are some checks and balances in place intended to provide certain protections to the patient first in the presumed goodness and competence of the surrogate and also in the power of a competent physician and in case of error or mischief on the part of the surrogate. The right provided a family member or friend to petition the court to guarantee the security and well being of the patient is also a protective measure that is meritless. I am not unmindful of the improvement created in the current amendment, which was not considered available in our existing statute. I am aware of the good faith attempts to provide certain protections in the law, however, under these critical circumstances where actual life or death of a human being is an issue. The goodness, competence, checks, balances and protections, as good as they are, are not enough. One of the defects is that a surrogate under one of the prescribed classifications of this proposed amendment can be a veritable stranger. Such a stranger may be competent to perform certain health duties for an incompetent patient. Do we really want to assign to such an unknown the responsibility of determining whether this incompetent patient shall live or have life supports removed? Our culture and tradition has always been to secure and protect the helpless and those incapable of protecting themselves. This proposed amendment would be a first step in breaching that tradition. We can and must be able to draft language which will protect and secure the well being of the incompetent, poor, homeless and those with no family or friends to stand in their behalf to protect their rights. Drafting effective legislation which will govern and set the standard in a society burdened with ever increasing social complexities. We must create a beacon of light and safe haven for all and especially the weak and the downtrodden and we must employ every safeguard in our best efforts to prevent the creation of a casual standard which can be subjected to weakness, fraud and possibly unwarranted suffering and death. The stakes are too high, the risks too great for us to settle for less than our very best in creating guidelines and setting appropriate standards to protect those who cannot protect themselves. I am, therefore, prepared to acknowledge the improvements in the act, constrain to urge you to vote no on this amendment. It is my expectation that a more complete resolution of this important matter will be forthcoming from the competent efforts of men and women of good will who seek to uphold the highest values of our culture and traditions. Sincerely, Robert C. Robinson."

My concerns are exactly what those who we are trying to protect, those who normally cannot defend themselves. I believe that this piece of legislation will breach that as Mr. Robinson has stated in peril. I ask you to vote against Engrossment.

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

Representative PLOWMAN: Mr. Speaker, Men and Women of the House. I apologize for rising again, but I feel that I would

be remiss if I didn't. We heard from Attorney Michael R. Poulin regarding the health care decision fact and how we should be cautious about what we pass. We heard from the former district attorney, Janet Mills, cautioning us to be very careful in what we pass. I will quote her, "Call it cynicism left over from my prosecutorial days or call it simply realism. I feel strongly that the Legislature should not entrust such important decisions to third parties except under very limited circumstances." We talk a lot about capacity. The capacity to make the decisions. The person who is not able to make the decision and does not have the capacity and is not in the dying process, I have a problem with us saying that it is not a life and death situation. They are not dying in a long drawn out manner or being artificially kept alive, does not mean that the circumstances that they are there for or that the treatment that they need is not life saving. Try thinking about someone who is incapacitated and the doctor comes to you and says there is a 50/50 chance of coming through this surgery. The doctor wants guidance. That is 50/50, we are not even talking about just fixing an elbow or a knee anymore. We are talking about life saving surgery. It is only 50/50. All we have said is that they can't deny life sustaining measures. We have not said that they can't deny life saving or potentially life saving. What I am saying is you can't anticipate with one piece of legislation. And the word life sustaining being the holdout, the only protection when it comes to the things that we do in the medical field these days. A lot of what we do is experimental. A lot of what we do is new and not tried in all areas of the country. We learn about it and sometimes that is where you come to. Fifty percent she could live and fifty percent she could die. Are you willing to go out on a limb and pass this legislation and feel very comfortable that you have protected someone who could not make this decision for themselves? Can you for certain say that you have given all the protection to the patient that that patient deserves? He is not making the decision. The surrogate is. I don't feel that we have offered enough protection to the patient. I don't think that we are ready to be the first place in the country to test whether this is going to be the best way to help out people who can't make decisions for themselves. This makes it easy for hospital administrators. That is it. If that is what you want to do, weighing hospital administrator's duties against patient's rights, then you need to vote for this. If you want to put patients rights first and protect the patient, then you need to vote against passage. Thank you.

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

Representative KASPRZAK: Mr. Speaker, Men and Women of the House. I remember last week a Representative had lamented the fact that there are terrible situations for people who are disabled in wheelchairs for them to go up and down certain hallways and things. I would just read a letter from a disabled person that I am sure we have seen many, many times in these halls, usually coming in to support life issues. This is a life issue. Life for disabled people who can't speak for themselves. "My name is Dennis Daigle." I don't know if you received this letter or not, but it came across my desk. "As a disabled person, I want to express my opposition to the Committee Amendment to LD 76. As I see this amendment, it is more threatening to the disabled community than the recent assisted suicide bill that the Legislature just defeated. With this amendment the only safeguard we have on our lives is having a living will, advanced directive or whatever. Otherwise, your fate could be determined by a number of other people. Why does this affect the disabled? I will first give you two personal examples of how this bill could have been disastrous in my life. I believe there are many more cases like mine. I was temporarily unconscious for three days. I was single and my father was unable to help. My mother had to

make dozens of decisions an hour for me with only the help of hospital support staff. I was blessed to know that she would have never consider allowing me to be denied self-life saving treatment. However, what about those less fortunate than me? What if the person in charge of making your decision doesn't have the presence of mind to deal with your trauma? How about if they feel that since you are going to be permanently disabled, your quality of life is not worth saving? There is a good chance you will end up dead. Unfortunately, there is a stigma that the general public attaches to disabled people. Being in a wheelchair, I have many well meaning friends say, I don't know how you do it. Meaning, how I live in a wheelchair and still maintain a positive attitude. Other times, I see strangers unable to hide the look of pity on their faces when they see me in public. Both cases tell me that most people automatically assume that disability equals a lesser quality of life. There are other problems too. A spouse or relative may be reaching the point where they see their disabled spouse or relative as a burden. In such a case, I see this bill as ripe for abuse. Sadly, even our closest people's motives aren't always pure. I hope I have shown that this amendment represents a serious threat to the disabled and that anyone can become disabled very quickly. I hope you will take this into consideration and oppose this Committee Amendment. Dennis Daigle."

It so happens that this weekend I came across a publication that did have a story about a gentleman who was in an accident and his wife decided after a time that he was a burden to her and she decided that he should have his feeding tube pulled and not have life giving support any longer. He should starve to death. Fortunately, his mother and his sister thought that wasn't appropriate because this gentleman was not a vegetable. In fact, he was able to move his electric wheelchair around and answer yes and no questions, but his wife thought that he was a burden. The courts decided, at this point, that his mom and his sister were right and that temporarily, they are going to keep him alive. Who knows what comes next with bills like this? I would ask you to support the Ought Not to Pass motion. Thank you.

On **POINT OF ORDER**, Representative JONES of Bar Harbor asked the Chair how closely we were following Sec. 112, Par. 6 of Mason's Rules.

The Chair ordered the debate to continue.

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

Representative FULLER: Mr. Speaker, Ladies and Gentlemen of the House. I am rising in support of the amended version of LD 76. I would point out in response to some of the questions that have been raised here today that by granting surrogates the ability to make some decisions even without a written advanced health care directive, we, in fact, also impact on life and death decisions because until somebody can make that decision, maybe a physician cannot go forward and provide some treatment that will be life saving. They need authority to go ahead and do surgery sometimes and there are various other situations that the surrogate needs to be available to make those kinds of decisions. I am just thankful that when my mother had Alzheimer's disease that I was able to make decisions on her behalf. There seems to be a feeling that families are in the business of trying to do away with relatives. I would assure you that most families will make a decision that is in the best interest of the patient. They do want to have them get the best treatment that they can receive. There are other laws to safeguard built into our current law that require surrogates to be legally bound to follow patient instructions or wishes if known. Otherwise, they must act in the patients best interest and with good faith. Health care providers must attempt to tell patients the decisions by surrogates. Health care providers obtain immunity from liability

only if they act in good faith and according to generally accepted health care standards of practice. They cannot just go ahead and do something because a family member says they ought to do something, which is against their standards of practice for providing medical care. Providers are specifically authorized to decline to comply with decisions by surrogates which are contrary to generally accepted health care standards of practice.

I would also point out that in this amendment there are health care decisions acts which state specifically that surrogates cannot make decisions to withhold or withdraw life sustaining treatment. That is specifically not allowed for the surrogates to make that kind of decision. I would submit that there are all kinds of safeguards built into the system. We need to allow physicians in our medical care community to provide care that is needed without forever putting barriers and obstacles in their way before they can go ahead and provide good medical care. I urge passage of this bill.

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

Representative WATERHOUSE: Mr. Speaker, Ladies and Gentlemen of the House. To answer the query that was put forth by the previous speaker, that was one of the questions that I asked the medical profession in the committee, whether right now, under the present law, whether they go ahead and provide life saving treatment or necessary surgery. The answer to that is they do. For the Representatives concerned that that treatment isn't provided, right now it is provided 100 percent. I just want to refer to the good Representative from Newport, Representative Kasprzak, she made my point exactly. It has been my information that has been brought to me that these situations seldom go to probate court anyway, but isn't it great that some of them do? The one that the Representative from Newport mentioned, saved a life. That is why we have this type of thing. It may slow down the process a little bit and it may be inconvenient, but if it saves a life, isn't it worth it?

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

ROLL CALL NO. 481

YEA - Baker, Berry RL, Bolduc, Brennan, Brooks, Bruno, Bryant, Bull, Bunker, Cameron, Carleton, Chartrand, Cianchette, Colwell, Cowger, Davidson, Etnier, Fisher, Fisk, Frechette, Fuller, Gagne, Gagnon, Gamache, Gieringer, Gooley, Green, Hatch, Jabar, Jones KW, Joyner, Kane, Kerr, Kontos, LaVerdiere, Lindahl, Lovett, Mailhot, Marvin, Mayo, McKee, Mitchell JE, Morgan, Muse, Nass, O'Neal, O'Neil, Ott, Peavey, Pendleton, Perkins, Pieh, Povich, Powers, Quint, Rowe, Samson, Savage, Saxl JW, Saxl MV, Shannon, Shiah, Skoglund, Stevens, Tessier, Thompson, Townsend, Tripp, Volenik, Watson, Wright, Madam Speaker.

NAY - Ahearne, Bagley, Barth, Belanger DJ, Belanger IG, Berry DP, Bigl, Bodwell, Bouffard, Bragdon, Buck, Bumps, Campbell, Chick, Chizmar, Clark, Clukey, Cross, Desmond, Donnelly, Driscoll, Dunlap, Farnsworth, Foster, Gerry, Goodwin, Jones SL, Jones SA, Joy, Joyce, Kasprzak, Kneeland, Lane, Layton, Lemaire, Lemke, MacDougall, Mack, Madore, McAlevey, McElroy, Meres, Murphy, Nickerson, O'Brien, Paul, Perry, Pinkham RG, Pinkham WD, Plowman, Richard, Rines, Sanborn, Sirois, Snowe-Mello, Spear, Stanley, Stedman, Taylor, Tobin, Treadwell, True, Tuttle, Usher, Vedral, Vigue, Waterhouse, Wheeler EM, Wheeler GJ, Winglass, Winn, Winsor.

ABSENT - Dexter, Dutremble, Honey, Labrecque, Lemont, Poulin, Underwood.

Yes, 72; No, 72; Absent, 7; Excused, 0.

72 having voted in the affirmative and 72 voted in the negative, with 7 being absent, the Bill **FAILED** of **PASSAGE TO**

BE ENGROSSED as Amended and was sent up for concurrence.

Bill "An Act to Require the State to Be Responsible for the Costs of School Employee Record Checks and Fingerprinting" (H.P. 1536) (L.D. 2163)

TABLED - March 20, 1998 (Till Later Today) by Representative SAXL of Portland.

PENDING - **ADOPTION OF COMMITTEE AMENDMENT "A" (H-976)**.

Representative LANE of Enfield **PRESENTED House Amendment "A" (H-986) to Committee Amendment "A" (H-976)**, which was **READ** by the Clerk.

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

Representative LANE: Mr. Speaker, Men and Women of the House. I call this my 'What is good for the goose is good for the gander' amendment, apparently, or the title of the movie, While You Were Sleeping. It seems as though while we were sleeping and while things were hitting our desks hot and heavy last spring, the bill was passed unanimously out of committee under the hammer. It was LD 503, "An Act to Provide for State and Federal Criminal Record Checks on Educational Personnel in the State." I am sure there were some very good reasons why this came out a unanimous Ought to Pass. I certainly don't deny that. I do know that I have had a few calls from teachers in my district who have been furious about this. What this does, basically, is requires all new school personnel or anyone coming up for recertification to pay for a fingerprint and criminal background check while applying for a job and to continue to do so when coming forward for recertification. My amendment, please listen, my amendment just simply asks those who are running for state office to put themselves to the same test.

Just to be clear, fingerprinting in the original LD, "The applicant shall submit two fingerprint cards bearing a legible rolled and flat impression of the applicants fingerprints prepared by the state or local law agency. So you have to go get your fingers smeared on a piece of black gooey stuff. This applies to individuals seeking initial certification or renewal as administrators, teachers or education specialists. Individuals seeking authorization or renewal and it also includes, but not limited to school bus drivers, custodians, coaches and secretaries." I don't know about you, but my husband has taught for 28 years and he is a dedicated teacher. This lady that we honored last week who is retiring after 31 years brought this to my attention. She is a dedicated teacher. Like I said, I am sure here is some very good reasons, but I think they need to be talked about and spoken into this record as to why we are faced with presuming that teachers, custodians, bus drivers, coaches, secretaries, perhaps substitute teachers and crossing guards are considered guilty of being perverts until proven innocent. I think this is an affront. The \$29 they are going to charge has nothing to do with it. It is a matter of honor and is questioning people's integrity and I would submit to you if you were to ask the public who they trust more, their teacher or their politician, I would be hard pressed to say they would probably say their politician.

I would ask you to support this amendment that would simply make those politicians submit themselves to the same testing. I thank you.

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

Representative MCALEVEY: Mr. Speaker, Ladies and Gentlemen of the House. Last year the bill that was passed by this body required that teachers, like other licensed professionals in this state, pay to have their background checks done for

screening purposes. It was a long debate in committee. It came out of committee and it was enacted into law that school employees would subject themselves to a criminal background check. I am licensed by the state. Every two years I have to be relicensed. I pay every two years for a criminal background check. So do a lot of other individuals in this state. I do have a problem with the bill that we are looking at now as well as the amendment. I would move that we Indefinitely Postpone LD 2163 and all of its accompanying papers.

The SPEAKER PRO TEM: The motion is out of order.

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

Representative O'BRIEN: Mr. Speaker, Ladies and Gentlemen of the House. I would like to give a little background on this bill. We passed a law last time. I was a cosponsor of it. It went before the Education Committee and if my memory is correct, there was a lot of discussion, a lot of debate and it did pass unanimously through the Education Committee. What this does is require all school personnel, teachers, bus drivers, secretaries, janitors or anyone having direct contact with children in a school setting to have fingerprints done upon certification and recertification. From what I understand, in previous sessions, this bill came up in various forms. In the past it was rejected by the teacher's unions. Last year when this came forward they did not speak against this. They had no problem with it from my understanding and certainly did not speak against it. It was a compromise bill when it came out as it did.

The reason for the bill in the first place, as questioned by the good Representative, was that the Education Department has had a lot of increase from teachers and school personnel throughout the country calling Maine and asking if they do fingerprint checks. They are FBI checks. If they don't, they have been hanging up and saying thank you. If they do, it stops them from pursuing this. Granted, there are wonderful teachers. Last year my sister won a national award, my parents, my in-laws, many people in my family are in the education field. There are wonderful people in the education field. There are also some very harmful people in the education field, as in any field. There are several among us, perhaps. Who knows? That is not singling out the education field in my view. These are people on a daily basis that have direct contact with children. Some of them alone, bus drivers, janitors and many of us can talk about situations in our school districts where if this had been enforced, we would not have had this problem. I spoke to a Department of Education personnel within the past several days. He can cite two examples since this went into effect in September. Two examples that they know this precluded a very, very unfortunate incident. I would ask that this amendment be Indefinitely Postponed so that we can move on. Thank you.

Representative O'BRIEN of Augusta moved that **House Amendment "A" (H-986) to Committee Amendment "A" (H-976) be INDEFINITELY POSTPONED.**

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

Representative BULL: Thank you Mr. Speaker. I would like to pose a question of germaneness on this amendment.

Representative BULL of Freeport asked the Chair to **RULE if House Amendment "A" (H-986) to Committee Amendment "A" (H-976) was germane to the Bill.**

The SPEAKER PRO TEM: The Chair rules that the amendment before the body is not germane to the bill. The original bill pertains solely to the payment of expenses for school employees and the amendment pertains to other state employees.

The Chair **RULED** that **House Amendment "A" (H-986) to Committee Amendment "A" (H-976)** was not germane to the Bill.

Representative LANE of Enfield **PRESENTED House Amendment "B" (H-987) to Committee Amendment "A" (H-976)**, which was **READ** by the Clerk.

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

Representative LANE: Mr. Speaker, Men and Women of the House. My second amendment is a real amendment. The bill that came before the Legislature, the Education Committee, this year would require the state to be responsible to costs of school employee record checks and fingerprinting. It was worked very hard in committee. I understand that. Now it came out was saying the Department of Education is not liable if there aren't funds available to pay for it. The employee must pay the first time around for a criminal background check and fingerprinting and the Department of Education is liable for subsequent background checks unless they don't have the money. Therefore, if they don't have the money, guess who pays? It would be the employee again. This amendment I am introducing simply specifies that an applicant must submit to a Federal Bureau of Investigation criminal history record check and fingerprinting only if the Department of Education pays the expense of the background check and fingerprinting. I think this is only fair. Please give a little dignity back to our teachers. Please support my amendment. Thank you.

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

Representative RICHARD: Mr. Speaker, Men and Women of the House. This is a bill that I have given a lot of thought to, a lot. After talking with the Representative who spoke previously, I have given it more thought. As we crafted the bill that was presented to us this year, we felt that this was so important that we wanted to be sure that the measure would get done. Therefore, we wrote into the bill the fact that if the money were not appropriated for the Department of Education to pay this, then the teachers would have to pay for it. I have given that a lot of thought having spent 31 years in classrooms and 25 of those years were in one school building in one community where everybody knew me and I thought how would I have felt if at about the 20th year somebody had said to me that you need to be fingerprinted and have your background checked. My first thought was I would have been angry. I wouldn't have liked that. They know me and they knew what my reputation was. Then, as I found out what is really going on, I thought, no, if I paid \$5 a year and that could prevent one child from being molested, it would be worth it. So, I came down on the side of the amendment that we have written. It was originally passed last year. This bill was passed last year. I think it went down under the hammer that it would be that the employee would have to pay the initial cost at first certification. Then, after that, further certification would have to pay again.

This is not a frivolous bill. This bill was devised after two years of study by a commission that was made up of the Maine Education Association, Maine School Management Association, Department of Safety, the Attorney General's Office and DHS. It was mentioned previously by the Representative from Augusta that we now have people calling the Department of Education from out-of-state and they will say, do you run an FBI check before you certify teachers? If the answer is yes, they hang up. No more conversation. Doesn't that tell you something? There is a lot going on out there. Every day as I drive down here, nearly 50 miles, every morning it bothers me to think that there are little children standing beside the road waiting for that big yellow bus and they have to have a parent standing with them.

You see it to as you drive into Augusta. There is a parent standing there with the children. You know why. They don't dare to leave those little children out there beside the road all by themselves. This is not only the teaching profession. I understand that now CNAs have to have this fingerprinting check. This is something that anybody who works with children will be having in the future.

It is important. We don't know what people do when they go on vacation. One school board member told me about a faithful teacher in their community who went to Florida for school vacation. No one would ever have known what that person did except there was a very small half inch report in the paper about his arrest. Teachers have the opportunity to travel all over the world on vacation. We like to think they are the good people wherever they go, that they are when they are in the community. That is not always true. I wish there were some other way that we could do this without asking the teachers to pay for it. We thought about this long and hard. The one good thing that we can report is that the Major from the State Police that talked to us said, they will have an electronic device by January. Therefore, after January, anyone would be fingerprinted only once then they could keep the fingerprints on record. They would do the criminal check at every time that certification was renewed, but they wouldn't have to go through the fingerprinting, which would be done electronically again, after having done it once.

So that this particular piece of legislation that was passed last year could continue on its way, I would urge you to defeat the proposed amendment. I would ask for Indefinite Postponement of the amendment and its accompanying papers.

Representative RICHARD of Madison moved that **House Amendment "B" (H-987) to Committee Amendment "A" (H-976) be INDEFINITELY POSTPONED.**

Representative LANE of Enfield **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "B" (H-987) to Committee Amendment "A" (H-976).**

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

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

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

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

Representative MAYO: Mr. Speaker, Men and Women of the House. Is there a fiscal note on this particular amendment, which is, I believe, shifting a cost to the Department of Education?

The **SPEAKER PRO TEM:** The Representative from Bath, Representative Mayo has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Enfield, Representative Lane.

Representative LANE: Mr. Speaker, Men and Women of the House. Perhaps someone else could better answer this. I don't have a fiscal note attached to my amendment.

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

Representative RICHARD: Mr. Speaker, Men and Women of the House. I think the question was, was there a fiscal note on the amendment or on the bill? Yes, you heard the answer to the amendment.

The **SPEAKER PRO TEM:** A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "B" (H-987) to Committee Amendment "A" (H-976). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 482

YEA - Ahearn, Bagley, Belanger IG, Berry DP, Berry RL, Bigl, Bolduc, Bouffard, Bragdon, Brennan, Brooks, Bruno, Bryant, Bull, Bumps, Bunker, Cameron, Chartrand, Chizmar, Cianchette, Clark, Clukey, Colwell, Cowger, Cross, Davidson, Desmond, Donnelly, Driscoll, Dunlap, Etnier, Farnsworth, Fisher, Fisk, Frechette, Fuller, Gagnon, Gamache, Gieringer, Goodwin, Gooley, Green, Hatch, Jabar, Jones KW, Jones SL, Joyce, Joyner, Kane, Kerr, Kneeland, Kontos, LaVerdiere, Lemaire, Lindahl, Lovett, Madore, Mailhot, Marvin, Mayo, McAlevey, McElroy, McKee, Meres, Mitchell JE, Morgan, Muse, Nickerson, O'Brien, O'Neal, O'Neil, Ott, Paul, Peavey, Pendleton, Perry, Pieh, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Savage, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Snowe-Mello, Spear, Stanley, Stedman, Stevens, Tessier, Thompson, Townsend, Tripp, True, Tuttle, Usher, Vigue, Volenik, Watson, Wheeler EM, Wheeler GJ, Winglass, Winn, Winsor, Wright, Madam Speaker.

NAY - Barth, Belanger DJ, Bodwell, Buck, Campbell, Carleton, Chick, Foster, Gagne, Gerry, Jones SA, Joy, Kasprzak, Lane, Layton, Lemke, MacDougall, Mack, Murphy, Nass, Perkins, Pinkham RG, Pinkham WD, Plowman, Skoglund, Taylor, Tobin, Treadwell, Vedral, Waterhouse.

ABSENT - Baker, Dexter, Dutremble, Honey, Labrecque, Lemont, Poulin, Underwood.

Yes, 113; No, 30; Absent, 8; Excused, 0.

113 having voted in the affirmative and 30 voted in the negative, with 8 being absent, **House Amendment "B" (H-987) to Committee Amendment "A" (H-976) was INDEFINITELY POSTPONED.**

Subsequently, **Committee Amendment "A" (H-976) was ADOPTED.**

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

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-976)** and sent up for concurrence.

The Speaker resumed the Chair.

The House was called to order by the Speaker.

TABLED AND TODAY ASSIGNED

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

SENATE DIVIDED REPORT - Majority (10) Ought to Pass as Amended by Committee Amendment "A" (S-547) - Minority (3) Ought to Pass as Amended by Committee Amendment "B" (S-548) - Committee on HEALTH AND HUMAN SERVICES on Bill "An Act to Improve the Efficiency of the Maine Public Drinking Water Control Program" (EMERGENCY)

(S.P. 776) (L.D. 2103)

- In Senate, Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-547).**

TABLED - March 20, 1998 by Representative KANE of Saco.
PENDING - ACCEPTANCE OF EITHER REPORT.

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

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

Representative MITCHELL: Madam Speaker, Men and Women of the House. The Majority Ought to Pass as Amended Report acknowledges some problems in the Drinking Water Control Program. Both of the amendments do that. However, the Majority Amendment requests a \$25,000 audit of the program. I personally don't think it is necessary. They have already addressed these issues. They have brought on new management and they claim the problems are being fixed. Either one addresses the problem. One does it with a \$25,000 audit and one does it with an internal plan. So, vote either way.

The SPEAKER: The Chair recognizes the Representative from Saco, Representative Kane.

Representative KANE: Madam Speaker, Men and Women of the House. The drinking water program has a recent history of major mismanagement. The bottom line was that the majority of the committee did not trust that given the problems right up to the recent past that they would be able to put their house in order and felt that in order to get an accurate picture of all of the facts, that an external audit needed to be done. Then it was directed that the audit be done through the use of federal funds currently available to the Department of Human Services. Thank you.

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

Representative BROOKS: Madam Speaker, Ladies and Gentlemen of the House. I am on the Minority Report. Very briefly, I would like to explain why. The bureau has admitted clearly that there were some problems that were addressed last summer when they changed the management of that division. Since that time, I believe, things have been much better, but my primary reason for standing in objection to this, to the Majority Report, is that it does call for an audit. Frankly, I think we ought to be reserving audits for some misappropriation of some other serious concern. The bureau has agreed that there are some problems. The bureau has agreed to address these problems and the bureau also has agreed that they will make a report under the Minority Report, if you look at the Minority Report, that they will do this and do a study and report it back to the committee that I serve on. I think we ought to be reserving our opportunities for audit, outside audits in particular, that will cost \$25,000 for much more serious things than this. This is a management question. I think it is being dealt with. Thank you Madam Speaker.

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

Representative FULLER: Madam Speaker, Ladies and Gentlemen of the House. I also am on the Minority Report and would urge that the House would vote against the Majority Ought to Pass as Amended Report. As has already been noted, the department has since made changes in the management of the program. We do have better uses for that money even under the Drinking Water Program. I urge your vote against this motion.

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

Representative MCKEE: Madam Speaker, Men and Women of the House. This issue is extremely important to me. Next to the air we breathe, the water that we drink every day is second most important in our lives. I have had some recent experiences with this department and I can tell you that there is clear evidence that an audit is needed, an external audit. I would implore you to follow the Majority Ought to Pass as Amended and let's see if we can turn this department around and be able to rectify some of the egregious situations which I have observed. Thank you very much.

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. 74 voted in favor of the same and 26 against, the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. Committee Amendment "A" (S-547) was **READ** by the Clerk and **ADOPTED**.

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

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-547)** in concurrence.

HOUSE DIVIDED REPORT - Majority (9) Ought Not to Pass - Minority (3) Ought to Pass as Amended by Committee Amendment "A" (H-980) - Committee on AGRICULTURE, CONSERVATION AND FORESTRY on Bill "An Act to Improve Management of Maine's Forests"

(H.P. 1246) (L.D. 1766)

TABLED - March 20, 1998 by Representative BUNKER of Kossuth Township.

PENDING - Motion of same Representative to **ACCEPT** the Majority **OULD NOT TO PASS** Report.

The SPEAKER: The Chair recognizes the Representative from Bowdoinham, Representative Shiah.

Representative SHIAH: Madam Speaker, Men and Women of the House. This is the first time we have had the forestry issue in front of us this session. I have assured my seatmates that I will speak no more than six hours on this matter. I have tons of reports here and lots of information. I just want to thank the committee chairs of Agriculture, Conservation and Forestry. We had a wonderful process over the last couple of months looking at all sorts of data, information, reports, experts and really did a real thorough job with examining what sustainable forestry is and means and where we are currently with our current Forest Practices Act and US Forest Service inventory. I know a lot of you have been asking questions about where we are with this bill and what else is coming down the pike on forestry.

The particular amendment, this is on LD 1766, but it has been amended. I hope you all take a look at (H-980), which is what we are discussing because there are several major changes from the original bill. Some of you have heard about the four-point plan. This is the four points. I want to go over them, not in a huge amount of detail, but I will give you enough so you have a sense of what each of them means. The four points, briefly, are to ensure that harvest levels are sustainable. Two, limit, but not ban clear-cutting. Number three, set science-based stocking standards for partial harvests. That is harvests where only some of the trees are cut. Four is a mandatory audit program. I want to just spend a few minutes on each of the points to give you a little more detail.

Regarding the sustainable harvest levels, the idea here is pretty simple. It is basically to make sure that landowners are not cutting more wood than is growing. By the way, I want to also mention that there are only a couple minor points in this bill that deal with landowners under 100,000 acres. The vast majority of this amendment deals with landowners holding more than 100,000 acres in Maine. The small and medium sized landowners are exempt from just about all the provisions of his bill except two minor ones that I will touch on in a moment.

One of the people we heard in committee was Mr. Will McWilliams from the US Forest Service. They had just completed an inventory of Maine's forests, which they do on a periodic basis. They have been doing this for 40 years across

the country, looking at what is existing in our forests throughout the nation. One of the things that he reported was that he found the forest industrial landowners are cutting the forest almost twice as fast as it is growing in Maine. Again, almost twice as fast. Again, this is the bigger landowners. He said that part of the reason was because of the spruce bud worm outbreak, which some of you may recall, but he also said that it was very clear that a major part of the overcutting was just plain and simple overcutting. It was not based strictly on the bud worm damage. The same report found, as one example, it is a very thick and detailed report. It is difficult to read. I have a copy here if anyone would like to look at it after. One of the key findings was in Piscataquis County. The cut to growth ratio is 10 to 1. That is 10 to 1 cutting overgrowth. This cannot continue, obviously, or we will have no forests or no jobs left. I think that is one of the clear indicators in this report. There is just the overharvesting that is going on now. The idea of this bill is to establish a policy that large landowners cannot cut more than they grow over a 10 year period. If we put a rolling 10 year period in this amendment so, if some years maybe you need to cut more spruce or next year you have got to cut more oak or whatever. We didn't want to dictate too heavily to the landowner. They can use a 10 year rolling period to meet the sustainability goals. The Maine Forest Service is then charged with implementing this policy through rulemaking, which will come back to us.

Sustainable harvest levels are the most basic tenet of sustainable forestry. The policy proposed here is adopted almost verbatim from the recommendations of the Maine Council on Sustainable Forest Management, which issued its report in 1996. It is also an excellent report. I think all of you received a copy last year. It is just a wonderful report. There were a lot of people on the commission who have excellent backgrounds in forestry from different persuasions. They put a lot of work into this report. That is where some of the language in my amendment comes from. Sustainable harvest levels are the most basic tenet of sustainable forestry, as I said. This is an opportunity to take one of the recommendations of this report and do something with it. That is point number one.

Two, clear-cutting limits. For years the landowners have been telling us that clear-cutting is a legitimate silvicultural tool. At this point in the bill it would just simply verify that as being used responsibly. The bill would basically do three things. It would require large landowners to get a permit from the Maine Forest Service before clear-cutting and to get a permit the landowner would have to show that there was a scientific basis for the clear-cut. The cap on clear-cutting by large landowners of one-quarter of 1 percent. This would actually affect only the five largest clear-cutters. All the rest of the 15 major landowners already cut less than that amount showing that it is a completely reasonable limit. You might recall that the landowners greeted this in the compact last year and were voluntarily abiding by it.

Number three, the bill also includes a new definition of clear-cutting. Raising the basal area to 45 square feet. It is currently 30 square feet. Basically what that means is if you have an acre and you do a heavy cutting and you measure what is left. If it is 30 square feet, that is 4.5 feet off the ground that is called the diameter breast height. If you have 30 square feet or less, now it is defined as a clear-cut and this bill would raise it to 45 square feet. If you think about what 30 square feet is now, a sheet of plywood, 4 x 8 sheet, is 32 square feet. If you lay that on one acre of land, if you can picture that being over 200 x 200 on the side. That leaves very little left as a residual stand. By raising it to 45 acres, some of us feel that this is a more accurate assessment of what a clear-cut would be. It also sets a new maximum size of clear-cuts. Currently it is 250 acres. The bill would drop that to 75 acres. In the separation zone standard,

these are all things that the large landowners say they are doing anyway. Regarding the size of clear-cuts, the average clear-cut now is between 30 and 35 acres in the large landowners holdings. This bill would give them quite a buffer up to 75 acres. Again, if it is silviculturally justified and I am not saying, nor does this amendment say that we need to ban clear-cutting, but to limit it. There is times when it is silviculturally justified. I certainly understand that.

The only part of this entire bill that would apply to landowners who own less than 100,000 acres are the new definitions of clear-cutting and the maximum size of clear-cuts in separation zones. Most of these smaller landowners are not doing clear-cuts over 75 acres. The Maine Forest Service did not want to have two different definitions of clear-cutting. That is one of the reasons we agreed to put this in the bill. Of all the forestry issues, clear-cutting is the one that the public is the most concerned about. People see large lots of clear-cuts and they worry about the impact on the forest. This bill will allow clear-cutting to continue when it is really necessary would curb the worst abuses.

The third point in the bill, science-based stocking standards. This one is a little more difficult, but bear with me. Clear-cutting accounts for about 10 percent of the cutting in Maine now. The other 90 percent are partial harvests where trees are left. When a partial harvesting is done right the forest, not just a few straggly trees, remain behind to grow and produce more wood. A properly done partial harvest will leave behind enough trees so that the area can be harvested again in 10 to 20 years instead of having to wait 40 to 50 years and because 90 percent of the area cut every year is cut using some sort of partial harvest it is critical that these harvests be done right. This bill sets the policy requiring large landowners to leave the adequate residual stock, that is enough trees after harvest, to yield this forest that will have a sustained yield in the future. The bill leaves the Maine Forest Service the flexibility to determine what the adequate residual stocking is. I don't want to get into all the US Forest Service C-line, there is a lot of stuff that we heard in committee that I won't bore you with here. Again, this is one of the key recommendations of the Maine Council on Sustainable Forest Management.

The bill also requires large landowners to get a permit from the Maine Forest Service if they want to cut more heavily than the policy sets out or more heavily than the guidelines set by the US Forest Service. Still they could go below what is called the C line if they get a permit from the Forest Service. Basically, this is essentially what Vermont did last year. They passed what is called a heavy harvest bill over there. They also require a permit. It is somewhat modeled after that. This point is probably the most important point for making sure there are jobs continuously in the forest. For making sure that we don't have a gap of 20 years when we lose enough trees to be harvested.

The fourth point is the Sustainable Forest Management Program or the audit. This is similar to the audit program that there was much discussion about last year. It would be a comprehensive audit on the practices of large landowners to make sure they are paying attention to wildlife, water quality, the health of the whole forest system as well as the trees. The main difference between this audit and the one we were talking about last year was that this one is mandatory. Last years was voluntary. If you look in the amendment, page 4, just the preamble here to the Sustainable Forest Management Program, I am just going to read this. It is short. It is just three sentences. "Findings, the Legislature finds that: A. The forests of this State are critical for the economic and ecological health and quality of life in this State; B. The forests of this State must be managed in a manner that ensures their sustainable ecological and

economic health; and C. Forests must be managed in a sustainable manner to meet the needs of current and future generations."

Basically that is a brief overview of all the four points in the amended version of LD 1766. This bill would not solve all the problems in the forest, but I think it is a meaningful step that this Legislature could take. It focuses on the large landowners, those who are owning more than 100,000 acres and basically it calls on them to keep their promises. For years we have been seeing ads about how the companies are managing sustainable forests, limiting clear-cuts and protecting wildlife and water quality. This bill would put those commitments into law and provide a way for the public to verify that landowners are doing what they say. We have been through a couple of difficult years with referendums and voters, I think, are tired of seeing this issue in front of them. I think the ball is in our court now. We have an opportunity to take four, which I think are responsible steps to assure a sustainable forestry yield for generations to come. Again, this is the proper chamber and the proper place where I think forestry would be debated. It is very difficult to take it out to referendum and there are those who might want to do it again. I hope they don't. I hope we can pass some meaningful legislation here. We can't worry about what is going to happen out there, but, again, the voters have asked us, I believe. If you look at the first vote in 1996, almost three-quarters voted either for the compact or the ban clear-cutting referendum. Nearly three-quarters of the people want change. They know what is going on out there. They are concerned about what is going on out there. I think that, again, it is up to us to act in a responsible manner.

These four points, I believe, will get us a long way toward a sustainable forest. That is what this bill does. It doesn't say to stop harvesting. It doesn't say to set up lots of national parks and things. It basically says we want to make sure the forest is here on a long-term basis to ensure that this poster that was just passed out here talking about the economic benefits of Maine Paper Industry. I think it is a wonderful poster. If you look at it closely, it talks about the amount of acreage the different companies have, their payroll and stuff and I want to ensure that we can keep putting these posters out every year and years to come that we have this sustained yield. That is what I and other members want to do on the committee who have signed onto this report. It is not, by any means, a radical report. It is, I think, four basically sound steps to get us to where I believe we should go. I know one of the handouts was for the editorials in the major daily's around the state that were supporting this. I think, again, they are also saying that this is not out of step. It gets us, I think, again, it doesn't solve all the problems, but it really moves us toward a sustainable forest. I would urge all of you to vote against the pending motion, which is the Ought Not to Pass, so we can move on to accept the other report. Thank you very much.

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

Representative BARTH: Madam Speaker, Ladies and Gentlemen of the House. I hope that you will support the Majority Ought Not to Pass Report. I had a feeling that forestry would be debated tonight or sometime today. Therefore, I wore an appropriate tie. If you haven't seen my tie, please stop me at any time when you see me in the halls. Here we go again with forestry. Unfortunately, we deal too much with perception. For example, in the last sort of costly and in some times bitter debate over the 2 a, b and c last June and then the compact vote in November, there were quotes or view points of the same study by both sides or I should say the opposite sides. I am referring to the US Forest Service Study. On one side an environmentalist said that we are cutting our spruce and fir faster

than we are growing it back. On the other side they said that the reason that is so is because of spruce bud worm. We did have to salvage a lot. That is growing back, but the trees are too small to count. It is kind of like taking the census and going to a house, knocking on the door, and saying, Hello, I am the census taker. How many people live here? There are 10 of us living here. How many of those 10 are under 6 years old? Four of them are. Okay, I will put down only six people live here because we don't count people who are younger than six years old. That is kind of what happened with some of the debate.

We have a Forest Practices Act, which was looked upon to be one of the models and strongest ones when it was put in about, I believe, 1989. Unfortunately, it has never been fully funded. We now propose to fund the foresters who will do the education. Believe me, I am a small landowner of 155 acres woodlot. I have a management plan and it was constructed with a professional forester and also with the help of a state forester. That one state forester who is very good is stretched far and wide trying to do his job because there aren't enough of them. Now we have this law on the books and people want to just throw it out and start with something new when we haven't even seen whether it will work. My feeling is, let's make sure it works. Fully fund it and if it doesn't work, then we have some basis, perhaps, to make some changes. Also, if it fully works, then we will collect the data. The data that in this debate probably that will never be agreed upon, but somehow we have to come up with some real data that all the parties can agree to.

Now, speaking of clear-cuts. My woodlot has been cut scientifically, partial harvests according to the management plan and it was done right. Unfortunately mother nature came along with the ice storm and devastated it. I lost a good percentage of or almost all of my white birch, for example. Where I had thinned the land, under the proper harvesting, there was enough room left for those birch, which are notoriously weak once burdened with ice, to bend over and become worthless. If you think I am exaggerating, if those birch, many of which were proper size for boat wood, I would get based on the 1996 stumpage for Oxford County, about \$55 a cord as bolt wood. For those of you who are not familiar with what bolt wood is used for, dowels, glue pins and stuff like that in the wood turning industry. Now, that is worthless in terms of bolt wood. I would either have to sell it for pulp or for firewood. That is \$10 stumpage. Loss is \$45 a cord. Spread that over 155 acres and you see that I have a problem. I would say that coming out of the forestry debate is the right thing and if we accept the Majority Ought Not to Pass on this bill, we will go on to pass proper and good sound conservative forestry practices.

Lastly, one other thing, put the audit and make it mandatory. The big landowners have already volunteered to do that. They will do that. Why bother to put it into law when it is something that is already going to be done. Thank you.

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

Representative MCKEE: Madam Speaker, Men and Women of the House. I would like to respond to the good Representative, Representative Barth, first of all about perception. Perception is reality, unfortunately. I say that from experience. Last session I stood here as you people talked about education. Many of you spoke in glowing terms, but many of you did not speak in quite so glowing terms. I had a hard time with that. I saw myself as a good teacher. I felt like I was being dragged into learning results and to reform. What was wrong with public education? Come into my classroom and see what is going on. As I gradually began to let go of that feeling of being threatened and began to listen to the public, I began to realize that public education was only going to survive with the public's

help. We needed the public. The public had legitimate things to say about our most precious of resources, our children. I believe that the public has something to say about this greatest of Maine's natural resources, our vast forests. I think we bear listening to.

I sit on the Agriculture Committee. I also sit on Natural Resources and I can tell you that I am burdened on a daily basis by knowing what I now know. Knowing how difficult it is to convey, even to my own family, the gravity of the information that comes across our desks. I took great pride in the way our chairs went about this process to study Maine forests. For eight weeks, we had a unique opportunity that might be afforded probably only to a graduate student. I welcomed that opportunity because at the end of that, I wanted to be able to make an informed vote. At the end of it, I also knew that I wanted to see all sides of the issue. I wanted to be able to strike some kind of compromise. In my own classroom, I teach something called controlled controversy. It is not like anything I ever studied. Because we have become so polarized on numerous issues today, we are beginning to teach our kids how to find common ground and how to reach out and get out on that narrow ridge as Martin Buber talked about and meet that person halfway even if you have to swallow your pride to do it or sacrifice some of your long-held values, but you know you are not making any progress unless you do that. That is where I was coming from.

I also remembered what it had been like back in 1996 and I can just recall that fall in words here. Two years ago, night after night, ads on television. A deeply resonant male voice against a background of soothing music and flyovers of exquisite Maine forests spoke to us in convincing tones of a new direction for large landowners in our state. What he was saying, essentially, was this. We value your trust. We have been listening to you. We want a chance to prove ourselves. Give us a chance. Vote for 2 b and we will open the door. You are going to like what you see. That fall changed Maine forever. For the first time in our history the people of the State of Maine were being asked what they thought about our state's greatest natural resource. Before that moment, we could affect public policy only in two ways, either elect a legislator who cared about the forest or make a decision in the marketplace through choosing a forester or a logger or a pile of wood. Now we were being asked for an opinion on a very important substantive issue. Public policy on Maine forestry had arrived in person in the voting booth. The citizens of this state took their opportunity to vote on this issue very seriously. In home after home after home as I campaigned through my district, I was amazed by the depth of discussion and the questions and the debate. If constituents had expressed their concerns about loss of jobs, clear-cutting or high grading or the quality of fly fishing up north, they always added that the audit will help there. They knew what the large landowners knew, you demand accountability and not only will Maine citizens questions be answered, but the large landowner will have an opportunity to demonstrate their credibility. Public face in Maine forests would be restored through a voluntary audit program. So what is the big deal?

LD 1766 as amended represents a sincere compromise between banning clear-cutting and doing nothing. I heard the good Representative as he talked about what the industry was willing to do voluntarily now. It is not what they were voluntarily suggesting that they would do two years ago. Sustainable forestry initiative is not an independent audit program. It is an internal program. A good analogy is really what happened this morning in my classroom. I was administering the MEAs before I got here. Before we had MEAs, I thought why on earth would the State of Maine want to administer a statewide test? It has been almost 10 years ago and every year I have administered that.

The SPEAKER: Would the Representative please defer. For what purpose does the Representative rise?

Representative PLOWMAN: Madam Speaker, point of order.

The SPEAKER: The Representative may state her point of order.

Representative PLOWMAN: Madam Speaker, are these remarks germane to the forestry issue?

On **POINT OF ORDER**, Representative PLOWMAN of Hampden asked the Chair if the remarks of Representative McKEE of Wayne were germane to the issue.

The SPEAKER: The Chair would advise looking at the title, "An Act to Improve Management of Maine's Forests," the Representative has been talking about frustrations with the referendum process and various items. The Chair would admonish the Representative to try to stay as closely as possible to the forestry management issue.

The Chair admonished that Representative McKEE of Wayne stay as close as possible to the issue.

Representative MCKEE: Madam Speaker, Men and Women of the House. Yes, your reprimand is taken. My point here Representative Plowman was that in my classroom students are taught how to evaluate themselves. They do it on a six point basis. They present ideas about how they can improve, but when it comes down to verifiable evaluation, their papers and their tests are taken to an outside auditing program, if you will, for verification and evaluation. Sustainable forestry initiative in an internal program and not an outside program. This bill establishes a sustainable forest management program for all landowners over 100,000 acres to ensure continuous improvement in forest management, optimize the long-term ecological and economic health of the forest in Maine and to report to the public. This is not in reference to the small landowner. We have 70 million acres of commercial forest lands. Eighty-nine percent of our state's total land base is in forest. Ninety-six percent is in private ownership. Fifty percent is in ownership of 100,000 acres or more. Fifty percent is in ownership of 100,000 acres or more. I repeat that just to emphasize the enormity of the large landowner and the impact that the forest practices of these large landowners have on water quality and on habitat and on timber quality and on aesthetics. All points which we studied over the past eight weeks.

I would implore you to look at the amendment. To read it and to see if it represents anything that is out of line. For me, it is a compromise. There were no overtures from the large landowners to forge a compromise. I think that this is the only bill that takes a significant step towards sustainable forestry. Thank you.

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

Representative JONES: Madam Speaker, Ladies and Gentlemen of the House. I am on the Majority Report. Ten members of the legislative standing committee on Agriculture, Conservation and Forestry strongly endorse legislation that represents a systems fix to the issue of the Maine woods, not a mere Band-Aid approach. The committee considered more than a dozen bills ranging from simple studies of the forest issue and sustainable issues to an outright ban on clear-cutting. The committee spent months studying the issues related to the forests. We heard from experts, both local and national. We brought our perspectives from across the board. We listened to stakeholders from every type, small and large owners to people who work in the forests, to environmental activists to people who just plain care deeply about the woodlands of Maine. After all this testimony, study and debate, the committee took reasonable action by passing a bill into the full Legislature by an overwhelming margin.

The Majority Report charges the Department of Conservation with the task of defining standards and criteria for the seven identified by the 1996 sustainable council. These areas include timber supply and quality, water quality, biological diversity, air quality, public accountability, traditional recreation, soil productivity and aesthetic impact. This is the base for tough new standards to measure the sustainability of the forests. The Majority Report also requires an annual report on the state of the Maine forests. The report will include annual forest inventory, annual forest health data and a report on clear-cut activities. It includes annually renewed commitment by the large landowners to comply with stricter standards outlined in the compact. Most importantly, it requires the Department of Conservation to analyze all the data and report on trends and concerns and necessary corrective action. This will provide future legislators with the necessary data to take action based on forest facts, not forest myths. This criticism that this measure is some type of meaningless study simply is not true. There is no study in this bill. The Majority Report is, in fact, a plan of action. Action that is built on years of work and study done by the Northern Forest Land Council and the Forest Sustainable Council. This is a complex issue with a wide range of interest connected to it. Maine has at least 20 different types of forests and dozens of different types of ownerships, from farmers to loggers. People who have invested in acreage and source of income to retire on up to the ladder to industrial landowners. Each type of forest and each ownership must be managed using best management practices.

Like the education learning results, we must be more focused on results and less scripted on process. The result of this legislation, we believe, will provide support for implementation of the best management practices in all cases. The people of Maine remain perplexed by all the issues connected to the Maine woods. When they twice decided at the ballot box against the compact for Maine's forests, they turned to the Legislature for the leadership and the directions regarding the Maine woodlands. That is what this bill provides, leadership and direction, not a quick fix. This committee managed to sort through a myriad of information and for the first time, defined the deficiencies in the current system. We devised an action plan to address those deficiencies. The plan assures that future legislative decisions will be based on science and sound forestry and current data.

Property rights activists believe that the Majority Report goes too far. It takes away from the private property owners rights. Paper companies fear that the Majority Report sets standards of sustainable forests that will be difficult and expensive to meet. In comparison, some environmentalists believe the Majority Report doesn't go nearly far enough in restricting some of the forest practices. What this Majority Report does is build on the work of previous groups. It sets out an action plan to implement these goals. That is the charge that the people of Maine gave to this committee and that is the action that this committee took. Thank you.

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

Representative MCKEE: Madam Speaker, Men and Women of the House. Just so you aren't confused, my good colleague, Representative Jones was speaking about a bill which is coming. We are not talking about that bill at this bill. I do want you to know that I am on that bill. I am on that bill because I feel it is a beginning and it has some reports, but it doesn't offer the substance that this is. When my good colleague made reference to the Majority, I was afraid that perhaps you were looking over here and were becoming confused. She was making reference to a bill which we have not had on the table yet. Thank you.

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

Representative BUNKER: Madam Speaker, Men and Women of the House. I know today we are voting basically on the four-point plan. The Majority Report indicates that this bill should Ought Not to Pass. To make it clear, if you do not want to vote for the four-point plan, you should vote in favor of the Ought Not to Pass. As is pretty clear to people, this debate has gone on and on and on in the last several years and forestry is definitely an issue that is important to me and I want to thank the committee for working through the process that we had this year. Unfortunately this bill is the bill all or nothing. This is the all or nothing bill. Let's be frank about this. This is what you saw in the hall earlier today. This is all or nothing. We want everything in our cake and eat it too. I am sad because we worked through such a long process and what we want to do is come out with a road map and a basic plan which is coming forward to this body in the next day or so that will move us forward in a direction that each and every one of us want to go in. That is to make sure that our forests are sustainable and there for our children, there for work, there for the mill, there for the economy forever. I think we are going to do that.

What is really sad about this is this bill is prescriptive. What you have before you, the four-point plan wants us to tell them how to do it. Realistically today, ladies and gentlemen, we still haven't as a state decided to tell the Forest Service how they are supposed to do it. We are charging in the bill that is going to come forward later on with the department to assess the state of the forest. Let's take this debate out of the public sector. Let's take it away from the stone throwers on both sides and put it into the Forest Service where it belongs. Give them the resources, the men, the money, the model and the information necessary to make good sound decisions in this Legislature. What we are doing today is trying to move forward with a bill that was based on the rhetoric of the last three or four years. I think that is sad. It is really sad that when we have asked those players on both sides of the fence to come to the table, you can see it is clear that we want it all in more or nothing. It is sad. What I saw today and what I have seen in the press, I have seen in the notes and in the notices that I have been getting from both sides, it makes it very clear to me that when I have Mary Adams people calling me on one side and I have Jonathan Carter people calling the other side saying that we have done such a terrible job. I want you to know that I am proud of the work that this committee has done and I really think that we have done an excellent job and I hope you vote this motion, Ought Not to Pass, so we can move forward in the next day or so and pass the committee bill. Thank you.

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

Representative CROSS: Madam Speaker, Ladies and Gentlemen of the House. There again, I have to answer to some of the papers that were spread on my desk. Again, forestry do nothing plan or the four-point plan. All I can do is to say to those who said we did nothing, I spent probably as many hours listening to pros and cons than anybody did and I think it was at least 40 hours. I thought I was doing something. I was trying to get a handle on what was right and what was wrong. The *Bangor Daily News* comes out and says more surveys talking in circles. We asked for a review, but it isn't what we got. We are going to have experts from out of state who are going to look our inventory over for forestry and come back with a meaningful result for the Maine Forest Service to act upon. They got another one here that says the Agriculture, Conservation and Forestry Committee had an opportunity to advance meaningful proposals to protect Maine's forests. Instead, it threw its support

behind a series of measures including one that would allow the forest industry to study itself to see whether it is acting responsibly. I will tell you this. If that is the case, then this particular bill that is before us now, the four-point plan, was compiled totally without any input from anybody else, but by environmentalists. You read the list, which includes a very nasty word in my mind. That word is restore. Restore, that means restore what? Restore wants northern Maine to be a federal park. We don't want it. You know that. I would ask you to help us help ourselves by accepting the Majority Ought Not to Pass Report. One other thing, sustainability, I have listened to everybody and his cousin talk about it. Nobody to this time and up to this point has proven to me or said to me or agreed upon what sustainability is. Again, I ask you to accept the Majority Ought Not to Pass Report. Thank you very much.

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

Representative GOOLEY: Madam Speaker, Men and Women of the House. I think that the previous speakers have covered this issue quite well on both sides. I, too, want to make a few statements here. I am not going to take too much time. You have heard that before, I guess. Anyway, it has been said that in the *Bangor Daily News* that some feel the Committee on Agriculture, Conservation and Forestry has been a do nothing committee, but having been on that committee for two years now, I feel that what we have come up with and it will come out tomorrow as a bill that we have come a long way to reach the decisions that we did. I fully support what we did. The Majority Report does encompass many of the subject areas that LD 1766 does and those have been mentioned. Actually, I think the Majority Report actually goes further and covers everything that needs to be covered. We will be going over those on another day. All of those aspects of the Majority Report, as far as the ads in the papers that we saw over the last week, which were put out by the North Woods Coalition, which included all of the environmental organizations, because I thought that the information that was in that ad, some of it was very inappropriate I thought. Of course, the ad suggested that a person or Maine citizen should call or write to their Representative or Senator. Most of us did get a significant number of calls or letters in that regard.

I did put together a side by side on the issue. My thoughts, I will just go over a couple of them here regarding clear-cutting. I said that most clear-cutting is driven by sound forest management principles to convert low-grade forests to better species composition. Also that there are no studies to show that clear-cutting and managed forest degrade soils or pollutes water. Herbicides are used minimally on some clear-cuts, but heavy use is an exaggeration. I went on and on to refute what was said in those ads. I would like to say that I would hope that we would accept the Majority Ought Not to Pass Report regarding this bill. Representative McKee did make a statement about perception being reality, but I have to just pass on something that I learned the other day in Farmington. We have more than one farmer in Farmington, but one farmer did some clear-cutting on his land to create a pasture. Another resident was most appalled to see this clear-cutting going on not realizing that the farmer was actually clear-cutting this area to create a pasture. I think that is what happens throughout Maine, A lot of areas that are clear-cut are done with a significant reason to grow new species and pasture or whatever. There are reasons why these things happen.

Lastly, I would like to just say a few words about the owners of about 100,000 acres. You know, these lands are open to the public. Maine citizens and out of staters for moose hunting, bear hunting, camping, hiking, bird watching or whatever. Who pays the taxes on these lands? Who pays the fire suppression tax?

Well, the landowners do. Who will help the landowners when nature lays flat a forest? No, they are on their own. They really are. I think that we, here in Maine, with the way the land is laid out and the large land ownerships in Northern Maine, it is really an asset to us and I really think that our Majority Report will come out tomorrow and that is the best way to go. I hope you would accept the Ought Not to Pass Report.

The SPEAKER: The Chair recognizes the Representative from Rockport, Representative Powers.

Representative POWERS: Madam Speaker, Men and Women of the House. In trying to sort some of this out for myself, I had access to some of the materials, not the number of hours that my good colleagues on the committee have sat through. One of them has come to mind particularly in hearing Representative Bunker's remarks about urging that the Majority Report is to give this issue to the department. I actually am standing to urge the defeat of the Majority Report because I believe that the department has already made their statement of wanting more than the Majority Report gives. I have the testimony here from Mr. Chuck Gadzik, the Maine Forest Service Director, who spoke before the committee on December 16 among those many, many hours. He said and I quote him, "Maine people are looking to the state to regulate practices that abuse land. They are also looking for state leadership in defining sustainable forestry and ensuring that Maine forest lands are being managed consistent with that definition. It is our job, I say, to provide that leadership." For instance concerning sustainable forestry, he said and I quote, "Well managed forest land in Maine should grow an average of three-quarters to eight-tenths a cord per acre per year. Our statewide harvest currently amounts to about four-tenths cords per acre per year. If all our forest land was well managed, meeting this harvest level would be an easy objective. However, statewide growth rates have averaged about four-tenths cords per acre per year. Because of this tenuous balance between current harvest and growth we know that sustaining current harvest levels will require more acres be managed in the very best manner."

With regard to clear-cutting Mr. Gadzik stated, "The public policy challenge was to ensure that clear-cutting is used only for silviculturally sound purposes, not for economic expediency and that clear-cuts fit well on the forest landscape." For me, these comments boil down to the following. There clearly is a forestry problem that needs our attention. Some landowners are doing a great job, but others are doing a lousy job. Harvest levels do not seem to be at a sustainable level in part because not enough forest land is currently being well managed. Many of the clear-cuts currently being done are not based on sound forestry, but rather are being driven by the bottom line. Mr. Gadzik also stated that in his mind, "Good forest policy for Maine will need to set clear goals for the state's landowners and then provide the means for verifying accomplishments." These statements sound very reasonable and they all seem completely consistent with the provisions of LD 1766 as amended. Indeed it would appear that the authors of LD 1766 had Mr. Gadzik's view entirely in mind. Establishing a permit system for clear-cutting would ensure that such practices are not being done for economic expediency. Requiring that large landowners conduct sustainable timber harvesting and adhere to science-based stocking standards seems like exactly the sort of clear goals that should be established for the major landowners in order to verify their performance.

The audit program that would be established by LD 1766 as amended would help ensure that we move from a current situation for forest management in Maine that is, as Mr. Gadzik said, a mix, the best, worst and mediocre. To move it from that where we are, as he said, to a situation that is characterized

broadly by some of the very best. Maine could and should have a higher level of excellence within its forest practices. This is not a time to delay action or to establish a new blue ribbon commission or further studies. We should adopt reforms that help build accountability for the major landowners and a new level of trust by the public. LD 1766 as amended would meet those objectives and it warrants our strong support. I urge the defeat of the pending motion so that we can go on to accept the Minority Report as amended. Thank you.

Representative BULL of Freeport **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

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

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

Representative BULL: Madam Speaker, Men and Women of the House or at least those who are left. I rise today in very strong opposition to the pending motion. It is very unfortunate and I appreciate and I acknowledge all the work that the Agriculture Committee has done. I understand you have spent many long hours and had numerous committee meetings. I can certainly relate to that from the hours we have been spending in Natural Resources. You will see the fruits of our labors hopefully sometime later this week. Unfortunately, I cannot support the pending motion because my understanding is that the only thing left after this is a committee report calling for more studies. Unfortunately for me, that is unacceptable. I have had the opportunity to spend a great deal of time in the north woods. I spent an entire summer in Greenville. In some of my free time I took trips off the main roads and I saw some of the extensive clear-cuts that dot the landscape up there. I understand that the view is even more traumatic and jarring from the air. It is something I have not had a chance to experience though. To me, it is plain as a non-scientifically based analysis that what is going on up in the northern woods today is not proper and is not sustainable.

Our concerns here are to ensure that we have sustainable forestry that will support jobs into the future, but also maintain a healthy ecologically balanced ecosystem. This is an attainable goal. This bill, LD 1766, will move us a long way toward that goal. Is this the final answer on this issue? No, as we know that all laws enacted up here, they leave room for figuring out the best way to deal with the situation. If we learn in a year or two that something needs to be tweaked or changed, we can do that. It also allows the Department of Agriculture and the Maine Forest Service to have a standard to start from in order to preserve our forests. I am troubled by the fact that the alternative here is simply more studies. I ask you, ladies and gentlemen of the this House, how many more years of studies do we need to embark upon before we take action? When is enough studies enough? How many more years are we going to have to wait before we are determined that we have studied this enough? Ladies and gentlemen, as you well know, for every study saying one thing, I can show you five saying another and vice versa. We will never come to conclusive answers on some of the issues raised in this debate.

I ask you please, let us do what the people of Maine have sent us up here to do and take responsibility and leadership for this most pressing issue. While I know that the threat of actions outside this body is not an appropriate reason to vote for or against something, I ask you though, do we really want to endure another referendum? I can almost guarantee you that if we do not take action here tonight and we simply go on to pass another study bill, that we will have another referendum facing us, if not this year, then the next election cycle. I am asking you, ladies

and gentlemen, please, we have here a bill that has been carefully worked. It takes an assertive stance on this issue and goes to aggressively address the issue of clear-cutting here in Maine. It does not ban clear-cutting, but it is offering us concrete guidelines in order to control the clear-cutting in this state so that we have sustainable forests for future generations to both support the economy of northern Maine, but also to support the recreational industry which is also increasingly important. People do not come here to Maine for recreation to see landscapes pock marked by clear-cuts. Ladies and gentlemen, I urge you to please defeat the pending motion so we can go on to pass LD 1766 as a beginning point in addressing this most critical issue. Thank you.

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

Representative BUNKER: Madam Speaker, Men and Women of the House. I just wanted to stand and clarify an issue or two. I don't know what papers you are reading or who is talking to you in the halls or whatever, but I am kind of frustrated with the word that we are going to continue to study something. I think that is what has been going on. I got a study. You got a study. We all got a study and we are all right. I want to make something very clear. The committee bill that will be coming forward to this body does not endorse any kind of study. It endorses actions, ladies and gentlemen. It endorses a plan and a road map to get to an end result that we all desire. What that does is set benchmarks and criteria so that the state can access properly against a standard, the state of the forest and how well we are doing at all levels of the forest and all parts of the State of Maine and whether we are complying with the valuable resources in the various seven or eight benchmarks that we are directing the Forest Service to set. For somebody to say we are going to continue to study the studies are all on the table. I can pile them up as high as you want to pile them. I don't think there is any other studies going on. Now is the time for action and this bill is not it. Thank you.

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

Representative GOOLEY: Madam Speaker, Men and Women of the House. To pick up where Representative Bunker left off, I feel that we have to get into the Majority Report a little bit so that you can see that we are doing something constructive. I would like to just read to you part of it. We have reference to the Forest Resource Assessment Program. There is established within the Bureau of Forestry a Forest Resource Assessment Program. The purpose of the program is to systematically and continually assess the ability of Maine's forests to provide sustainable forest resources and socio-economic resources for the people of Maine. The director of the Bureau of Forestry referred to in this chapter that the director shall implement the program to include the current status of the forest, assess the current status of the resources using standards of forest sustainability developed in accordance with a certain section. Also, to project the future demand for forest resources based on a common economic forecast developed by the State Planning Office. It also talks about trends and potential shortfalls. On sustainability it goes into sustainability to talk about the director of the Bureau of Forestry who shall establish a process to access the forest sustainability. In developing this process, the director shall build on the principles of sustainability developed by the Northern Forest Lands Council established by Congress in 1990, the criteria developed by the Maine Council on Sustainable Forest Management. That was the Governor's task force. These standards shall include soil productivity, water quality, timber supply, aesthetic impacts, biological diversity, public accountability and traditional recreation. I would hope that

we would go ahead and accept the Majority Ought Not to Pass Report as regard to LD 1766. Thank you.

The SPEAKER: The Chair recognizes the Representative from Gray, Representative Foster.

Representative FOSTER: Madam Speaker, Ladies and Gentlemen of the House. I just wanted to say a few words about sustainability and a few other things that we have been doing in Maine for the last 300 or 400 years. We have been cutting wood commercially for over 300 years in Maine. To my knowledge, there is no other state that can surpass that record on a commercial basis for that long and still have more trees today than we had 100 years ago. No state. Ninety-five percent of the land or 96 percent of the land is in private ownership. We came all that way without the heavy hand of government. The other thing which may be at stake here in the future, if we are not careful what we are doing, is public recreation on private land in Maine. There is no other state that can beat that record. We have a long history and I hope we have a future history of that kind of recreation on public land. That is very important. To me, it is not the cutting of trees, it is the major threat to the forests of Maine. It is rules and regulations, not only for the cutting of trees, but also all the recreation that goes on the land as well. All you have to do is look to the west and look for some of the public ownerships in some of the other states to see what has happened. Today, there is still very much controversy. We don't need that in Maine. We get a long very well with the private ownership. As a matter of fact, we probably should be building a monument for the success of forestry on private ownership. Thank you.

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

Representative BRENNAN: Madam Speaker, Men and Women of the House. I am impatient and I hope you are too. Those words were first spoken by US Senator Robert Kennedy in the late 1960s. They were not first spoken by me. I voted for the compact last November and I encouraged people in my district to vote for the compact. Many people in my district voted against the compact as well as many people across the state because they trusted the Legislature to do more. In the last several days, I have gotten a number of telephone calls from people in my district and across the state supporting this piece of legislation that is before us now because they are impatient. They are impatient in the same way that the *Maine Sunday Telegram* is impatient by saying that more study isn't needed. The Legislature should act to save the industry from itself. There are a number of other editorials that go on to speak about the importance of acting now to save the forests and not to continue to have studies and not to put this issue behind. Again, in the words of Robert Kennedy, I hope that you will share my impatience and that we will be able to move ahead on this issue.

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

Representative CROSS: Madam Speaker, Men and Women of the House. The one point that I would put across if I may. I will ask any of you if you had \$650 million invested, would you walk away from it or would you do whatever to drive it into the ground? I don't think you would. Consequently, I again ask you to accept the Majority Ought Not to Pass Report on this particular bill because somebody else is going to tell somebody how to run their business and they don't even know what they are talking about.

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

Representative VOLENIK: Madam Speaker, Men and Women of the House. The major newspapers around the State of Maine are predicting that once again the Legislature will fail to

pass meaningful forestry legislation. If we fail, the forestry issue will erupt in a series of new referendums. This bill is reasonable and meaningful forestry reform. People have been telling me that the industry will not allow reform and the Legislature will not dare to act. I didn't believe them. No, I replied, the people expect us to pass forestry legislation at least as stringent as the provisions of the compact. I still believe that and I thought that the Agriculture, Conservation and Forestry Committee would have to believe that also after the excellent presentations of material, reports, studies, analyses, panel discussion and testimony that we heard in committee. Thanks to the tireless efforts of our committee analyst, Jill Ippoliti and the OPLA staff.

We heard the USDA Forest Service report for Maine of 1995, including data showing that we have been cutting our softwood on an average of twice the rate of growth for the period of 1982 to 1995 and cutting up to 10 times the rate of growth for selected species of trees and selected counties. Data showed that we were rapidly turning our acres of large diameter saw timber and acres of medium diameter poll timber into acres of saplings. We heard of the inadequacies of the 1989 Forest Practices Act, not inadequacies of enforcement as some would have you believe, but inadequacies of basic forest protection. I didn't realize before I studied the current law that if I owned hundreds of thousands of acres of forest land like SAPPI, Champion and Irving, I could cut up to 80 percent of the trees off that land without calling any of it a clear-cut because our clear-cutting definitions are so weak. Then, I could go in 10 years later and cut the remaining 20 percent of the trees. Think of it. With some exceptions for watershed protection and inaccessible areas, nearly 100 percent of huge tracks of forest land could be cut over an 11 year period and it is perfectly legal and acceptable under current Maine law. What will our mills run on if that happens? Not only can you cut twice as much as you grow back or even 10 times what you grow back under current law, you can hold tree harvest, all the trees from a clear-cut parcel. Taking 90 percent of the above-ground nutrients and 5 percent of the potential nutrients that parcel will ever have permanently from the land.

Every time you haul tree harvest to parcel, you are weakening the forest that will grow back in 40 to 60 years by about 5 percent of its nutrients. That doesn't include the run off factor. Soil and nutrients will leach out of a clear-cut area toward the surrounding watershed much faster than from a lighter cut area. Okay, math wizards, how many generations will it take until the trees are stunted and disease ridden and worthless? We have no adequate residual stocking standards in current law. We have no well-defined sustainable harvest level standards. We need to discourage the practice of high grading, taking the best trees and leaving junk trees that will never become marketable timber. We need standards that will bring the quality of our forests back up to sustainable levels. There is no audit system under current law. We don't know how badly the largest landowners, most of whom weren't even operating in this state 20 years ago, are acting because our auditing system is inadequate. We know the volume of wood left standing by species and by region, but we don't know which companies are doing a good job and which are doing a poor job by a variety of standards except by anecdotal information.

This is where this bill comes in. Unlike the committee Majority Report, which unfortunately you don't have in front of you to compare this with, this bill actually does something. The committee looked very closely at the recommendations of the King Administration's Council on Sustainable Forest Management 1996 report. The council was formed in 1995 as a direct result of a four-year study by the Northern Forests Land Council, which adopted principles of sustainability and recommended that states create a process to define benchmarks

to achieve the principles. The Sustainability Council hit the ground running. In a years time it defined sustainability and we do have a definition of sustainability. We have several to choose from. The council hit the ground running. It defines sustainability. It established seven criteria with goals to achieve that sustainability and benchmarks to measure progress toward that sustainability. Unlike the benchmarks proposed by the committee Majority Report bill that calls for new benchmarks only to assess the state of the forests not to measure progress. We are way beyond that regressive approach. Before it completed its mission, the Executive suspended the council's work, but not before it came up with direct steps to reach forest sustainability. Some of which are incorporated in this bill.

I would like to quote from the Sustainability Council's report in four key areas. Number one, clear-cutting, I quote, "No single issue has catalyzed public concern about Maine's forests more than clear-cutting. Clear-cutting that lacks a silvicultural basis is ecologically more disruptive, creates more profound aesthetic impact and often limits future options more so than less intensive harvest methods." Page 21, quote, "The use of clear-cutting should be limited. It may be used when silviculturally justified and when alternative harvest methods will not produce a stand that fulfills sustainability objectives." Number two, audits, page 20 and I quote, "Landowners holding more than 50,000 acres will be expected to conduct analyses of total and species group harvest under individual holdings. These analyses would be part of any certification process. Landowners holding between 550,000 acres should ensure that their harvest do not exceed sustainable levels based on state and regional average growth rates." Number three, cut less than growth, page 20 and I quote, "Benchmark one, total and species group harvest activity will not exceed sustainable levels for any rolling 10 year average. Sustainable harvest levels will be determined by computer modeling that incorporates growth, yield and management scenarios. Analyses will attempt to verify the current and planned harvest levels are consistent with projected future growth and yield." Four, stocking standards, page 21 and I quote, "Harvest methods should promote future stand growth. Well stocked stands should be treated with appropriate partial cutting practices that leave adequate residual stocking. Adequate stocking is considered to be between the B and C line as measured by stocking or other silviculturally based guidelines. Quality and species composition of the residual stand should equal or improve upon the pre-harvest conditions." Page 22, "Benchmark five, state policy will encourage landowners to implement yield increasing practices that adhere to sustainability principles and are consistent with landowner objectives. As a result, growth rates increase 1 percent a year until potential sustainable harvest levels are doubled from 1996 potential sustainable harvest levels."

LD 1766 addresses these same four areas often with language right out of the Sustainability Council's report. For landowners of more than 100,000 acres it requires a permit for clear-cutting, the total area clear-cut to one-quarter of 1 percent of holdings. Only five landowners in Maine currently cut more than one-quarter of a percent of their holdings, clear-cutting. Four out of five of those are just slightly above that figure. It calls for the commissioner to establish adequate stocking standards for those same large landowners only, not everyone. It requires that they not exceed sustainable harvest levels. It creates a board to establish a process to certify and review large landowners for sustainable forestry. Passage of this bill will lead to a process to achieve forest sustainability. It is credible. It will improve forest yield and it will restore public confidence in the positive aspects of our forest industry. It recognizes that clear-cutting may be used by large landowners when it is silviculturally

justified. When there are no reasonable alternatives to clear-cutting and when no undue adverse ecological damage will result from the clear-cut. It recognizes that small landowners may clear-cut for any reason, whether or not it makes good silvicultural sense. To allay the fears of the small woodlot owners and those who are afraid of them and of their political influence, most of the provisions of this bill affect only those holding more than 100,000 acres.

To put this into perspective, if you draw a rectangle between the centers of Augusta, Winthrop, Litchfield and Richmond and all the land inside the rectangle were forested land held by a single landowner, under this definition, he would be a small landowner and not subject to most of this bill. The only provisions of this bill that would affect small landowners are size of clear-cuts and buffers between clear-cuts. LD 1766, as amended, is a reasonable beginning to bringing sustainability to our forest industry in a rapidly changing world of diminishing resources without unduly affecting small woodlot owners and I urge your support for this bill and for you to reject the current motion. Thank you.

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

Representative GOOLEY: Madam Speaker, Men and Women of the House. I just wanted to rise to say that there have been a few things said in the last couple of minutes that leave me boggled and I had to get up one more time. The ad that was in the papers the other day, referring to the North Woods Coalition, it said a lot of different things. Here is one of the things that it said. After years of debate and numerous studies, the people of Maine understand that clear-cutting and other destructive forest practices practice the long-term health of our forests. That is kind of a given that all clear-cutting is bad. I think we are saying that not all clear-cutting is bad. Clear-cutting is a tool of the professional forester. This ad goes on to say that they also know that forestry jobs are vanishing at an alarming rate. This has been mentioned time and time again. You know, back along, 40 or 50 years ago most of the wood was removed from the horses and oxen. Then came the lag tractor and then came the rubber tired skidder and also harvesters. With mechanization taking place, it means that it takes fewer and fewer people to get the timber out. There is a reason for everything.

Also, there has been reference made to the fact that between 1982 and 1995 that twice as much softwood had been cut as had grown. There is a reason for that, but nobody ever mentions the reason. Most of that reason was because of spruce bud worm in the spruce and fir forest of the northern half of the state. I have traveled almost every acre in the northern half of the state in the last 30 or 40 years. I can tell you that there was a lot of timber that was destroyed, spruce and fir, because of the spruce bud worm. Nobody mentions that. Sure the spruce and fir inventory is going to show a 2 to 1 ratio. Also, what is not mentioned is that on these salvage cuts where salvages were made between the late 70s up through almost 1990. Those clear-cuts have come back to young trees now that are in the one to four inch diameter class. The US Forest Survey that was recently completed in 1995 did not include those trees because the survey includes trees that are five inches and up. The next survey when that comes along, all of those clear-cut areas with those young trees, the statistics will be much more dramatic and it will be on a very positive side.

There are a lot of reasons. I hate to throw statistics out because I read a lot of them and you read a lot of them and whatever the subject is. I have a problem with a few statistics that I read. I would say that that is the picture the way I see it. That is the way it has been projected by professionals and the

US Forest Service as far as the inventory goes. I still say, let's accept the Majority Ought Not to Pass Report and get on with the committee report tomorrow. Thank you.

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

Representative MCKEE: Madam Speaker, Men and Women of the House. I greatly respect my good colleague, Representative Gooley, and I have really gotten a lot out of his remarks during this debate. I want to bring up something that was referenced by Representative Barth and others. This thing of fully funding the Forest Practices Act. I want to quote the director of the Forest Service of whom many of you have said, let's put these decisions about the forests. I am going to quote from Mr. Gadzik from January 29 at the Forest Practices Workshop. For those of you who want the Forest Practices Act fully funded. Here is what the director said, "The Forest Practices Act only stopped large rolling clear-cuts. The Forest Practices Act helped promote a decline in clear-cutting, but nothing in the law requires that decline. There are serious concerns about the quality of the partial cutting. The Forest Practices Act does not assure proper silviculture. The Forest Practices Act does not limit the amount of clear-cutting." Mr. Gadzik said that you could cut the entire forest in 11 years because in 11 years the buffers can be cut. Mr. Gadzik said that the Forest Practices Act does not require a balance of cut to growth. Finally, Mr. Gadzik said that the top priority the committee should address is the accountability through inventory auditing, benchmarks and goals.

Finally, I want to reply to my good colleague, Representative Cross, who had a great deal of difficulty of uttering the word restore. Thanks to a group of environmental organizations, you do have the forestry do nothing plan or the four-point plan brochure. I want to read you the names of the people and the organizations who made that possible for you. Their names, I proudly tell you are, the Appalachian Mountain Club, Forest Ecology Network, Maine Audubon Society, Natural Resources Council of Maine, National Audubon Council of Maine, Northern Forest Alliance, Restore the North Woods, Sierra Club, the Wilderness Society and I say those proudly. I am proud to be an environmentalist. I am proud to utter those names because if not because of organizations like that, we might not have something to pass on to our grandchildren in the next century. Thank you.

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

Representative PERKINS: Madam Speaker, Colleagues of the House. I wasn't going to say anything, but that reminded me of something I have got to say. The list that was just read of all the environmental groups, I did a little study a few years ago back when the big sale a Great Northern went to Bowater. Millions of acres and I figured the one year operating budget for the top 10 environmental groups in the country starting with the Sierra Club down the line, they could have bought all those millions of acres for just one years operating budget.

The SPEAKER: The Chair recognizes the Representative from Bowdoinham, Representative Shiah.

Representative SHIAH: Madam Speaker, Ladies and Gentlemen of the House. A few last comments here. I really wish you did have a copy of the so-called Majority Report in front of you so you can see what it really does and doesn't do. I actually have a copy here, but I am trying to abide by the rules and not discuss that. I won't. I know many others have, but one thing I do want to mention is someone brought up the fact of out-of-state ownership now. I think years ago most of the industry was owned by in-state interest. Now we see that changing. Companies like South African Pulp and Paper Incorporated are coming in now and buying up our lands. I think we lost our

Maine sense of our forest industry. A lot of the decisions are made, not in this state, but they are made elsewhere. They are directing our staffs here in Maine to produce a certain amount of cut and a certain amount of yield each year. How do we know that is in the best long-term interest of our state? How do we know it is going to sustain the forest fiber coming to our mills? We don't know. That is what the four points are trying to get at.

I, too, voted against the compact last fall. I thought we could do more in this chamber and in this Legislature to address forestry than was in the compact. I am still hoping we can. This bill goes farther than the compact. The compact, in my view, was weak in several areas and I believe the four points in this report strengthen the compact and I urged others to vote against it. I said we had a lot of bills in here. I think we have enough research, enough studies, that we can move forward as a Maine Legislature to enact more meaningful regulation and more meaningful legislation. That is, again, with the four points too. This is not an all or nothing bill as has been mentioned. It is four reasonable points. It is not reaching that far. Again, it is ensuring that harvest levels are sustainable, number one. That is, I think, a basic tenet that we all want to get to. It limits, but does not ban clear-cutting. Again, realizing that clear-cutting is used silviculturally occasionally, that is fine. There are variances in here. If some disaster like an ice storm or something comes along, we can address that. It leaves behind, again, the science-based stocking standards. As we are leaving our partial cuts, those will in turn regenerate and give us something that we can cut for long into the future.

Finally, the mandatory audit program, by the way, the audit program, it will keep the priority information confidential. I am not looking to look at what individual landowners are cutting, that is not the key. What we are looking at, if you read the language in here, we carefully crafted it so that confidentiality was respected. This will give the public and I think all of us a sense of what is going on out there. People have challenged what is in the US Forest Service Study as being maybe not the most accurate data. This is a way to get accurate data, I believe. Again, I think it will go a long way toward showing us what is going on and if there is a problem, we can see a problem. If there is something going on out there perhaps some liquidation cutting and we are worried that one landowner is going to be cutting heavily and perhaps moving on, at least we will know that. Maybe we won't do anything about it, but at least we will know. We will have a sense of what is going on out there in the forest.

Again, I could talk for hours on this. I certainly don't plan to, but I wish a lot of you could have gotten the information that we on the committee received this year. It was an excellent presentation and again, the one point about fully funding the Forest Practices Act, that doesn't get us really that far. The act was nice. If you look at the verbiage in the act, it is a nice act. The rules to implement the act really took a lot of the teeth out of the act, fully funding that, which I am in favor of, by the way. We did vote to do that in committee. It does not get us too far down the road. Again, when you do see the other bill that has been mentioned here, I think a critical reading of that will say that a lot of the things in there can already be done and or are being done. It just doesn't get us to where we need to go. I really urge you, again, to look at this and to look at the four points to say that yes, we do want to take a bold step forward here today, but a reasonable step. I would urge you again to vote against the pending motion so that we can go on to accept the report. Thank you.

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

Representative VIGUE: Madam Speaker, Ladies and Gentlemen of the House. Let me tell you what I think we are looking at here. It is something that affects each and every one of us. Great Northern Paper, 1,708 employees; Frazier Paper, Madawaska, 1,100; Fort James Corporation, 608 employees; Madison Paper, 281; Meade, 1,600; International Paper, 1,200; Otis Mills, 290; SD Warren, 2,458; Champion International 1,140; Georgia Pacific, 612. I tell you what was once a good paper mill in Winslow does not exist anymore. We are dealing with these jobs, ladies and gentlemen and they are in your areas. This is what we are voting on right now. We are dealing with these jobs. It is a very, very strong economic benefit to the State of Maine. I think we should all keep that in mind when we vote. I urge you to accept the Majority Ought Not to Pass on this LD. Thank you.

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

Representative BULL: Madam Speaker, Men and Women of the House. The Representative from Winslow is correct. We are speaking about jobs here. By passing this bill, we will ensure sustainable forestry in the northern Maine woods so that these jobs are maintained to preserve for future generations. Please do not support the pending motion.

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

ROLL CALL NO. 483

YEA - Ahearne, Bagley, Barth, Belanger DJ, Belanger IG, Berry DP, Berry RL, Bigl, Bodwell, Bouffard, Bragdon, Bruno, Bryant, Buck, Bumps, Bunker, Cameron, Campbell, Carleton, Chizmar, Cianchette, Clark, Clukey, Colwell, Cross, Desmond, Donnelly, Driscoll, Farnsworth, Fisher, Foster, Gamache, Gerry, Gieringer, Goodwin, Gooley, Jones SL, Jones SA, Joy, Joyce, Joyner, Kasprzak, Kerr, Kneeland, Kontos, Lane, LaVerdiere, Layton, Lindahl, Lovett, MacDougall, Mack, Mailhot, Marvin, Mayo, McAlevey, McElroy, Murphy, Nass, Nickerson, O'Brien, O'Neil, O'Neil, Ott, Paul, Pendleton, Perkins, Perry, Pinkham RG, Pinkham WD, Plowman, Povich, Richard, Rowe, Samson, Sanborn, Savage, Saxl MV, Sirois, Snowe-Mello, Spear, Stanley, Stedman, Taylor, Tessier, Thompson, Tobin, Treadwell, Tripp, True, Usher, Vedral, Vigue, Waterhouse, Wheeler EM, Wheeler GJ, Winglass, Winn, Winsor, Madam Speaker.

NAY - Bolduc, Brennan, Brooks, Bull, Chartrand, Chick, Cowger, Davidson, Dunlap, Etnier, Fisk, Fuller, Gagne, Gagnon, Green, Hatch, Jabar, Jones KW, Kane, Lemaire, Lemke, McKee, Mitchell JE, Morgan, Muse, Peavey, Pieh, Powers, Quint, Rines, Saxl JW, Shiah, Skoglund, Stevens, Townsend, Tuttle, Volenik, Watson, Wright.

ABSENT - Baker, Dexter, Dutremble, Frechette, Honey, Labrecque, Lemont, Madore, Meres, Poulin, Shannon, Underwood.

Yes, 100; No, 39; Absent, 12; Excused, 0.

100 having voted in the affirmative and 39 voted in the negative, with 12 being absent, the Majority **OUGHT NOT TO PASS** Report was **ACCEPTED** and sent up for concurrence.

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

SENATE DIVIDED REPORT - Majority (8) Ought to Pass as Amended by Committee Amendment "A" (S-530) - Minority (3) Ought to Pass as Amended by Committee Amendment "B" (S-531) - Committee on INLAND FISHERIES AND WILDLIFE on

Bill "An Act to Adopt Long-range Changes in the Methods by Which Whitewater Rafting Trips Are Allocated among Licensees" (S.P. 604) (L.D. 1801)

Which was **TABLED** by Representative CAMPBELL of Holden pending the motion of Representative PAUL of Sanford to **ACCEPT the Majority Ought to Pass as Amended** Report. (Roll Call Ordered)

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

ROLL CALL NO. 484

YEA - Ahearne, Bagley, Barth, Belanger DJ, Belanger IG, Berry DP, Berry RL, Bigl, Bodwell, Bolduc, Bouffard, Bragdon, Brennan, Brooks, Bruno, Buck, Bumps, Bunker, Cameron, Campbell, Carleton, Chick, Chizmar, Cianchette, Clark, Clukey, Colwell, Cowger, Cross, Davidson, Desmond, Donnelly, Driscoll, Etnier, Farnsworth, Fisher, Fisk, Foster, Fuller, Gagne, Gagnon, Gamache, Gerry, Gieringer, Gooley, Green, Hatch, Jabar, Jones SL, Jones SA, Joy, Joyce, Joyner, Kane, Kasprzak, Kerr, Kneeland, Kontos, Lane, Layton, Lemaire, Lovett, MacDougall, Mack, Mailhot, Marvin, Mayo, McElroy, McKee, Mitchell JE, Morgan, Murphy, Muse, Nass, Nickerson, O'Brien, O'Neil, O'Neil, Ott, Paul, Peavey, Pendleton, Perry, Pieh, Pinkham RG, Pinkham WD, Plowman, Povich, Powers, Richard, Rines, Rowe, Samson, Sanborn, Savage, Saxl MV, Shiah, Sirois, Skoglund, Snowe-Mello, Spear, Stanley, Stedman, Taylor, Tessier, Tobin, Treadwell, Tripp, True, Tuttle, Usher, Vedral, Vigue, Waterhouse, Watson, Wheeler EM, Wheeler GJ, Winglass, Winn, Winsor, Wright, Madam Speaker.

NAY - Bryant, Bull, Chartrand, Dunlap, Goodwin, Jones KW, LaVerdiere, Lemke, Lindahl, McAlevey, Perkins, Quint, Saxl JW, Stevens, Thompson, Townsend, Volenik.

ABSENT - Baker, Dexter, Dutremble, Frechette, Honey, Labrecque, Lemont, Madore, Meres, Poulin, Shannon, Underwood.

Yes, 122; No, 17; Absent, 12; Excused, 0.

122 having voted in the affirmative and 17 voted in the negative, with 12 being absent, the Majority **Ought to Pass as Amended** Report was accepted.

The Bill was **READ ONCE**. **Committee Amendment "A" (S-530)** was **READ** by the Clerk and **ADOPTED**.

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

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-530)** in concurrence.

TABLED AND TODAY ASSIGNED

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

An Act to Authorize Department of Transportation Bond Issues in the Amount of \$36,985,000 to Match Available Federal Funds for Improvements to Municipal and State Roads, Airports, State Ferry Vessels and Terminals, Transit Facilities and Equipment and Rail and Marine Facilities (BOND ISSUE)

(S.P. 611) (L.D. 1812)

(C. "A" S-510)

TABLED - March 20, 1998 by Representative DRISCOLL of Calais.

PENDING - PASSAGE TO BE ENACTED.

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

BILL HELD

Bill "An Act to Require a Search Warrant to Investigate Private Property for the Purpose of Forestry Examinations"

(H.P. 200) (L.D. 253)

- In House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-975) AS AMENDED BY HOUSE AMENDMENT "A" H-985** thereto.

HELD at the Request of Representative GREEN of Monmouth.

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

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **Committee Amendment "A" (H-975) as Amended by House Amendment "A" (H-985)** thereto was **ADOPTED**.

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **House Amendment "A" (H-985) to Committee Amendment "A" (H-975)** was **ADOPTED**.

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

Representative **PERKINS**: Madam Speaker, Ladies and Gentlemen of the House. This amendment was written up in the Bangor paper Saturday and they got it half correct. I know two or three people got calls about it. The person writing the piece did mention it was for parcels under 200 acres, but she neglected to put in the article that my amendment calls for the owner to be residing on the paper before. She also left out that one on the asking permission for a search warrant. The article just said under 200 acres with the resident on it. A search warrant for entering for forest enforcement and fire enforcement. What I am trying to say is if you got calls about it responding to that article, I just hope you take that into account that she left out half of it. I hope they are going to retract that tomorrow in the paper. There is some concern about the constitutionality of this. I realize there are people who do support the idea maybe enlarging their curtilage area around their homes. If you own 201 acres, then perhaps that is a constitutional thing. I would like to stress that, again, is there a real problem of abuse by the wardens. I suggest, again, that we look at the bill that came in front of us last year for the ones who are asking to be armed. They told us their job is changing. The nature of their job is changing. The nature of the forest is changing. Every time a regulation is put on, these people have to act more and more as police. That is fine, except since they are acting more and more like police, I think we ought to extend our zone of expected privacy out a bit. Thank you.

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

Representative **THOMPSON**: Madam Speaker, Men and Women of the House. Let's be very clear on what we are doing here. What we are doing is saying that we are not going to allow these employees of the State of Maine to do their job. We are going to say that if a forest ranger is driving down the road and he suspects that someone is illegally cutting wood on someone's lot, he has no right to investigate that. He has to go get a search warrant or go find the owner. We worked really hard on and got some timber trespass laws passed. This is going to impede enforcement of that law. Simply put, the current law, as amended, without this amendment that we are trying to put through simply says they can only go on your property to carry out their duties. That doesn't mean they can go on there

randomly and go wandering around. They have to be doing their duties. I ask that you defeat this amendment.

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

Representative **GOOLEY**: Madam Speaker, Men and Women of the House. We are not only talking about forest rangers on this issue, we are also taking about anthropologists, foresters, planners and others who would come under this particular LD. The search warrant requirement would hinder the Maine Forest Service's ability to protect landowners from the theft of their valuable timber assets. Staff visits to harvest operations identify and attempt to halt timber theft is valuable to all landowners, but particularly on lands where the owner is not present. The search warrant requirement is a reactive, rather than a preventive tool. The key focus of the Forest Practices Act enforcement is prevention of violations, which will be severely hampered since forest rangers must have probable cause to obtain a search warrant.

Search warrant laws were not designed to cover Maine Forest Service activities. Under long standing legal principles, search warrants have been used in criminal law and may only be obtained when there is probable cause that a crime is being committed. Because Maine Forest Service staff often need to enter lands to determine if a legal operation is taking place, the Maine Forest Service could not meet the probable cause requirement to obtain a search warrant. Also, the Maine Forest Service will be reluctant to cross lands to get to suspected illegal operations for fear that the lands are owned by a third party who has not given permission to cross his or her lands, nor is there any probable cause to obtain a search warrant against this innocent third party. The Maine Forest Service's responsibility extends beyond the Forest Practices Act. The search warrant requirement would hamper Maine Forest Service efforts to seek compliance with fire prevention and other laws. For example, the Maine Forest Service has a pivotal role in monitoring compliance under Maine's Atlantic Salmon Plan, one of only two state plans that have been accepted by the federal government in lieu of listing a species under the Endangered Species Act. The Maine Forest Service has had the right of entry provision in its enabling legislation since its creation over 100 years ago. The Maine Forest Service has had no complaints of abuse filed against its staff nor have proponents of the search warrant requirement uncovered any abuses. Requiring a search warrant for Maine Forest Service staff will likely have an affect on all local and state agencies. Legislation with this broad of an impact should not be considered in a vacuum.

Finally, the search warrant requirement could have the unintended consequence of transforming the Maine Forest Service into one focused on regulatory procedure rather than on educational and outreach activities. That would be unfortunate for the people of the State of Maine. Thank you.

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

Representative **PERKINS**: Madam Speaker, Men and Women of the House. This just kind of amazes me that people keep saying a search warrant requirement. That is one of the requirements. That is after the person has stopped and knocked on the house to see if it is okay to go on your land. Remember, this piece of land, even if it was a circle of 200 acres and you had your house in the center, it couldn't be slightly over a quarter of a mile from your boundary. About from here to the federal building. We are not talking about a huge piece of land for the people in urban areas. It may sound like a lot. The other thing that I would like to respond to quickly that the last speaker mentioned. The current law regarding search and forest and

curtilage area has been sufficient for 100 years or more. He is right. It was never a crime to cut your trees before. Thank you.

Representative ETNIER of Harpswell **REQUESTED** a roll call on the motion to **ADOPT House Amendment "A" (H-985) to Committee Amendment "A" (H-975)**.

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 Waterboro, Representative McAlevey.

Representative MCALEVEY: Madam Speaker, Men and Women of the House. What we do in here, good or bad, has sometimes unintended consequences. I liken it to the analogy of throwing a big rock into a pond. Sometimes we are not aware of what shores that waves will lap against. I have spent 18 years as a police officer. Most police officers work very hard to protect your rights because that is what we spend most of the time at the academy learning how not to violate people's rights to privacy or their possession. If we go to the extent of requiring search warrants, it is going to have some unintended consequences. If I am away on vacation and someone is stealing wood off my land and a police officer sees it, I can't go on there to investigate it without going and getting a search warrant. Local fire departments constantly walk through the woods after lightening strikes looking for hot spots. Can't do it. They have to get a search warrant. It is not easy to get a search warrant in this state and it should never be easy. It takes time to gather the facts to write an affidavit, to find a magistrate or a judge and to convince them that you have probable cause to believe an activity is going to be basically criminal activity. What I find convoluted is we are going to ask one state agency to go get search warrants not to look for criminal activity, but to look for criminal violations. You hold an administrative hearing, the standard of proof is a preponderance of the evidence. If you go search and get an affidavit for a search warrant, you have to have probable cause, which is a huge leap of faith. Judges and magistrates do not give out search warrants unless you have met the four corners of a warrant and you really have to know what you are doing when you are doing this. Most departments only have one or two people in their department that do this all the time and they might write two warrants a week or two warrants a month. If you ask somebody who might only write two warrants a year to do this is not realistic. In our rush to protect our privacy, we may be jeopardizing that property from official agents from doing their work, whether it is fire fighters or whether it is police protecting your property. We all have a reasonable expectation of privacy. That expectation is strongest in your home, your buildings and effects. A creek eight acres away from your house, under the current standards, you have a little less expectation of privacy, especially if you are not there. I ask you, before you vote on this, to take a look and think of what shores these waves are going to lap against and what unintended consequences we are going to come out with because there is a broader issue here than a person's right of privacy. Thank you.

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

Representative CHICK: Madam Speaker, Ladies and Gentlemen of the House. I am fortunate enough to have a farm back in Lebanon. People have an occasion to hunt and fish on that property. When I hear this debate this evening, I would think about, from what the good Representative from Waterboro speaks about, some of the far reaching actions that this amendment might cause. I have not tried to keep people from hunting and fishing or if they are out looking for butterflies or flowers. I guess probably I understand that this would be only for foresters and that would be my question, Madam Speaker, if

somebody could answer. What people would be affected by this amendment? Thank you.

The **SPEAKER**: The Representative from Lebanon, Representative Chick has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Farmington, Representative Gooley.

Representative GOOLEY: Madam Speaker, Men and Women of the House. In the bill it says that it includes, and I quote, "An agent of the bureau shall administer an administrative search warrant." An agent means all employees who would travel onto someone else's land. Thank you.

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

Representative MACK: Madam Speaker, Right Honorable Men and Women of the House. I am sure I don't have the quote exactly correct, but I believe Ben Franklin said, "He who gives up his liberty in exchange for safety will have neither."

The **SPEAKER**: A roll call has been ordered. The pending question before the House is Adoption of House Amendment "A" (H-985) to Committee Amendment "A" (H-975). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 485

YEA - Barth, Belanger DJ, Bodwell, Bragdon, Buck, Carleton, Cross, Donnelly, Foster, Goodwin, Jones KW, Jones SA, Joy, Joyce, Joyner, Kasprzak, Lane, Layton, Lovett, MacDougall, Mack, Murphy, Pendleton, Perkins, Pinkham RG, Pinkham WD, Stanley, Stedman, Tobin, Treadwell, Vedral, Wheeler EM.

NAY - Ahearn, Bagley, Belanger IG, Berry DP, Berry RL, Bigl, Bolduc, Bouffard, Brennan, Brooks, Bruno, Bryant, Bull, Bumps, Bunker, Cameron, Campbell, Chartrand, Chick, Chizmar, Cianchette, Clark, Clukey, Colwell, Cowger, Davidson, Desmond, Driscoll, Dunlap, Etnier, Farnsworth, Fisher, Fisk, Fuller, Gagne, Gagnon, Gamache, Gerry, Gieringer, Gooley, Green, Hatch, Jabar, Jones SL, Kane, Kneeland, Kontos, LaVerdiere, Lemaire, Lemke, Lindahl, Mailhot, Marvin, Mayo, McAlevey, McElroy, McKee, Mitchell JE, Morgan, Muse, Nass, Nickerson, O'Brien, O'Neal, O'Neil, Ott, Paul, Peavey, Perry, Pieh, Plowman, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Savage, Saxl JW, Saxl MV, Shiah, Sirois, Skoglund, Snowe-Mello, Spear, Stevens, Taylor, Tessier, Thompson, Townsend, Tripp, True, Tuttle, Usher, Vigue, Volenik, Waterhouse, Watson, Wheeler GJ, Winglass, Winn, Winsor, Wright, Madam Speaker.

ABSENT - Baker, Dexter, Dutremble, Frechette, Honey, Kerr, Labrecque, Lemont, Madore, Meres, Poulin, Shannon, Underwood.

Yes, 32; No, 106; Absent, 13; Excused, 0.

32 having voted in the affirmative and 106 voted in the negative, with 13 being absent, the motion to **ADOPT House Amendment "A" (H-985) to Committee Amendment "A" (H-975) FAILED**.

Subsequently, **Committee Amendment "A" (H-975) was ADOPTED**.

The Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-975)** and sent up for concurrence.

BILL RECALLED FROM GOVERNOR

(Pursuant to Joint Order - House Paper 1645)

An Act to Support the Long-term Care Steering Committee

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

(H. "A" H-849 to C. "A" H-837)

- In House, **PASSED TO BE ENACTED** on March 13, 1998.
- In Senate, **PASSED TO BE ENACTED** on March 16, 1998.

On motion of Representative MITCHELL of Portland, 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 ENACTED**.

On further motion of the same Representative, the rules were **SUSPENDED** for the purpose of **FURTHER RECONSIDERATION**.

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

On further motion of the same Representative, the rules were **SUSPENDED** for the purpose of **FURTHER RECONSIDERATION**.

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **Committee Amendment "A" (H-837)** was **ADOPTED**.

The same Representative presented **House Amendment "B" (H-966)** to **Committee Amendment "A" (H-837)** which was **READ** by the Clerk and **ADOPTED**.

Committee Amendment "A" (H-837) as Amended by House Amendment "B" (H-966) thereto was **ADOPTED**.

The Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-837) as Amended by House Amendment "B" (H-966)** thereto in **NON-CONCURRENCE** and sent up for concurrence.

REPORTS OF COMMITTEE

Divided Reports

Majority Report of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought Not to Pass** on Resolve, to Establish the Maine Forest Policy Round Table Study Commission

(H.P. 1081) (L.D. 1518)

Signed:

Senators:

KILKELLY of Lincoln
PARADIS of Aroostook
KIEFFER of Aroostook

Representatives:

BUNKER of Kossuth Township
LANE of Enfield
SAMSON of Jay
SHIAH of Bowdoinham
GOOLEY of Farmington
JONES of Greenville
McKEE of Wayne
CROSS of Dover-Foxcroft
DEXTER of Kingfield

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-1003)** on same Resolve.

Signed:

Representative:

VOLENIK of Brooklin

READ.

Representative BUNKER of Kossuth Township moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

Representative VOLENIK of Brooklin moved that the Bill be **TABLED** pending the motion of Representative BUNKER of Kossuth Township to **ACCEPT** the Majority **Ought Not to Pass** Report and specially assigned for Tuesday, March 24, 1998.

Representative VEDRAL of Buxton **REQUESTED** a division on the motion to **TABLE**.

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

A vote of the House was taken. 54 voted in favor of the same and 64 against, the motion to **TABLE FAILED**.

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

Representative VOLENIK: Madam Speaker, Men and Women of the House. I assume that all of you want to hear about forestry a little longer tonight. LD 1518, I will just give you a little background on it. One of the reasons this is here is because the Chief Executive established the Maine Council on Sustainable Forest Management on April 25, 1995. The mission of that council was to define forest sustainability in practical terms, feasible for implementation by all landowners. It was also to recommend criteria and goals to ensure a sustainably managed forest and to recommend a methodology for the Department of Conservation to monitor forest landowner's progress for achievement of forest sustainability goals and review and assess Maine Forest Practices rules and regulations for their adequacy in achieving sustainable forest management and to recommend changes where necessary. The council gave its report of recommendations in July of 1996 and although the report gave excellent analyses and a framework for reaching forest sustainability, its message was lost in the uproar of the clear-cutting referendum of the competing measure and subsequent referendum votes of the last two years. The council's work was suspended and it was not until February 1998 that the Legislature's committee on Agriculture, Conservation and Forestry heard about the report in detail in a panel discussion with most of the council's members. Although the council was not charged to look at labor and economic issues, public testimony to the council often focused in on these issues and the unsolved problems in these areas.

Here I would like to quote from the report, "A note on economic and labor issues. At its meeting and public comments, the council heard many people express concerns about economic and labor issues. Chief among these concerns were raw log exports, labor imports, workers' compensation issues, mechanization of timber harvesting and their impacts on logging employment, regional shortages of timber harvesting, work for loggers, piece work pay rates and their impact on logger's safety and income. The impact of current forest practices and corporate decisions on the stability of local forest dependent communities." You will find these exact words on page 2 of LD 1518. Again, I quote from the sustainability council's report.

"The council heard these and many other concerns loud and clear. It has discussed these issues at length, but has come to the conclusion that they lie beyond the council's mission as given by the Governor and outside the areas of expertise represented on the council. In choosing not to deal with these issues at this time, the council does not dismiss them. They are serious issues that must be debated and where possible resolved in the public policy arena. While current economic trends do not offer much solace to out-of-work loggers or declining rural communities, Maine's quality of life, the future of rural communities and the future direction of Maine's economic policy hinge on the outcome of such a debate. This debate should bring to the table as wide a representation of affected stakeholders as possible. It should attempt, at a minimum, to establish a common understanding of the problems, challenges and barriers to rural prosperity and beyond that, general agreement on the policy steps that need to take place." LD 1518 would establish a round table commission to look at these and other key economic and labor issues. The round table will report back to the Legislature by January 1, 2001, with the

recommendations for policy changes including any necessary implementing legislation. The round table will hold public meetings and consist of 15 to 21 members appointed by the Legislature. Membership will hold stakeholders with an interest in preserving the economy, the jobs, the tax base, the environment and the culture of the north woods. I could read you a list of the members, but I won't. There will be 15 to 20 and they will be such things as an owner of a saw mill, logging employee, registered professional forester, owner of less than 1,000 acres, owner of more than 1,000 acres, representative of environmental group, basically all the stakeholders involved in the woods.

While this bill creates no new regulations, it establishes a forum for the discussion of what the north woods economic and labor problems are today and what they may be tomorrow. It creates the possibility of future legislation to solve these problems and legislation, I might add, developed by the very people most affected by these problems and who most wish to solve these problems. It is bottom up management and governance at its best. It is the beginning of the return to common sense in problem solving in the woods and in surrounding communities.

As Stephen Karpiack, of Stratton said in an editorial last December, I quote, "This bill is for the logger who is making less per cord now than he was 20 years ago. It is also for the log truck driver who is forced to drive overweight loads and work 14 hour days in order to make ends meet. For the mill worker who wonders whether he will have a job next week while he watches one truckload after another of prime saw timber head out of state to be milled." While the Forestry Committee concentrated on attempting to solve or some would say attempting to avoid the issue of sustaining the timber industry, this equally important issue of sustaining the tax base, the jobs, the pay rates and the communities dependent on the forest industry should be addressed immediately by the creation of this policy round table so that all of the players in the north woods can participate in the solution and so that the forestry debate and future legislation would be grounded in the framework of these very important issues.

I urge your support for this bill. I would just like to add that this bill was heard in public hearing last year and officially again in December. The work session on this bill consisted of the last day of the committee meeting someone getting up and moving the bill Ought Not to Pass with no discussion. It seems that all of these issues mentioned that were brought about from the Sustainability Council and also from the Northern Forests Land Council, which met four years prior to that. These issues were identified and they need to be solved. They are a completely separate set of issues from what we have been debating as far as the sustainability of the timber itself. This is sustainability of a lifestyle of an economy and of a people. I believe this issue deserves more debate than it has received so far in this body. I challenge anyone to tell me why these issues are not important. Thank you.

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

A vote of the House was taken. 67 voted in favor of the same and 18 against, the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent up for concurrence.

Majority Report of the Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-1001)** on Bill "An Act to Provide Educators More Authority to Remove Violent Students from Educational Settings"

(H.P. 1520) (L.D. 2142)

Signed:
Senators:

PENDLETON of Cumberland
SMALL of Sagadahoc
CATHCART of Penobscot

Representatives:

RICHARD of Madison
DESMOND of Mapleton
BELANGER of Caribou
McELROY of Unity
BRENNAN of Portland
SKOGLUND of St. George
WATSON of Farmingdale
BAKER of Bangor

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

Signed:
Representatives:

BARTH of Bethel
STEDMAN of Hartland

READ.

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

The Bill was **READ ONCE**. **Committee Amendment "A" (H-1001)** was **READ** by the Clerk and **ADOPTED**.

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

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-1001)** and sent up for concurrence.

Majority Report of the Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-998)** on Bill "An Act to Clarify the Confidentiality of Public Employee Information"

(H.P. 1362) (L.D. 1913)

Signed:
Senators:

LONGLEY of Waldo
LaFOUNTAIN of York

Representatives:

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

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

Signed:
Senator:

BENOIT of Franklin

READ.

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

On motion of Representative BROOKS of Winterport, the House **RECONSIDERED** its action whereby the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

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

Representative BROOKS: Madam Speaker, Ladies and Gentlemen of the House. If I get lost in this, it is because I am losing my voice. It has nothing to do with the young lady who is controlling the switch. I am standing and asking you this evening to oppose the Majority Ought to Pass Report so that we can move on to the Minority Report. It appears to me that this is another one of those issues that when you start thinking about the public's right to know, this is an issue that when it does come up, the public begins to lose a little bit of ability to access information. I am not going to spend any of your valuable time this evening, because I realize it is very late. However, I think we need to take a look at this issue. This is an issue that if you take a look at it closely, will delete the name of an individual after a disciplinary action has been overturned. If you think about that, that is blocking the right of the public to get at some information that I believe they have the right to access. If you think about it in even more terms, what we are really talking about, is perhaps getting at the identity of the supervisor. If frivolous actions are brought against an individual and that decision is made to overturn that disciplinary action and according to what I understand about this bill and the information included in this disciplinary action will be deleted from the files. I am not sure that is such a good idea. If you look back at the origin of this and I think many of us know the origin of this particular type of case.

Justice Wathen himself is quoted to say that the public's interest in an instance of improper discipline is no less apparent than its interest of an instance of properly imposed discipline. In this case, in addition to vindicating the employee, it may also reflect on the actions of the supervisor. In these high visibility cases, we are really not talking about a lot of cases. We are talking about cases that come to the public's attention. If there are any attachments, stigma, to one of those whose discipline was overturned, it is unfair not to name that employee and not fair not to name the others who are considered. If there is a stigma attached to being identified in discipline, then why not expunge, if you will, to use a legal term, or remove this stigma by identifying the individual. I ask you to join with me in voting against the Ought to Pass as Amended. Thank you very much.

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. 89 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-998)** was **READ** by the Clerk and **ADOPTED**.

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

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-998)** and sent up for concurrence.

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

Majority Report of the Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-997)** on Bill "An Act to Implement the Recommendations of the Maine Indian Tribal-State Commission Relating to Tribal Land Use Regulation"

(H.P. 1403) (L.D. 1961)

Signed:
Senators:

LONGLEY of Waldo
LaFOUNTAIN of York

Representatives:

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

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

Signed:

Senator:

BENOIT of Franklin

Representatives:

PLOWMAN of Hampden
MADORE of Augusta
NASS of Acton
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 **MARINE RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-1004)** on Bill "An Act to Limit New Lobster and Crab Fishing Licenses"

(H.P. 1597) (L.D. 2226)

Signed:

Senators:

GOLDTHWAIT of Hancock
PENDLETON of Cumberland
MacKINNON of York

Representatives:

ETNIER of Harpswell
VOLENIK of Brooklin
PIEH of Bremen
BAGLEY of Machias
GOODWIN of Pembroke
PINKHAM of Brunswick
HONEY of Boothbay

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

Signed:

Representatives:

PINKHAM of Lamoine
PERKINS of Penobscot
LAYTON of Cherryfield

READ.

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

The Bill was **READ ONCE**. **Committee Amendment "A" (H-1004)** was **READ** by the Clerk and **ADOPTED**.

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

Representative PINKHAM of Lamoine **PRESENTED House Amendment "A" (H-1025)**, which was **READ** by the Clerk.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Lamoine, Representative Pinkham.

Representative PINKHAM: Madam Speaker, Men and Women of the House. The Majority Report you have on your desk doesn't address the original bill. What the Majority Report addresses is the report itself that the Lobster Advisory Council will review a two-year moratorium on all lobster licenses and report back to the Marine Resource Committee next year. What you have to look at is the bill and see who qualifies to continue to get new licenses. Anyone who didn't have a lobster and crab fishing license in 1997, under the original bill, there is only two ways a person can get a license in 1998. One of them is by the apprenticeship program, which means that you had to sign up for the apprenticeship program before February 13 of this year, 1998. If you didn't, you are out for two years. The other way that you can get a license to fish in 1998 is if you had your license suspended. It seems kind of unfair to me that anybody who broke the marine resources laws, which would be a serious violation to have their license suspended because they don't suspend licenses on minor violations. Anybody who committed repeated violations of marine resources laws or a serious violation like stealing somebody's traps or cutting somebody's traps would be eligible to get a license in 1997 if they didn't have one because they had committed a crime and they were under suspension.

What my amendment does is my amendment would create a chance for these people, there is only a handful of these people in the state that fell through the cracks that didn't get their licenses in 1997. My amendment would, anybody who had a license previous to 1997, but didn't get one in 1997 because they were in active military service or they were a stern man fishing with a person with a class 2 or class 3 license, which you can do that, a stern man doesn't need a license if he is fishing with someone with a class 2 or class 3 license. That person should be able to get a license. He is in the fishing industry. They have substantial investments. They have boats. They have traps, but just because they didn't have a license in 1997 because of one of these reasons, they are out of the fishery for two years during moratorium. Also, if a person could validate that he or she had a valid personal reason which would be determined by the DMR Advisory Council, could get into the fishery. This doesn't mean that these people would be automatically in. They would have to plead their case in front of the Lobster Advisory Council.

Talking with the commissioner of Marine Resources last week, he indicated that there would only be probably about a dozen of these people statewide that would qualify. There may be more than that apply, but there would only be about a dozen for a 1998 license. I would like to say that they would have to plead their case in front of the DMR Advisory Council to get their license for 1998. I have had several calls from fishermen that have boats and 300 or 400 traps that didn't get their license in 1997. Some of them because of medical. One guy had cancer and was operated on and had chemotherapy treatments last year. He didn't get a license. He should be let back into the fishery. There is only going to be a handful of these people statewide that fell through the cracks. One guy went to New Hampshire with his wife. She had a new job and had to go down there for a year of training to keep her job back here in Maine. He went with her and when he came back, he was denied a license because he didn't have one in 1997. These are the type people that have the investment. They have both. They have traps and fished for many years, some of them. I think they should be let into the fishery.

Why the moratorium? One of the reasons why the moratorium was placed on was they were saying it was overfished. If you look at the statistics and really look at them, in

the last 15 years there is over 2,000 less lobster licenses issued right now than there was 15 years ago and the lobster catch is over 30 percent higher now than it was 15 years ago. They are catching more lobsters with less fishermen. Granted there is probably more traps in the water right now, but it doesn't show me that it is such a crisis that you can't let a dozen people back into the fishery that the traditional fishermen and have the money tied up in gear, to keep these people out is a crime. Especially if you keep these people out and let people in that has violated the law. I can't understand the reasoning there. The people that are habitual violators of the DMR laws. They have lost their licenses. They shouldn't be allowed in. The industry doesn't need people like that. You need people that are honest and need to make a living for their families to be in there. I am asking you to vote for my amendment to allow these people. As I said, they are not going to be allowed in automatically. They are still going to have to go on an advisory council and be approved. The advisory council thinks they should be let in with the evidence that they provide, then they will be let in. If not, they won't be. This isn't an ongoing thing. This amendment will expire at the end of this year. It will only be the rest of this year that they would be considered anyway. Thank you.

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

Representative ETNIER: Madam Speaker, Ladies and Gentlemen of the House. I urge you to oppose adoption of House Amendment "A" as presented by the Representative from Lamoine, Representative Pinkham. He raised an issue that was raised and discussed at length at our numerous work sessions on this bill regarding how to deal with folks who did not have a license in 1997 and were therefore not eligible for one in 1998. This is one that we hashed about and hashed about. As a committee we felt that we could not resolve the issue to everyone's satisfaction given the time frame we had and hence we did choose to deal with it though in the Majority Report in the following fashion.

The Majority Report that shows up on your desk does refer to the report that we are asking to receive back from the Lobster Advisory Council, which is exactly that and advisory council to the department. It consists entirely of fishermen from one end of the coast to the other. We asked them to look into a number of things. They do not have a lot of time as it is and I feel guilty asking them to look into even more things, but we did. Among the things we requested they look into was "any recommendation for a system of limited entry must include a process under which a resident denied entry into a lobster fishery may appeal that denial to the commissioner of Marine Resources." It is not like the committee didn't consider this and give it a great deal of time. We did. We are concerned about it. We do know it is an issue out there. We do want it addressed. We want it addressed in a thoughtful fashion. With all due respect to Representative Pinkham, I see several problems with his amendment.

In particular, the bit about having gone as a stern man says that you can basically get a license. If you went as a stern man in 1997 and you didn't know you needed to have your lobster license, you weren't really paying very much attention to what was going on around you in an industry that you were choosing to participate. The biggest problem I have with this amendment is that it says, "The Lobster Advisory Council may grant a class 1, 2 or 3 lobster license to a person." I cannot conceive that a purely advisory council to the Department of Marine Resources has any authority to grant licenses. I believe that authority rests only and solely with the commissioner and with the department. I believe there may be a role for the advisory council to be just that, an advisory council. It certainly does not have the ability to grant licenses as suggested in the amendment that is before us

now. For that and for other reasons, I would urge you to oppose the pending amendment. Thank you.

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

Representative PENDLETON: Madam Speaker, Ladies and Gentlemen of the House. I am going to be voting for this amendment and I will tell you why. In 1997, I worked as a stern man with a person with a class 2 license. In 1996, I did the same thing. In 1995, I did the same thing. In 1994, I did the same thing. I just heard from the Representative from Harpswell that evidentially I wasn't paying attention to the rules. I went down to file for an apprentice license because I had been working as a stern man and I felt I should be entering this profession through an apprentice and lo and behold, I found out that February, whatever the date was, I had to apply by, had gone by, which I had no knowledge of. Now I am banned according to this bill.

Then I had another young friend call me up and he fished in 1994 with a class 1 license at age 14. In 1995, he did it again with a class 1 license. In 1996 through a change in the laws up here, he said he had to be the owner of a boat. Suddenly he found that he had a student license, which gives him no standing, but it did allow him to fish 110 traps. In 1997, he applied again and found out that he had to use a student license. He applied for a class 1 license each time. In 1998, he applied for a class 1 license because he was head of his own boat for two years. He is now up to 120 traps and lo and behold, they said you can have an apprentice license. That is fine, he said, if it lets me into the industry. I am a senior in high school and I am going to be out of high school this year and fine, I will do that. I will fish with my father as an apprentice. Only trouble is his 120 traps that he has now is going to set on shore because he has no right to use his own traps as an apprentice. This is what we are doing to this industry. We are passing one law after another. We are not telling anybody what is going on from the first one to the second one to the third one and so now we have to take this opportunity to give these people the licenses that they should be getting. If we don't want to do it, then we shouldn't be passing any further laws to ban anybody else. Thank you very much.

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

Representative LAYTON: Madam Speaker, Men and Women of the House. With the exception of Representative Etnier who is clearly pointing out that the advisory council cannot grant licenses, that is something that can be remedied in this amendment. This is a good amendment because there is absolutely no provision for people, like Representative Pendleton and the ones he mentioned, Representative Pinkham and the ones he mentioned, to be able to get into this fishery. Many of you know that I spent 22 years in the military as a combat veteran. I cannot imagine under any circumstance some poor kid who fished for 10 years or some person in the National Guard who fished for 10 years gets called over to Bosnia to be shot at, sleep in the mud, eat rats and come back a year later only to find out that gee, you forgot about doing your renewal on your license, therefore, you can't have one. I mean it is ludicrous.

There has never been any exception in marine laws to take care of those people who are called to active duty. There was no public notification to my knowledge. As was told to us by the acting commissioner of Marine Resources, about February 13, that is the date that Representative Pendleton was going to speak about. That is the deadline date. If you didn't have your application in for an apprentice, you wouldn't be able to get one. That is why he can't. I know people that have been here that have never seen him quite like the way he is tonight. He is a little bit upset. I think that we can make a correction to the

Lobster Advisory Council language and make them make recommendations so that the commissioner or the acting commissioner can grant the licenses. Believe me, we are not talking about a tremendous influx of personnel into this industry. Maybe a dozen or maybe less. There should be some consideration for the military people who are defending our necks riding submarines, aircraft carriers away from their families, to make some provision for them. They are not getting notification in the mail. They are not really taking the time off to pay attention to fishing industries when they are walking the streets in Bosnia. There has to be an exception for these people.

The people who have been fishing as stern men for many, many years. They do this as a profession. They could have had a license a long time ago. They opted to be a stern man and they have done this for years and years and years. That is the rub, ladies and gentlemen. They are calling these people apprentice. In most of our minds we look at what an apprentice is, that is nifty new guy. The new kid on the block. These are not the people we are talking about. These are the people who have fished for years. Ten, 15, 20 or 25 years as stern man. You are saying that you cannot have a license because you missed some arbitrary date of February 13. You weren't paying attention to detail. I am sorry. That is slim. We can make the change. This is a good amendment. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Bremen, Representative Pieh.

Representative PIEH: Madam Speaker, Men and Women of the House. I rise in support of not voting for this amendment as a part of the Marine Resources Committee. The lobster industry came to the Marine Resources Committee and unanimously requested us for breathing space. They requested breathing space because there are a lot of problems with limited entry with how to stock what gaps there are and with how to properly approach things like student licenses, apprentice licenses, etc. They are required to come back to us for the next legislative session with recommendations for limited entry should each zone, we have 7 zones, to decide who comes into their fishery and how. What kind of appeal process should we have so people don't fall through the cracks? How should students work toward becoming fully licensed should we have a student license? Is the apprenticeship program the best way to go? What we are trying to do in this industry is co-management. We are trying to let the industry make the decisions that they have to live by and involve them in that and not make decisions before they have had a chance to give us their input. They had last summer and last fall to begin to look at this and they came back and said this is very complicated. I think you can understand that from having heard the previous testimony. It is a complicated issue and how do we make it work right and well to support the industry and to support our fishing families.

What we are doing with this bill is simply honoring their request for a short-term breathing space so they can figure out what to do. If it is any reassurance to the good Representative from Scarborough, should he sign up for the apprenticeship program by the time he is done with this, the moratorium will no longer be on and we will have a limited entry processing for everyone. If that is any reassurance, the other thing is that someone who is student can be an apprentice at the same time. You can be an apprentice and still fish your 150 traps. I encourage you to not vote for this amendment because what it does is it circumvents the whole process that we were asked to do. It broadens the exceptions that we are asked to make thinner and non-existent for a breathing space while the industry talks about what it needs to do in order to manage itself effectively and for the well-being of all. If we have any kind of a

crack, there will be people with unbelievable stories. The acting commissioner has talked about over 100 people who have come in with all kinds of reasons for why there should be an exception for them. We need a carefully defined appeal process so that the proper people who have fallen through the cracks get picked up. Thank you very much.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Lamoine, Representative Pinkham.

Representative PINKHAM: Madam Speaker, Men and Women of the House. I won't take long here. The apprenticeship program, as most of you know, we passed that here in the House two years ago. Since we passed that, there has been nobody issued a license under the apprenticeship program because it hasn't been long enough. It has to be two years of fishing. Nobody has been issued a license under the apprenticeship program and now we want to change it. Also, two years may be a short period of time, but if you are not working and you have the tools to work, a boat and 400 traps sitting on the banks, two years is a very long time to wait for a law, maybe, to come off. There is nothing that says that once this report is done by the advisory council that this moratorium is coming off. We have seen that in the urchin industry. The moratorium has been extended two years to a time. There is nothing to say that these people can get in after two years.

Again, we are only talking about maybe a dozen people. It isn't that there may be 100 applied for a license, but with the screening that they are going to have to go through, they are going to have to verify. They are going to have to notarize their credibility, so to speak. If they falsify their reports, it is a class D crime, which is up to a year in jail and a \$1,000 fine. It isn't going to be a flood of people getting licenses. They are still going to have to be screened. Two years is a long time if you are not working and you have the tools to work. The bill says new licenses. These aren't new licenses that we are talking about. These are people that are the industry. Representative Pieh mentioned about the industry wanted this. These people that we are talking about are the industry. They fished for years. They are the industry. The other thing, on the recommendation, we know that the council can't issue licenses. The commissioner issues licenses. This will only be a recommendation. If the Advisory Council sees fit that these people should have a license, then they will turn that recommendation over to the commissioner and the commissioner will issue the license. Like you say, this isn't a long-term thing. This is only going to be for this year that these people can get in and plead their case in front of the council. At the end of the year, December 31, 1998, the law will be repealed. Thank you.

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

Representative PEAVEY: Madam Speaker, Men and Women of the House. I rise to urge you to support this amendment. I normally don't rise to speak on marine resources issues, since I am on the Criminal Justice Committee and not the Marine Resources Committee. I understand the need to protect our lobster fishery. As we move forward with the laws that do protect that fishery, we need to be very careful that we don't exclude the people who have been in the fishery for many years. The argument on the other side is that anyone in this industry should be watching out for changes in law. In the 117th, we made some very big changes in the law, which we all agonized over, but then we have changed them every year since. Anyone in business knows that you need to watch out for changes in law. You know that you sometimes miss those changes. Rarely when you miss the change in the law, do you lose your entire livelihood for yourself and your family. I urge you to support this amendment and allow this very small handful of people, and we

are talking about a dozen, to come forward and apply for a waiver. Thank you.

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

Representative PENDLETON: Madam Speaker, Ladies and Gentlemen of the House. It really doesn't make much matter to me whether I get an apprenticeship now or I get an apprenticeship later because I can continue doing what I am doing with my neighbor on his license, because we have been paying for him to have a class 2 license for years because I am not available every day and it makes an opportunity for one of the neighborhood kids to go out with him when I am not there because we swap off days. Sometimes when I want a week off one of the neighborhood kids works for that whole week. I wanted to get a license because you people, the laws are beginning to change, so that if he had an accident out on the boat and I had to bring him in, I wouldn't be legal bringing him in. I wanted to be able to do that. I know how to operate the boat. I have been doing it for some time. Legally, I cannot. They keep changing the rules and they have this one idea that the person should be bringing in the boat. Fine, the person should be licensed to operate it. Fine, but what happens if that individual goes down and is not able to do anything. He is laying on the deck. I think that I should have the right to bring him in. I think we have been pushing our changes to the lobster law too hard and too fast and we should not be making any changes this year. If we are making this change, I want an amendment on it so we can take care of the people who have been frozen out and have not had an opportunity. Thank you.

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

Representative ETNIER: Madam Speaker, Ladies and Gentlemen of the House. The Representative from Scarborough is 100 percent correct. We have been making rapid changes in the laws regarding lobster fishing. If you speak to the fishermen, they aren't rapid enough. As always, we aren't acting fast enough and severely enough to address the concerns they see on the water every day. We tend to be a fairly reactive body here in keeping with our tradition. That is what we have been doing. They have pretty much lost their patience with us, but we continue to try and address the concerns. I did want to pose a question through the Chair if I may. I guess this would be directed to the Representative from Lamoine, Representative Pinkham, regarding his amendment, basically line 40, referring to the stern man issue. That is Section 2 there. Could you clarify as to when this person fished or lobstered as a stern man during what time frame that was or would be?

The SPEAKER PRO TEM: The Representative from Harpswell, Representative Etnier has posed a question through the Chair to the Representative from Lamoine, Representative Pinkham. The Chair recognizes that Representative.

Representative PINKHAM: Madam Speaker, Men and Women of the House. That would be any time in 1993, 1994, 1995 or 1996.

The Chair ordered a division on the motion to **ADOPT House Amendment "A" (H-1025)**.

Representative PEAVEY of Woolwich **REQUESTED** a roll call on the motion to **ADOPT House Amendment "A" (H-1025)**.

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

The SPEAKER PRO TEM: A roll call has been ordered. The pending question before the House is the motion to **ADOPT House Amendment "A" (H-1025)**. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 486

YEA - Barth, Belanger DJ, Belanger IG, Berry DP, Berry RL, Bodwell, Bolduc, Bragdon, Brooks, Bruno, Bryant, Buck, Bumps, Cameron, Campbell, Carleton, Chartrand, Chick, Chizmar, Cianchette, Clukey, Cross, Desmond, Donnelly, Driscoll, Fisher, Fisk, Foster, Gagne, Gerry, Gieringer, Goodwin, Gooley, Hatch, Jones KW, Jones SA, Joy, Joyce, Joyner, Kasprzak, Kerr, Lane, Layton, Lindahl, Lovett, MacDougall, Mack, Marvin, Mayo, McAlevey, McElroy, McKee, Murphy, Muse, Nass, Nickerson, O'Brien, Ott, Paul, Peavey, Pendleton, Perkins, Pinkham RG, Pinkham WD, Plowman, Povich, Rines, Samson, Savage, Sirois, Skoglund, Snowe-Mello, Spear, Stedman, Taylor, Tessier, Tobin, Treadwell, True, Tuttle, Usher, Vedral, Vigue, Volenik, Waterhouse, Wheeler EM, Wheeler GJ, Winglass, Winsor, Wright.

NAY - Ahearn, Bagley, Bouffard, Brennan, Bull, Bunker, Clark, Colwell, Cowger, Davidson, Dunlap, Etnier, Farnsworth, Fuller, Gagnon, Gamache, Jabar, Jones SL, Kane, Kontos, LaVerdiere, Lemaire, Mailhot, Mitchell JE, Morgan, O'Neal, O'Neil, Pieh, Powers, Quint, Richard, Rowe, Sanborn, Saxl JW, Saxl MV, Shiah, Stanley, Stevens, Thompson, Townsend, Tripp, Watson.

ABSENT - Baker, Bigl, Dexter, Dutremble, Frechette, Green, Honey, Kneeland, Labrecque, Lemke, Lemont, Madore, Meres, Perry, Poulin, Shannon, Underwood, Winn, Madam Speaker.

Yes, 90; No, 42; Absent, 19; Excused, 0.

90 having voted in the affirmative and 42 voted in the negative, with 19 being absent, **House Amendment "A" (H-1025)** was **ADOPTED**.

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-1004)** and **House Amendment "A" (H-1025)** and sent up for concurrence.

Majority Report of the Committee on **NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-993)** on Resolve, Regarding Legislative Review of Chapter 231: Rules Relating to Drinking Water, a Major Substantive Rule of the Department of Human Services (EMERGENCY)

(H.P. 1606) (L.D. 2233)

Signed:
Senators:

TREAT of Kennebec
BUTLAND of Cumberland

Representatives:

ROWE of Portland
SHIAH of Bowdoinham
BULL of Freeport
COWGER of Hallowell
BRYANT of Dixfield
DEXTER of Kingfield
NICKERSON of Turner
FOSTER of Gray

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (H-994)** on same Resolve.

Signed:
Senator:

NUTTING of Androscoggin

Representatives:

McKEE of Wayne
MERES of Norridgewock

READ.

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

The Bill was **READ ONCE**. **Committee Amendment "A" (H-993)** was **READ** by the Clerk and **ADOPTED**.

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

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-993)** and sent up for concurrence.

ORDERS

On motion of Representative SAXL of Portland, the following Joint Resolution: (H.P. 1656) (Cosponsored by Senator ABROMSON of Cumberland and Representatives: GREEN of Monmouth, MACK of Standish, POVICH of Ellsworth, SAXL of Bangor)

JOINT RESOLUTION COMMEMORATING YOM HASHOAH, THE DAY OF REMEMBRANCE OF THOSE WHO SUFFERED AS VICTIMS OF THE HOLOCAUST

WHEREAS, from 1933 to 1945, 6,000,000 Jews were murdered in the Nazi Holocaust as part of a systematic program of genocide and millions of other people suffered as victims of Nazism; and

WHEREAS, the people of the State of Maine should always remember the atrocities committed by the Nazis so that such horrors are never repeated; and

WHEREAS, the people of the State of Maine should always remember those who liberated the Nazi concentration camps, some at the cost of their lives and others with lifelong emotional suffering, as holding an honored place in our history; and

WHEREAS, the people of the State of Maine should continually rededicate themselves to the principle of equal justice for all people, remain eternally vigilant against all tyranny and recognize that bigotry provides a breeding ground for tyranny to flourish; and

WHEREAS, April 23, 1998 has been designated internationally as a Day of Remembrance of the Victims of the Nazi Holocaust, known as Yom HaShoah; and

WHEREAS, the national community pursuant to an Act of Congress will be commemorating the week of April 23rd to April 30th as the Days of Remembrance of the Victims of the Nazi Holocaust; and

WHEREAS, it is appropriate for the people of the State of Maine to join in this international commemoration; now, therefore, be it

RESOLVED: That, We, the Members of the One Hundred and Eighteenth Legislature, now assembled in the Second Regular Session, on behalf of the people we represent, pause in solemn memory of the victims of the Nazi Holocaust, and urge one and all to recommit themselves to the lessons of the Nazi Holocaust through this international week of commemoration and express our common desire to continually strive to overcome prejudice and inhumanity through education, vigilance and resistance; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the United States Holocaust Memorial Council in Washington, D.C., on behalf of the people of the State of Maine.

READ.

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

Representative SAXL: Madam Speaker, Men and Women of the House. I know the hour is late, but I just briefly want to share

with you that I am very proud this year to be bringing forward this Joint Resolution. Each year on the floor of this body we remember the victims of the Holocaust and the horrors and atrocities of Nazi Germany. As a child I was always brought up to remember the atrocities of the Holocaust and make the promise and renew the promise each year that never again would we allow hate to divide us or would we allow people to be persecuted for their faith, their color or their ethnicity. As this Joint Resolution comes before us today, I hope that you will join me and dedicate yourself to overcoming prejudice and inhumanity through education, vigilance and resistance. I thank you all very much.

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

Representative MACK: Madam Speaker, Right Honorable Men and Women of the House. Shma Yesrael Adonai Elohaynu Adonai Echkad.

ADOPTED.

Sent up for concurrence.

Representative RINES of Wiscasset moved that the House **ADJOURN.**

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

Representative SAXL of Portland **REQUESTED** a roll call on the motion to **ADJOURN.**

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

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

ROLL CALL NO. 487

YEA - Belanger DJ, Belanger IG, Berry DP, Bragdon, Bruno, Buck, Bull, Cameron, Campbell, Carleton, Chizmar, Cianchette, Cross, Donnelly, Fisher, Fisk, Foster, Fuller, Gagne, Gieringer, Goodwin, Gooley, Jones SA, Joy, Joyce, Kasprzak, Lane, Layton, Lindahl, Lovett, MacDougall, Mack, Marvin, McAlevey, McElroy, Murphy, Nass, Nickerson, O'Brien, Ott, Peavey, Pendleton, Perkins, Pinkham RG, Pinkham WD, Plowman, Rines, Savage, Snowe-Mello, Spear, Stedman, Taylor, Tobin, Townsend, Treadwell, True, Tuttle, Usher, Vedral, Wheeler EM, Wheeler GJ, Winglass.

NAY - Ahearn, Berry RL, Bolduc, Bouffard, Brennan, Brooks, Bryant, Bumps, Bunker, Chartrand, Chick, Clark, Clukey, Colwell, Cowger, Davidson, Desmond, Driscoll, Dunlap, Etnier, Farnsworth, Gagnon, Gamache, Gerry, Green, Hatch, Jabar, Jones KW, Jones SL, Joyner, Kane, Kerr, Kontos, LaVerdiere, Lemaire, Mailhot, McKee, Mitchell JE, Morgan, O'Neal, O'Neil, Paul, Pieh, Povich, Powers, Quint, Richard, Rowe, Samson, Saxl JW, Saxl MV, Shiah, Sirois, Skoglund, Stanley, Stevens, Tessier, Thompson, Tripp, Vigue, Volenik, Waterhouse, Watson, Wright, Madam Speaker.

ABSENT - Bagley, Baker, Barth, Bigl, Bodwell, Dexter, Dutremble, Frechette, Honey, Kneeland, Labrecque, Lemke, Lemont, Madore, Mayo, Meres, Muse, Perry, Poulin, Sanborn, Shannon, Underwood, Winn, Winsor.

Yes, 62; No, 65; Absent, 24; Excused, 0.

62 having voted in the affirmative and 65 voted in the negative, with 24 being absent, the motion to **ADJOURN FAILED.**

The Speaker resumed the Chair.

The House was called to order by the Speaker.

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

CONSENT CALENDAR

First Day

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

(H.P. 1561) (L.D. 2192) Bill "An Act to Create a Nonlegislative System to Adjust Municipal Valuations in the Circumstance of Sudden and Severe Valuation Disruption" Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-1019)**

(H.P. 1595) (L.D. 2225) Bill "An Act to Implement the Recommendations of the Maine Commission on Children's Health Care" (EMERGENCY) Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-1008)**

(H.P. 1634) (L.D. 2264) Bill "An Act to Promote and Encourage the Cultivation of Cranberries in the State" Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-1006)**

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

BILLS IN THE SECOND READING

Senate As Amended

Bill "An Act to Amend the Laws Regarding the Consensus Revenue Forecasting Process"

(S.P. 783) (L.D. 2110)

(C. "A" S-554)

House As Amended

Bill "An Act Concerning the Taking of Marine Resources by Members of the Passamaquoddy Tribe" (EMERGENCY)

(H.P. 1523) (L.D. 2145)

(C. "A" H-983)

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

On motion of Representative O'NEAL of Limestone, the House adjourned at 9:30 p.m., until 9:00 a.m., Tuesday, March 24, 1998.