

MAINE STATE LEGISLATURE

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Legislative Record
House of Representatives
One Hundred and Nineteenth Legislature
State of Maine

Volume I

First Regular Session

December 2, 1998 – May 12, 1999

ONE HUNDRED AND NINETEENTH LEGISLATURE
FIRST REGULAR SESSION
37th Legislative Day
Wednesday, April 14, 1999

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

Prayer by Reverend Gertrude DeCoteau, East Otisfield Free Baptist Church.

National Anthem by Oxford Hills Comprehensive High School Jazz Ensemble, South Paris.

Pledge of Allegiance.

Doctor of the day, Andrew Carey, M.D., Falmouth.

The Journal of yesterday was read and approved.

SENATE PAPERS

The following Joint Order: (S.P. 779)

ORDERED, the House concurring, that S.P. 427, L.D. 1264, Bill, "An Act to Ensure Freedom of Speech and Association on Campus" and all its accompanying papers be recalled from the legislative files to the Senate.

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

READ.

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

Non-Concurrent Matter

Bill "An Act Relating to the Registration Requirements of the Military Selective Service Act"

(H.P. 168) (L.D. 230)

Majority (7) **OUGHT TO PASS AS AMENDED** Report of the Committee on **LEGAL AND VETERANS AFFAIRS** was **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-67)** in the House on March 25, 1999.

Came from the Senate with the Minority (5) **OUGHT NOT TO PASS** Report of the Committee on **LEGAL AND VETERANS AFFAIRS** **READ** and **ACCEPTED** in **NON-CONCURRENCE**.

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

Non-Concurrent Matter

Bill "An Act to Clarify the Voting Rights of Persons Residing in Certain Sanitary Districts" (EMERGENCY)

(S.P. 187) (L.D. 580)

- In House, **REFERRED** to the Committee on **UTILITIES AND ENERGY** on January 21, 1999.

- In Senate, Senate placed in Legislative Files pursuant to Joint Rule 310.3 on March 23, 1999.

- **RECALLED** from the Legislative Files pursuant to Joint Order (S.P. 766)

Came from the Senate with the Bill and accompanying papers **RECOMMITTED** to the Committee on **UTILITIES AND ENERGY** in **NON-CONCURRENCE**.

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

Non-Concurrent Matter

Bill "An Act to Create a Senior Lobster and Crab Fishing License"

(H.P. 1006) (L.D. 1417)

Majority (7) **OUGHT NOT TO PASS** Report of the Committee on **MARINE RESOURCES** **READ** and **ACCEPTED** in the House on April 5, 1999.

Came from the Senate with the Minority (6) **OUGHT TO PASS AS AMENDED** Report of the Committee on **MARINE RESOURCES** **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-128)** in **NON-CONCURRENCE**.

Representative ETNIER of Harpswell moved that the House **ADHERE**.

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

COMMUNICATIONS

The Following Communication: (S.P. 781)

119TH MAINE LEGISLATURE

April 12, 1999

Senator John Nutting

Representative Wendy Pieh

Chairpersons

Joint Standing Committee on Agriculture, Conservation and Forestry

119th Legislature

Augusta, Maine 04333

Dear Senator Nutting and Representative Pieh:

Please be advised that Governor Angus S. King, Jr. has nominated Dr. Carol A. Eckert of Windsor for reappointment and Vaughn Holyoke of Brewer for appointment as members of the Board of Pesticides Control.

Pursuant to Title 22, M.R.S.A., §1471-B, these nominations will require review by the Joint Standing Committee on Agriculture, Conservation and Forestry and confirmation by the Senate.

Sincerely,

S/Mark W. Lawrence

President of the Senate

S/G. Steven Rowe

Speaker of the House

Came from the Senate, **READ** and **REFERRED** to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY**.

READ and **REFERRED** to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** in concurrence.

The Following Communication: (S.C. 187)

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

April 13, 1998

The Honorable Joseph W. Mayo

Clerk of the House

State House Station 2

Augusta, ME 04333

Dear Clerk Mayo:

Please be advised the Senate today Adhered to its previous action whereby the Majority Ought Not To Pass Report from the Committee on Transportation on Bill "An Act to Expand the Number of Lights Firefighters May Use on Their Motor Vehicles," H.P. 38, L.D. 52 was accepted.

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

READ and ORDERED PLACED ON FILE.

PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

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

CRIMINAL JUSTICE

Bill "An Act Concerning the Formation of the Central Maine Regional Public Safety Communication Center"

(H.P. 1542) (L.D. 2196)

Presented by Representative COLWELL of Gardiner.

Cosponsored by Representatives: COWGER of Hallowell, NUTTING of Oakland.

LEGAL AND VETERANS AFFAIRS

Bill "An Act to Allow a Specialty Wine Store to Provide Free Wine Samples"

(H.P. 1541) (L.D. 2195)

Presented by Representative MACK of Standish.

Cosponsored by Representatives: BRUNO of Raymond, CAMPBELL of Holden, DAVIDSON of Brunswick, DUPLESSIE of Westbrook, MURPHY of Kennebunk, SAXL of Portland, WHEELER of Eliot, Senator: RAND of Cumberland.

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

Pursuant to Public Law

Joint Standing Committee on Marine Resources

Representative ETNIER for the **Joint Standing Committee on Marine Resources** pursuant to Public Law 1997, chapter 693, section 2 asks leave to report that the accompanying Bill "An Act to Fund the Costs Associated with Determining Eligibility for Certain Marine Resources Licenses"

(H.P. 1544) (L.D. 2198)

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

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

Sent for concurrence.

REPORTS OF COMMITTEE

Change of Committee

Representative O'NEAL from the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** on Bill "An Act Concerning the Regulation and Treatment of Time-shares"

(H.P. 1333) (L.D. 1916)

Reporting that it be **REFERRED** to the Committee on **TAXATION**.

Report was **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **TAXATION**.

Sent for concurrence.

Ought to Pass Pursuant to Joint Order (H.P. 1158)

Representative AHEARNE from the Committee on **STATE AND LOCAL GOVERNMENT** on Resolve, for Laying of the County Taxes and Authorizing Expenditures of Kennebec County for the Year 1999 (EMERGENCY)

(H.P. 1543) (L.D. 2197)

Reporting **Ought to Pass** pursuant to Joint Order (H.P. 1158).

Report was **READ** and **ACCEPTED**.

The Resolve **READ ONCE**.

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

Under further suspension of the rules the Resolve was **PASSED TO BE ENGROSSED** and sent for concurrence.

Divided Report

Majority Report of the Committee on **CRIMINAL JUSTICE** reporting **Ought to Pass** on Bill "An Act to Continue Restorative Justice" (EMERGENCY)

(S.P. 374) (L.D. 1075)

Signed:

Senators:

MURRAY of Penobscot
O'GARA of Cumberland
DAVIS of Piscataquis

Representatives:

POVICH of Ellsworth
FRECHETTE of Biddeford
CHIZMAR of Lisbon
QUINT of Portland
McALEVEY of Waterboro
PEAVEY of Woolwich
O'BRIEN of Augusta
TOBIN of Dexter
SHERMAN of Hodgdon

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (S-69)** on same Bill.

Signed:

Representative:

MUSE of South Portland

Came from the Senate with the Majority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.

READ.

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

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

Majority Report of the Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought Not to Pass** on Bill "An Act to Restore Funding for Continuing Education for Teachers" (S.P. 477) (L.D. 1415)

Signed:
Senators:

BERUBE of Androscoggin
MURRAY of Penobscot
SMALL of Sagadahoc

Representatives:

BRENNAN of Portland
RICHARD of Madison
WATSON of Farmingdale
BAKER of Bangor
STEDMAN of Hartland
BELANGER of Caribou
ANDREWS of York
WESTON of Montville

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

Signed:
Representatives:

DESMOND of Mapleton
SKOGLUND of St. George

Came from the Senate with the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.
READ.

On motion of Representative BRENNAN of Portland, the Majority **Ought Not to Pass** Report was **ACCEPTED** in concurrence.

Majority Report of the Committee on **TAXATION** reporting **Ought Not to Pass** on Bill "An Act to Exempt Articles of Clothing Costing Less than \$200 from the Sales Tax" (S.P. 89) (L.D. 192)

Signed:
Senators:

RUHLIN of Penobscot
DAGGETT of Kennebec
MILLS of Somerset

Representatives:

GAGNON of Waterville
GREEN of Monmouth
DAVIDSON of Brunswick
COLWELL of Gardiner
STANLEY of Medway
LEMOINE of Old Orchard Beach

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (S-78)** on same Bill.

Signed:
Representatives:

LEMONT of Kittery
MURPHY of Berwick
BUCK of Yarmouth
CIANCHETTE of South Portland

Came from the Senate with the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

READ.

Representative GAGNON of Waterville moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

On further motion of the same Representative, **TABLED** pending his motion to **ACCEPT** the Majority **Ought Not to Pass** Report and later today assigned.

Majority Report of the Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought Not to Pass** on Bill "An Act to Grant the State Board of Education Authority to Appoint the Commissioner of Education"

(H.P. 638) (L.D. 888)

Signed:
Senators:

BERUBE of Androscoggin
MURRAY of Penobscot
SMALL of Sagadahoc

Representatives:

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

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

Signed:
Representatives:

WESTON of Montville
STEDMAN of Hartland

READ.

On motion of Representative BRENNAN of Portland, the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

Majority Report of the Committee on **LABOR** reporting **Ought to Pass** on Bill "An Act to Extend the Jurisdiction of the Maine Labor Relations Board to Employees of Public Higher Education Institutions Who Have Been Employed for Less than 6 Months"

(H.P. 630) (L.D. 880)

Signed:
Senators:

DOUGLASS of Androscoggin
LaFOUNTAIN of York

Representatives:

MUSE of South Portland
GOODWIN of Pembroke
FRECHETTE of Biddeford
MATTHEWS of Winslow
SAMSON of Jay
HATCH of Skowhegan

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

Signed:
Senator:

MILLS of Somerset

Representatives:

DAVIS of Falmouth
MacDOUGALL of North Berwick
MACK of Standish
TREADWELL of Carmel

READ.

Representative HATCH of Skowhegan moved that the House **ACCEPT** the Majority **Ought to Pass** Report.

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

Representative **TREADWELL**: Mr. Speaker, Ladies and Gentlemen of the House. We heard testimony from the three organizations that would be affected by this LD. It affects only the University of Maine System, the Technical College System and the Maine Maritime Academy. What this bill does effectively is to eliminate the six months probationary period, which is a part of the screening process for all new employees. After they are interviewed and hired for the job, then they have the six months probationary period to determine whether or not those individuals are fully qualified for the job and are a good fit for the system. The proponents for the bill said that it creates a two tiered system. That statement was refuted by the director of Human Resources from the University of Maine and said that those new hires are given every benefit and every privilege that all other employees enjoy. What it would effectively do is eliminate the six months screening that is a very valuable tool for hiring new employees. I would encourage you to vote against the pending motion and Mr. Speaker, I request a roll call when the vote is taken.

Representative TREADWELL of Carmel **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought 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 Bangor, Representative Baker.

Representative **BAKER**: Mr. Speaker, Men and Women of the House. I urge your support of LD 880. Let me explain. The six month exclusionary period excludes new employees from enjoying the benefits of the Athem negotiated contract and it denies them union protection and representation. This exclusionary period is a vestige of time when Maine's public sector collective bargaining had not matured. It was believed, although erroneously, that the exclusionary period was needed to assure that new employees would have a probationary period. At the time, employers were concerned that once employees organized and became part of a recognized bargaining process, that incompetent and unreliable employees would be protected by the contract and could never be dismissed. In fact, tenure tracked faculty serve a six year probationary period. Only after an exemplary public and university service, a demonstration of superior teaching and the establishment of a significant record of publishing do faculty finally acquire tenure and contractual job security. Faculty who do not become tenured are terminated.

Every year 60 or 80 new faculty are denied representation by the faculty union for the first six months of employment. Effectively, they are denied representation for two-thirds of their first year. The absence of this representation deprives them of assistance in bargaining their salaries and other terms of employment. This has, in fact, resulted in the university unfairly taking advantage of new employees and bargaining certain special, but unfortunately, unenforceable arrangements. The union has often found itself having to represent and rectify these inequities when employees had bargained or reached good faith agreements regarding their initial contract.

The six month exclusionary period is unique to the University Labor Relations Act. Similar exclusions only exist in Maine's other public sector labor acts. Other states do not have

such exclusions. It is time to do away with the six month exclusionary period. It has absolutely nothing to do with an individuals probationary period. Let me repeat that. It has absolutely nothing to do with this probationary period. It has everything to do with good labor relations. Its elimination will assure that new faculty will no longer be disenfranchised and denied representation at a time when it is most needed. This applies also to the professional and the clerical staff. I urge you to support LD 880. Thank you.

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

Representative **DAVIS**: Mr. Speaker, Men and Women of the House. I think the six month period is justified. You are really dealing with our sons and daughters and granddaughters and so on. I think the six month period is necessary to see if the person or persons are doing a good job and is the proper fit. They need that six months to evaluate them. Thank you Mr. Speaker.

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

Representative **SAMSON**: Mr. Speaker, Men and Women of the House. This bill is somewhat confusing. It even confuses me and I serve on the Labor Committee. We are talking about two different things. There are probationary periods and there are exclusionary periods. This bill does not affect the probationary period which runs anywhere from six months to six years. What this bill does is it eliminates the exclusionary period, which means you cannot belong to the union or be represented by a union. I am told that no other state has this. I urge you to vote the Majority Ought to Pass Report on LD 880. Thank you.

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

Representative **MACDOUGALL**: Mr. Speaker, Men and Women of the House. There are two questions you need to consider as you make a decision on your vote. New employees are not treated badly. They have the same health and safety benefits, civil rights with the ADA and medical leave rights. It is in the interest of our public employers to hire properly and hire correctly to create a team. This particular LD if it were passed, would not affect judicial, state or municipal employees. You have to ask yourself question number one, is this good public policy what we are about to vote on if this bill were to pass? As many of us are advocates of education, in particular, there are many initiatives to help our technical colleges and university system. I want the best and the brightest and the most talented employees in our public higher education system. Our children, our displaced workforce, those who have continuing education needs, like a lot of us right here when we go back to work and leave the Legislature. Many of us will take advantage of the university system and technical colleges to keep our careers on track. We do want the best and the brightest. This bill, to me, would undermine the ability of the University of Maine System, Maine Maritime Academy and our Technical College System to continue to create that team to provide that vital service. With that team, they could provide the best education that is so vital to our economy and to our people.

You have to ask yourself a second question. Does passing this bill today advance the quality of our public higher education? Thank you.

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

Representative **HATCH**: Mr. Speaker, Ladies and Gentlemen of the House. I rise because all that you have heard so far sounds very good. I want you to know something. This has nothing to do with the probationary period or those who serve on it. Whether or not they are allowed to join a union and bargain in good faith has nothing to do with teaching ability. It has nothing to do with whether it is detrimental to the University of Maine System or the Maritime Academy. It has everything to do with allowing these people to have representation. That is it. That is all it is in a nutshell. It is good politics. It is good for the University of Maine to have people who are cared for. Yes, they are treated all right, but if they so choose to join a union, they ought to be able to. Thank you.

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

Representative **MACK**: Mr. Speaker, Right Honorable Men and Women of the House. This bill essentially does away with the six month probationary period. The six month probationary period would still be on the books, but would become meaningless. The six month probationary period is very important to allow the schools to find the employees that do the best job for their departments and the students they serve. If this bill passes, the supervisors would not be able to match the employees and their job skills with the jobs requirements. Also, some of the students would be unnecessarily put in harms way if one of these employees is a safety risk or is not fit for their job. The students could either be in harms way or not be taught or get the full educational opportunity they could.

The reason this bill essentially does away with the six month period is because right now in that six months those employees can do union organizational activities. They can join a union, but they cannot be represented by the union in the disciplinary process. They still have a grievance process available to them. If this bill passes, the progressive disciplinary process will be required to dismiss or discipline a new employee. That process is extremely long and extremely cumbersome. No one wants to take that process away from employees who have been there more than six months, but for new hires, it is very often difficult to judge in an interview whether they are the appropriate person for the job. If they are not the appropriate person for the job, the last thing we want are those people working with are students, our young people, our future. This bill would make it very costly and virtually impossible to fire those people who do not fit for the job in the first six months. I would urge you to vote against the pending motion and join the University of Maine and the technical colleges and Maine Maritime Academy in keeping that probationary period on the books and in tact in a workable situation. Thank you.

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

Representative **MATTHEWS**: Mr. Speaker, Men and Women of the House. This particular bill has nothing to do with the probationary period as has been mentioned by my chair and members of the committee on the Majority Report. Ladies and gentlemen of the House, the scenario today is if you have an employee that has only worked five months joins the union has a problem with management of the school, they can't be protected by the union. The union can't do anything in that case. An employee that works six months and one day gets the protections of the union. If you join the union and it is the right of the employees today to unionize, you should be protected by the union the first day that you join. This is a two tiered system.

It makes absolutely no sense and it is an unfairness that we can change in this Legislature and I hope we do. It has nothing to do with probation. That has been mentioned for six years. It has everything to do with the right of the union to fight for an employee that is a member of the union that has been unfairly treated. Yes, they can join, but they can't be represented for six months. It doesn't make sense to me. It doesn't pass the straight face test and I urge you to vote for the Majority Report. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Orono, Representative Williams.

Representative **WILLIAMS**: Mr. Speaker, Ladies and Gentlemen of the House. As a member of the professional ranks at the University of Maine, I must tell you that what I hear today disturbs me just a little bit. I just briefly want to say that when you get hired at the University of Maine, the technical colleges and the Maine Maritime Academy there is no guarantee that you are going to be able to keep your job. Don't think for a second that just because you get hired by the University of Maine System that all of a sudden you have instant job security. That is not the case. I have seen many, many employees who aren't doing their job effectively and they have been dismissed from the university. This bill is not going to affect that one way or the other. What it is going to do is it is going to provide our most vulnerable employees, those who are employed within six months the protection that they deserve. Thank you Mr. Speaker.

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

Representative **SAMSON**: Mr. Speaker, Men and Women of the House. I agree with the previous two speakers, the good Representative from Orono and the good Representative from Winslow. Again, we are muddying the waters by mixing probationary period with an exclusionary period. In fact, the probationary period is part of the contract that the union agrees to along with the school system. The exclusionary period, that can go up to six years. The exclusionary period that we are talking about is six months. What it means is you cannot be represented by a union. It means that you do not have to get the wages, benefits and working conditions of the contract. It has nothing to do with the probationary period. In fact, an employees probationary period is that period of time the employer can terminate without any recourse for good reason, bad reason or no reason at all. That is part of the contract. It has nothing to do with this bill. Anybody who stands up and says it does is muddying the waters. We are talking about an exclusionary period where the workers cannot join the union. It doesn't mean there is no probationary period. Thank you.

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

ROLL CALL NO. 77

YEA - Ahearne, Bagley, Baker, Berry RL, Bouffard, Brennan, Brooks, Bryant, Bull, Chizmar, Clark, Colwell, Cote, Cowger, Davidson, Desmond, Dudley, Dugay, Dunlap, Duplessie, Etnier, Fisher, Frechette, Fuller, Gagne, Gagnon, Gerry, Goodwin, Green, Hatch, Jabar, Jacobs, Kane, LaVerdiere, Lemoine, Mailhot, Matthews, McDonough, McGlocklin, McKee, Mitchell, Norbert, O'Neal, O'Neil, Perry, Pieh, Povich, Quint, Richard, Richardson J, Rines, Samson, Sanborn, Savage W, Saxl JW, Saxl MV, Shiah, Sirois, Skoglund, Stanley, Stevens, Sullivan, Tessier, Thompson,

Townsend, Tracy, Tripp, Tuttle, Twomey, Usher, Volenik, Wheeler GJ, Williams, Mr. Speaker.

NAY - Andrews, Belanger, Berry DP, Bowles, Bragdon, Bruno, Buck, Bumps, Cameron, Carr, Chick, Cianchette, Clough, Collins, Cross, Daigle, Davis, Duncan, Foster, Gillis, Glynn, Gooley, Heidrich, Honey, Jodrey, Jones, Joy, Kneeland, Labrecque, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, Marvin, McAlevey, McKenney, McNeil, Mendros, Murphy E, Murphy T, Nass, Nutting, Peavey, Perkins, Pinkham, Plowman, Richardson E, Rosen, Savage C, Schneider, Sherman, Shields, Snowe-Mello, Stanwood, Stedman, Tobin D, Tobin J, Trahan, Treadwell, True, Waterhouse, Weston, Wheeler EM, Winsor.

ABSENT - Bolduc, Campbell, Kasprzak, Martin, Mayo, Muse, O'Brien, Powers, Shorey, Watson.

Yes, 74; No, 66; Absent, 10; Excused, 0.

74 having voted in the affirmative and 66 voted in the negative, with 10 being absent, the Majority **Ought to Pass** Report was **ACCEPTED**.

The Bill was **READ ONCE** and was assigned for **SECOND READING** Thursday, April 15, 1999.

Majority Report of the Committee on **LABOR** reporting **Ought to Pass** on Bill "An Act to Require that Members of the Workers' Compensation Board be Subject to Review by the Joint Standing Committee on Labor"

(H.P. 953) (L.D. 1351)

Signed:
Senators:

DOUGLASS of Androscoggin
LaFOUNTAIN of York
MILLS of Somerset

Representatives:

MUSE of South Portland
GOODWIN of Pembroke
FRECHETTE of Biddeford
MATTHEWS of Winslow
SAMSON of Jay
HATCH of Skowhegan

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

Signed:
Representatives:

DAVIS of Falmouth
MacDOUGALL of North Berwick
MACK of Standish
TREADWELL of Carmel

READ.

Representative HATCH of Skowhegan moved that the House **ACCEPT** the Majority **Ought to Pass** Report.

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

Majority Report of the Committee on **TAXATION** reporting **Ought Not to Pass** on Bill "An Act to Protect Municipalities from Property Tax Loss when Land is Acquired by the State"

(H.P. 205) (L.D. 283)

Signed:
Senators:

RUHLIN of Penobscot

DAGGETT of Kennebec
MILLS of Somerset

Representatives:

GAGNON of Waterville
GREEN of Monmouth
DAVIDSON of Brunswick
COLWELL of Gardiner
LEMOINE of Old Orchard Beach
CIANCHETTE of South Portland

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-203)** on same Bill.

Signed:
Representatives:

STANLEY of Medway
LEMONT of Kittery
MURPHY of Berwick
BUCK of Yarmouth

READ.

Representative GAGNON of Waterville moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

On further motion of the same Representative, **TABLED** pending his motion to **ACCEPT** the Majority **Ought Not to Pass** Report and later today assigned.

Majority Report of the Committee on **TAXATION** reporting **Ought Not to Pass** on Bill "An Act to Amend the Laws Regarding the Taxation of Certain Automotive Parts"

(H.P. 241) (L.D. 345)

Signed:
Senators:

RUHLIN of Penobscot
DAGGETT of Kennebec
MILLS of Somerset

Representatives:

GAGNON of Waterville
GREEN of Monmouth
DAVIDSON of Brunswick
COLWELL of Gardiner
STANLEY of Medway

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-204)** on same Bill.

Signed:
Representatives:

LEMOINE of Old Orchard Beach
LEMONT of Kittery
MURPHY of Berwick
BUCK of Yarmouth
CIANCHETTE of South Portland

READ.

Representative GAGNON of Waterville moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

On further motion of the same Representative, **TABLED** pending his motion to **ACCEPT** the Majority **Ought Not to Pass** Report and later today assigned.

Majority Report of the Committee on **TRANSPORTATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-200)** on Bill "An Act to Include Marine Products on Roadside Signs" (EMERGENCY)

(H.P. 247) (L.D. 351)

Signed:

Representatives:

FISHER of Brewer
 COLLINS of Wells
 SANBORN of Alton
 CAMERON of Rumford
 WHEELER of Eliot
 SAVAGE of Union
 WHEELER of Bridgewater

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

Signed:

Senators:

O'GARA of Cumberland
 CASSIDY of Washington
 PARADIS of Aroostook

Representatives:

LINDAHL of Northport
 JABAR of Waterville
 BOUFFARD of Lewiston

READ.

Representative JABAR of Waterville moved that the House **ACCEPT** the Minority **Ought Not to Pass** Report.

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

Representative **PIEH**: Mr. Speaker, Ladies and Gentlemen of the House. I rise to encourage you to reject the Minority Ought Not to Pass Report and move on to the Majority Ought to Pass as Amended Report.

This is a bill that I put in. I am not on the Transportation Committee, but I do live in a district that has a lot of shorefront and a lot of small family businesses that make a living selling marine products, edible marine products. This bill is amended. Not any marine products, not boat builders, not people that sell rain coats or things like that. It is if you sell edible marine products. You have a circulation that came from the Department of Transportation talking about this being a single constituent issue. That is not so. I have four constituents talking to me about it. One that was put out of business because the state took down the little sign that she had and she no longer had the seasonal business.

In our committees we have a legislative analysis come and give us an outline of different bills. I would like to show you the difference between this and the current anti-billboard state law, which I support. This bill is more restrictive. This bill says that you can up to a total of four signs. The state law has a standard of six and makes exceptions for places that are farther away, such as the good Representative from Hallowell, Representative Cowger's bed and breakfast, which is a nice place to stay. This says you can only go up to five miles away. The state billboard law with the state signs, you can go many, many miles away. I have seen 14 miles on signs. I don't know what their limit is. This bill says up to eight square feet could be on the sign. That is 1,152 square inches. The largest state sign available is 1,680 square inches. That is 20 inches by 84 inches. This means that is two-thirds of what the state allows.

The other thing is, this is seasonal. It is taken on an agricultural exemption. It is only for when you are open. Perhaps you say that if it is more restrictive, why do it? There are several reasons. One is it is on private land. It is off the right of way. There has to be permission, of course, from the landowner. They have that right. They still have to work within

any town ordinances that are limiting signs within the towns. They can make easy to read appropriate signs to their businesses. It is not permanent. At the end of my road I have two state signs for a man who lives near me who sells lobsters and clams in the summer. Every night when he went home, he took down his nice little blue sign and he put it back up when he came in the morning. When he closed up shop in October, after the tourist industry was finished, he took that sign down and I didn't see it again. Every day now there is two state signs. They are red and white. That is one of the colors allowed on certain sizes of state signs. They are not very attractive. One happens to have bullet holes in it. It also increases the local traffic coming down to my house looking for whatever it is. It is just the initials of his business. It doesn't tell you what it is.

I encourage you to consider supporting this. I don't want billboards in Maine. I do not see this as one more step down the slippery slope that we worry about. I see this as a more restrictive, but very useful exemption in supporting Maine's culture and Maine's heritage of the small business. The small business is located on the water with edible marine products. You can't go build a store up on Route 1 or a state route when you have to have salt water circulating to keep your critters alive before they get bought by someone. I encourage you to defeat the pending motion and support the Majority Ought to Pass Report. Thank you.

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

Representative **JABAR**: Mr. Speaker, Ladies and Gentlemen of the House. Let me try to address some of the issues that were presented to the committee relative to this bill. This bill is an erosion of the ban that we have on billboards. The best argument that it has going for it is that we already do that with agricultural products. There is no question about it. That is their best argument. However, the exception allowing signs for agricultural products is an erosion of the billboard law and the committee and those that voted on the minority were concerned that and I hate to use the term, slippery slope, I never knew what it meant, but what it is is once you start with one exception, where do you stop. Usually the answer is, you deal with each case as it comes up. The problem with this particular law is that it will lead to an unlimited number of signs. There are alternatives for these businesses that have these needs for signs. There are state sponsored signs that can be put up and taken down that they could qualify for. They could live in a community where they have a sign ordinance. There are a lot of alternatives that they have to be able to advertise their business. I request that you follow the Ought Not to Pass report and keep our highways free of signs. We had a lot of other bills requesting signs on private property and other exceptions to the billboard law.

The author of the billboard law many years ago came before the committee. She made a strong personal appeal to us not to start this erosion into the billboard law and to stay as we are with other states with Vermont, Alaska and Hawaii and try to keep our road sides free of these billboards that we see as we go into other states. I ask you to follow the Minority Report, Ought Not to Pass. Thank you.

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

Representative **PIEH** of Bremen **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 Cumberland, Representative McKenney.

Representative **MCKENNEY**: Mr. Speaker, Men and Women of the House. This is a good small business bill. We keep creating new programs for people who can't help themselves and yet we take the tools away from those people who want to help themselves and want to maintain their self-sufficiency. Most people would choose to help themselves if they possibly can. Let's let them do it.

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

Representative **COWGER**: Mr. Speaker, Ladies and Gentlemen of the House. In all good deference to my good friend from Bremen, Representative Pieh, I do have a small business that takes advantage of the existing law in the State of Maine. I also appreciate the promotion of my business on the floor of the House. I believe the OBDS Program that exists in the state, the Official Business Directional Sign System, was designed to help small businesses. It makes sign locations available anywhere in the state for small businesses for a nominal fee each year. In my business I believe I have seven signs out there. I need those signs to bring people to my rural location. These signs are available to any business, anybody selling marine products and even somebody doing a seasonal business. They are uniform in size. There are thousands of them out there now and I believe that system is adequate to address the needs in this bill. I urge you to support the Minority Report. Thank you.

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

Representative **LINDAHL**: Mr. Speaker, Men and Women of the House. LD 351 says you must have permission of the landowner. I don't know how you are going to control this. Right now DOT controls our Official Business Directional Signs. They are put on posts and you can easily tell which ones are allowed. Once you put these signs up, there is no control over what the sign will look like. It can be a hand painted sign on a piece of unpainted plywood. There is no control whatsoever. I think it is going to really derail our current law. I would urge you to accept the Minority Ought Not to Pass Report. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Lewiston, Representative Bouffard.

Representative **BOUFFARD**: Mr. Speaker, Men and Women of the House. I was here in the 117th Legislature when a whole mess of sign bills came before our committee and some of them we passed. They were supposed to be good bills for small business. Representative McKenney is right. This is a small business bill. That is exactly the reason why this bill should not pass. The majority of businesses in the State of Maine are small business. If we allow one small business to have a sign, then you have to allow them all. The next thing you know, you will have billboards all over the State of Maine. The Department of Transportation has a controlled sign law that everybody is available to use. It is a uniformed law. It is a uniformed sign. It is a directional sign and it is available to any business. They can have as many as five or six. I would acknowledge in the 117th Legislature all of these sign bills that we passed, we wound up having a conference with the Governor because he was not in favor of any of these signs because exactly what the situation is, is it is an erosion of the billboard law. If we accept the Majority Ought to Pass Report, you are going to wind up having every business asking for their signs anywhere they want them in the State of Maine. That is what

the billboard law is designed not to have. Please support the Majority Ought Not to Pass Report. We visited this in the 117th and the 118th and now in the 119th and it will be back in the 120th, I am sure. Thank you.

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

Representative **WHEELER**: Mr. Speaker, Men and Women of the House. As you can see, I am on the Majority Ought to Pass as Amended Report. The reason being is we already have a bill or law, as you have heard, that allows agricultural products to be advertised in this manner. I asked the question during the public hearing to the department if this is working or if they have had any problems. They didn't. It is working and it is working fine. I feel that this is a minor change in the law. It is not creating billboards. It would help out the small businesses that are off the beaten path and I really believe that we should include marine products. I urge you to vote against the pending motion and to move on to the Majority Ought to Pass as Amended Report. Thank you.

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

Representative **SAVAGE**: Mr. Speaker, Ladies and Gentlemen of the House. A lot has been said about the state controlled road side signs. I would challenge any one of you to drive down the road at 55 miles per hour and see that string of approved DOT signs and find that stand that is selling fresh lobster or fresh crab meat. When the Representative says he had seven of those signs, I believe he said, and I have done a lot of traveling around the state, but I have not seen one of those. 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. 78

YEA - Ahearne, Andrews, Baker, Berry RL, Bouffard, Brennan, Bruno, Bryant, Bull, Bumps, Cianchette, Clark, Colwell, Cote, Cowger, Davidson, Desmond, Dudley, Dunlap, Duplessie, Etnier, Frechette, Fuller, Gagne, Gagnon, Goodwin, Green, Hatch, Jabar, Jacobs, Jodrey, Kane, LaVerdiere, Lemoine, Lindahl, Madore, Mailhot, Martin, Marvin, Matthews, McDonough, McKee, McNeil, Mitchell, Norbert, O'Neal, O'Neil, Povich, Quint, Richard, Richardson J, Samson, Savage W, Saxl JW, Saxl MV, Shiah, Sirois, Stevens, Sullivan, Tessier, Thompson, Tobin D, Townsend, Tracy, Tripp, True, Twomey, Williams.

NAY - Bagley, Belanger, Berry DP, Bowles, Bragdon, Brooks, Buck, Cameron, Carr, Chick, Chizmar, Clough, Collins, Cross, Daigle, Davis, Dugay, Duncan, Fisher, Foster, Gerry, Gillis, Glynn, Gooley, Heidrich, Honey, Joy, Kneeland, Labrecque, Lemont, Lovett, MacDougall, Mack, McAlevey, McGlocklin, McKenney, Mendros, Murphy E, Murphy T, Nass, Nutting, Peavey, Perkins, Perry, Pieh, Pinkham, Plowman, Richardson E, Rines, Rosen, Sanborn, Savage C, Schneider, Sherman, Shields, Shorey, Skoglund, Snowe-Mello, Stanley, Stanwood, Stedman, Tobin J, Trahan, Treadwell, Tuttle, Usher, Volenik, Waterhouse, Weston, Wheeler EM, Wheeler GJ, Winsor.

ABSENT - Bolduc, Campbell, Jones, Kasprzak, Mayo, Muse, O'Brien, Powers, Watson, Mr. Speaker.

Yes, 68; No, 72; Absent, 10; Excused, 0.

68, having voted in the affirmative and 72 voted in the negative, with 10 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-200)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Thursday, April 15, 1999.

Majority Report of the Committee on **UTILITIES AND ENERGY** reporting **Ought Not to Pass** on Bill "An Act to Amend the Charter of the Mt. Blue Standard Water District"

(H.P. 862) (L.D. 1219)

Signed:

Senators:

CAREY of Kennebec
KONTOS of Cumberland
MITCHELL of Penobscot

Representatives:

DAVIDSON of Brunswick
COLWELL of Gardiner
BRYANT of Dixfield
TRUE of Fryeburg
ROSEN of Bucksport
BERRY of Belmont
McGLOCKLIN of Embden
SAVAGE of Buxton

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-197)** on same Bill.

Signed:

Representatives:

LaVERDIERE of Wilton
DUNCAN of Presque Isle

READ.

Representative DAVIDSON of Brunswick moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

The **SPEAKER**: The Chair recognizes the Representative from Wilton, Representative LaVerdiere.

Representative **LAVERDIERE**: Mr. Speaker, Men and Women of the House. I want to start by first thanking my good friend, the Representative from Presque Isle, Representative Duncan, for hanging with me on this bill and to the other colleagues of mine on the committee and you know who you are. Just because this bill would give this district something that no other district in the state could do and just because this bill sets a precedent that would make it very difficult for this committee to deal with future water districts and just because this bill probably sets a bad policy that we are going to have to deal with in the future, doesn't mean you shouldn't have voted for it. I hope you will all join me in watching the hammer come down on this bill. Thank you.

Subsequently, the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent 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. 464) (L.D. 1403) Bill "An Act to Allow Military Personnel Home on Leave to Purchase a Hunting or Fishing

License for \$10" Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought to Pass**

(S.P. 83) (L.D. 186) Bill "An Act to Amend the Laws Pertaining to Juvenile Hunters" Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-71)**

(S.P. 138) (L.D. 374) Bill "An Act to Enhance the Marketing and Promotion Capabilities of the Department of Inland Fisheries and Wildlife" Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-70)**

(S.P. 202) (L.D. 591) Bill "An Act to Increase Access to Primary Health Care in Rural Maine" (EMERGENCY) Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-66)**

(H.P. 1267) (L.D. 1821) Bill "An Act to Expressly Treat Voluntary Conduct as a Defense in the Maine Criminal Code" Committee on **CRIMINAL JUSTICE** reporting **Ought to Pass**

(H.P. 285) (L.D. 393) Bill "An Act to Redefine Hunting" Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-206)**

(H.P. 447) (L.D. 610) Resolve, to Increase Access to Medicaid for People who Need Psychological Services Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-208)**

(H.P. 735) (L.D. 1025) Resolve, to Lengthen the Screening Period for Long-term Care Assessments Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-207)**

(H.P. 924) (L.D. 1301) Bill "An Act to Conform State Law to Federal Nuclear Power Plant Requirements for Off-site Emergency Planning" Committee on **UTILITIES AND ENERGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-209)**

(H.P. 958) (L.D. 1356) Bill "An Act to Allow Game Wardens to Approve Beaver Dam Removal" Committee on **NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-212)**

(H.P. 966) (L.D. 1364) Bill "An Act to Provide for the Collection of Storm Water in the City of Hallowell" Committee on **UTILITIES AND ENERGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-211)**

(H.P. 1085) (L.D. 1532) Bill "An Act Concerning Liens Held by the Freeport Sewer District" Committee on **UTILITIES AND ENERGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-210)**

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

**CONSENT CALENDAR
Second Day**

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

(S.P. 329) (L.D. 983) Bill "An Act to Amend the Centers for Innovation Program" (C. "A" S-62)

(S.P. 342) (L.D. 996) Bill "An Act to Strengthen the Criminal Justice Response to Domestic Violence" (C. "A" S-61)

(S.P. 524) (L.D. 1558) Resolve, to Provide Incentives for School Breakfast Programs in Maine Public Schools (C. "A" S-64)

(H.P. 950) (L.D. 1347) Bill "An Act Addressing an Allegation of Prior Conviction When the Sentence is Enhanced"

(H.P. 1065) (L.D. 1496) Bill "An Act to Amend the Charter of the Kennebunk Sewer District" (EMERGENCY)

(H.P. 1160) (L.D. 1671) Bill "An Act to Broaden Victim Notification of Release of Defendant Placed in Institutional Confinement Following a Verdict of Not Criminally Responsible by Reason of Insanity"

(H.P. 56) (L.D. 70) Bill "An Act to Enact the Railroad Trespass Prevention Act" (C. "A" H-199)

(H.P. 130) (L.D. 161) Bill "An Act to Establish a Lead Abatement Revolving Loan Fund and a Tax Credit for Day Care Facilities for Expenditures Required to Comply with the Lead Poisoning Control Act" (EMERGENCY) (C. "A" H-202)

(H.P. 171) (L.D. 249) Bill "An Act to Give Citizens 70 Years of Age and Older Free Bear and Duck Hunters Stamps" (C. "A" H-191)

(H.P. 195) (L.D. 273) Bill "An Act to Require New and Reconstructed Bridges to Provide for Safe Recreational Use" (C. "A" H-198)

(H.P. 538) (L.D. 745) Bill "An Act to Amend the Licensing Provisions Under the Propane and Natural Gas Act" (C. "A" H-201)

(H.P. 1012) (L.D. 1423) Bill "An Act to Revise the Staffing and Resources of the Office of Public Advocate" (C. "A" H-196)

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

BILLS IN THE SECOND READING

Senate

Bill "An Act to Expand Opportunities for Education, Training and Employment for Displaced Homemakers"

(S.P. 409) (L.D. 1198)

House

Bill "An Act to Increase the Amount Retained by Agents Who Sell Hunting and Fishing Licenses"

(H.P. 237) (L.D. 341)

Bill "An Act Regarding Juvenile Hunters"

(H.P. 449) (L.D. 612)

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

ENACTORS

Emergency Measure

Resolve, to Create a Task Force to Study Ways to Improve and Streamline the Regulation of Water Utilities

(S.P. 261) (L.D. 756)

(C. "A" S-45)

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

On motion of Representative DAVIDSON of Brunswick, the rules were **SUSPENDED** for the purpose of **RECONSIDERATION**.

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

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" (S-45)** was **ADOPTED**.

The same Representative presented **House Amendment "A" (H-213)** to **Committee Amendment "A" (S-45)** which was **READ** by the Clerk and **ADOPTED**.

Committee Amendment "A" (S-45) as Amended by **House Amendment "A" (H-213)** thereto was **ADOPTED**.

The Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-45) as Amended by House Amendment "A" (H-213)** thereto in **NON-CONCURRENCE** and sent for concurrence.

Acts

An Act to Ensure the Quality and Safety of Child Care

(H.P. 938) (L.D. 1315)

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.

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

An Act to Require Legislative Review of Rules Regarding Campaign Report Filing Forms

(S.P. 383) (L.D. 1162)

(C. "A" S-44)

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.

An Act to Clarify the Governance of Soil and Water Conservation Districts

(H.P. 882) (L.D. 1239)

(C. "A" H-111)

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.

Resolves

Resolve, to Study Limited Effort in the Scallop Fishery

(S.P. 130) (L.D. 327)

(C. "A" S-48)

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

On motion of Representative ETNIER of Harpswell, was **SET ASIDE**.

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

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

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" (S-48)** was **ADOPTED**.

The same Representative presented **House Amendment "A" (H-216)** to **Committee Amendment "A" (S-48)** which was **READ** by the Clerk.

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

Representative **ETNIER**: Mr. Speaker, Men and Women of the House. This is a technical amendment that changes the recording date by a millennium. Thank you.

House Amendment "A" (H-216) to **Committee Amendment "A" (S-48)** was **ADOPTED**.

Committee Amendment "A" (S-48) as Amended by **House Amendment "A" (H-216)** thereto was **ADOPTED**.

The Bill was **PASSED TO BE ENGROSSED** as Amended by **Committee Amendment "A" (S-48)** as Amended by **House Amendment "A" (H-216)** thereto in **NON-CONCURRENCE** and sent for concurrence.

Resolve, Relating to Telemarketing Fraud
(H.P. 1004) (L.D. 1402)
(C. "A" H-113)

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 **FINAL PASSAGE** and later today assigned.

UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment Tuesday, April 13, 1999, 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 (11) Ought Not to Pass - Minority (2) Ought to Pass as Amended by Committee Amendment "A" (H-132) - Committee on **JUDICIARY** on Bill "An Act Providing for a Vote of Confidence before a Judge Is Eligible for Reappointment"

(H.P. 28) (L.D. 37)

TABLED - April 8, 1999 (Till Later Today) by Representative THOMPSON of Naples.

PENDING - Motion of Representative BULL of Freeport to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

The **SPEAKER**: The Chair recognizes the Representative from Eagle Lake, Representative Martin.

Representative **MARTIN**: Mr. Speaker, Men and Women of the House. I was outside and I heard the comment. Since it

is the bill that I sponsored, I did want to make some reference to it. I have some comments that I think are worth making mention of. I need to begin my comments by indicating to you that I do not have a particular judge in mind. I have no interest in becoming an attorney and becoming a member of the Judiciary. I am not coming from that direction.

I do want to give you a little history, quickly, because I think maybe today is not the time for this whose time has come. I am convinced that some point in time there will be a need for public involvement in what happens with the Judiciary. Let me just give you a couple of things which I think are worth noting. If you look at the system we have in Maine and that is basically a system where you need to know the Governor in order to become a judge. I suspect a little better than four states and that is Connecticut, Rhode Island, South Carolina and Virginia, where the Legislature elects the judge. In two of those states, the only people who have ever been judges are members of the Legislature. I wonder if there is any connection at all? Take it one step further to what Maine does. How do you get to be a judge in Maine? Frankly, it is very simple, know the Governor. That is the only way you get to be a judge. That means, of course, if you take that one step further that if you have any problems politically, then you obviously, with that particular Governor, you are not going to get nominated.

Governor's appointments, if you look at it, primarily deals with about eight states. There are only eight states that do it including Maine. All of them are former colonies of the original 13, except one and that is Hawaii. Under our system, of course, basically the judge is nominated by the Governor, confirmed by the Judiciary Committee and then finally confirmation by the Senate. Across the country we have a number of states who elect in partisan elections. I obviously do not support that and would not support that today, tomorrow or the next day. We have a number of states that also have done partisan elections for judges. There are 13 of those where you simply run without a party label. I am not even suggesting that.

What I am suggesting that Maine start to look at is, what is known as the "Missouri Plan," which was adopted just about the time of the second World War. The system works this way. The Governor does the nomination through a commission and the commission then recommends three or four people to the Governor. At that point, the Governor nominates and at that point the Governor becomes the person responsible for selecting and that person then is the judge. Prior to the next trip around, and it varies in various states, there is a couple of options. One, there is the situation where before renomination the judge stands for election. The question is a very simple one. Shall Judge So and So continue in office? No campaigning is allowed. It is simply a yes or no vote. No money can be spent in a campaign. There is no expenditure of funds except the drafting of the question to the voters and then a vote is taken. If the vote is in the affirmative, the judge continues and is eligible for renomination or continues in office in those cases where they have a longer term than we have. If there is a rejection, then the Governor starts over again. The process begins again.

What does this guarantee? By the way, you ought to know, 98 percent of the judges through this process continue in office. What it guarantees is a voters input and a guarantee that you don't have to have what has happened in some states with an impeachment and removal where certain things occur. It provides, in my opinion, for the voters having a say in what takes place. You see, in the long run, I am convinced that most people resent the fact that they have absolutely no input in what

happens through that process of how you become a judge and how you continue to be a judge.

I have been involved in many processes involving judges over the years. Of all the instances, I have only opposed one person that was reposted for a judgeship. I did so on the basis of the fact that you are seven years as a judge in Maine. That particular judge if you had a drug violation or an OUI, then you didn't have a very stiff sentence and jail was never imposed. I thought that was totally inappropriate and in violation of the intent of what ought to take place in this state. I opposed it publicly. I lost the battle, but ironically, the judge changed his attitude in the next seven years. I don't know if I caused it or other people that came forward in that public hearing caused it, but I am firmly convinced that if there hadn't been any public debate, then the same thing would have continued for the next seven years.

I am a firm believer and maybe it is because I am a believer in elections and a believer in the process and maybe it is because I am somewhat of a populist that voters have a right to have a say about who serves them in public office. I happen to believe that a judge is no more and no less than what we are. They are there to serve the public. That is the basis on which I put in this bill. I certainly do not expect the Judiciary Committee and didn't expect it to come out with a favorable report. I don't expect lawyers to be in a position to vote for it today. I appreciate that, but I do think and feel very strongly, at some point, there will need to be a change in what we do. I am not asking you to fall over the sword on this issue at all. I did want to say to you that I think the time has come to start looking at this and perhaps consider changes in the future. Thank you.

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

Representative **THOMPSON**: Mr. Speaker, Men and Women of the House. The Representative from Eagle Lake, Representative Martin, in his own unique style has managed to say that he doesn't expect lawyers to vote against this and try to make it into a referendum against lawyers, I suppose. Nice try Representative Martin. This is an issue of what is working or not working in the State of Maine. The present system is, in fact, working. I will explain to you a little bit about how it works. The Governor has a group called the Judicial Nominating Committee, which reviews and encourages people to apply if they have an interest in being a judge. Those people are reviewed. Their backgrounds are reviewed and invited to appear before the committee. They are interviewed and then the committee makes recommendations to the Governor on the appointment of these candidates. The Chief Executive then posts those names and the Judiciary Committee schedules a confirmation hearing at which time the public is invited to participate and often does participate. The committee then votes and the final vote is taken by the Senate, which requires a two-thirds vote of the Senate to override the recommendation of the Judiciary Committee.

This process happens to be set forth in our Constitution. Specifically it grants to the Chief Executive the authority to name the people who are to be nominated and sent to the Legislature for confirmation. I would draw your attention to Article 5, Part 1, Section 8, which says, "The Governor shall nominate, and, subject to confirmation as provided herein, appoint all judicial officers, except judges of probate."

This current process in this bill, you have heard a little bit about the Missouri Plan, but this is not the Missouri Plan in this bill. The bill would simply say in the fifth year of seventh year term the issue would go on the ballot. Should the judge be

reappointed or eligible for reappointment or however it would be worded? The election would take place in a different geographic area for each judge. The bill says the election will take place in the counties where a Superior Court Judge has sat during the previous five years, I may be wrong on that. It says that if a judge has sat in only Cumberland County, then only the Cumberland County voters vote on that issue. If the judge has made one appearance also in Washington County, then Washington County and Cumberland County would vote. If the judge has sat in 13 counties, then 13 counties would vote. Likewise with a District Court Judge, only the voters in the judicial district, which is a smaller area, would be eligible to vote. If a judge has sat only in the Bridgton District Court, only the western Cumberland County people would get to vote. If the judge has sat in 15 different district courts, we would have the situation of part of this county and a little bit of this county and some of this county and adding it all together saying this is an election that is going to be in these 15 districts. The judicial districts are much different than our elective districts, legislative districts or town wards or anything. The judicial districts are not the same.

We have a very complex way of determining who even gets to vote. The committee looked at this bill and despite people's interest, the committee is not all lawyers, by the way, and decided that the current system is better than what was proposed. Thank you.

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

Representative **PLOWMAN**: Mr. Speaker, Men and Women of the House. I rise as one of the members on the Minority Report to explain to you why I voted for this bill. We have a system and it is not perfect. The reason I know it is not perfect is because I have people who call me and tell me that they hear comments from their own attorneys. We have to go before that judge. That judge is in fact great. The Judiciary Committee rubber stamps that. I resent that. I really think we work hard to make sure we put good judges out there. What I am looking at are some of the bills that come back before my committee where we are asking for stiffer sentences or mandatory sentences where we feel we have to tell a judge what the minimum sentence should be because the people of the State of Maine are outraged that murders or child molesters or rapists are not serving the time that they should be serving. Maybe it is a way to put the public pressure on a judge. It probably isn't the way to do it. If you look at the list of bills that have come before this body, you will find many attempts to take discretion away from judges. The reason being is the public is asking us to push our judges to do their job. They have no say. They rely on us. It is not a bad idea. It has some things that need to be worked out. I believe that the people should have a say. Their say right now is through us. You can see how many bills, as I said before, come to us asking us to move our judges in a different direction. We have to keep doing that sort of thing to move our judges in a different sort of direction and push public policy and maybe our judges need to come up every once in a while before the public in order to answer to the public. Thank you.

The SPEAKER: The Chair recognizes the Representative from Eagle Lake, Representative Martin.

Representative **MARTIN**: Mr. Speaker, Men and Women of the House. In all due respect to the House Chair of the Judiciary Committee, let me indicate that I never said that this bill or the amendment was perfect, nor that it was going to work if we were ever to pass it. I began my comments by indicating

that today was not the day that we would be enacting or attempting to finally enact this piece of legislation. That is a given because if I thought there was a possibility that would occur, I would have spent a lot of time drafting a piece of legislation that would, in fact, work. The point that I wanted to make and still will remake is that, it is time that Maine starts to look at a merit system for the selection of judges and the process of keeping those judges in place. I am not talking about the past. I am talking about the future. There are 22 states in this country that have made that decision since 1940 to move in that direction to try to get some merit into the Judicial System. That is where we are. That is all I am starting, basically, I suppose, the public discussion. I would hope in the future that this would continue, so that we will then move towards that effort. I would ask for a division on the vote.

Representative MARTIN of Eagle Lake **REQUESTED** a division on the motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

Representative GLYNN of South Portland **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: 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. 79

YEA - Andrews, Bagley, Baker, Berry DP, Berry RL, Bouffard, Bowles, Bragdon, Brennan, Brooks, Bruno, Bryant, Bull, Bumps, Cameron, Chick, Chizmar, Cianchette, Collins, Colwell, Cote, Cowger, Cross, Daigle, Davidson, Davis, Dudley, Duncan, Dunlap, Duplessie, Etnier, Fisher, Foster, Frechette, Fuller, Gagne, Gagnon, Gillis, Glynn, Green, Hatch, Jabar, Jacobs, Jodrey, Jones, Kane, Kneeland, LaVerdiere, Lemoine, Lemont, Lovett, Madore, Mailhot, Marvin, Matthews, McAlevy, McDonough, McGlocklin, McKee, Mitchell, Murphy T, Nass, Norbert, Nutting, O'Neal, O'Neil, Peavey, Perkins, Perry, Pieh, Povich, Powers, Quint, Richard, Richardson E, Richardson J, Rines, Rosen, Samson, Sanborn, Savage C, Savage W, Saxl JW, Saxl MV, Schneider, Shiah, Shields, Skoglund, Stevens, Sullivan, Tessier, Thompson, Tobin D, Townsend, Treadwell, Tripp, Tuttle, Twomey, Volenik, Weston, Wheeler EM, Williams, Winsor, Mr. Speaker.

NAY - Ahearne, Belanger, Buck, Carr, Clark, Clough, Desmond, Dugay, Gerry, Goodwin, Gooley, Heidrich, Honey, Joy, Labrecque, Lindahl, MacDougall, Mack, Martin, McKenney, McNeil, Mendros, Murphy E, Pinkham, Plowman, Sherman, Shorey, Sirois, Snowe-Mello, Stanley, Stanwood, Stedman, Tobin J, Tracy, Trahan, True, Usher, Waterhouse, Wheeler GJ.

ABSENT - Bolduc, Campbell, Kasprzak, Mayo, Muse, O'Brien, Watson.

Yes, 104; No, 39; Absent, 7; Excused, 0.

104 having voted in the affirmative and 39 voted in the negative, with 7 being absent, the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

HOUSE DIVIDED REPORT - Majority (9) **Ought Not to Pass** - Minority (4) **Ought to Pass as Amended by Committee Amendment "A" (H-142)** - Committee on **TAXATION** on Bill "An Act to Provide Tax-exempt Status to Organizations That Teach Reading"

(H.P. 271) (L.D. 379)

TABLED - April 8, 1999 (Till Later Today) by Representative GAGNON of Waterville.

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

On motion of Representative GAGNON of Waterville, the Bill and all accompanying papers were **COMMITTED** to the Committee on **TAXATION** and sent for concurrence.

An Act to Update and Amend the Maine Pharmacy Act (EMERGENCY)

(H.P. 434) (L.D. 576)

(C. "A" H-80)

TABLED - April 8, 1999 (Till Later Today) by Representative SAXL of Portland.

PENDING - **PASSAGE TO BE ENACTED.**

On motion of Representative O'NEAL of Limestone, the rules were **SUSPENDED** for the purpose of **RECONSIDERATION.**

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

The same Representative **PRESENTED** House **Amendment "A" (H-205)** which was **READ** by the Clerk and **ADOPTED.**

The Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-80)** and **House Amendment "A" (H-205)** in **NON-CONCURRENCE** and sent for concurrence.

An Act to Change the Way Nursery License Fees Are Established

(H.P. 537) (L.D. 744)

(C. "A" H-75)

TABLED - April 8, 1999 (Till Later Today) by Representative SAXL of Portland.

PENDING - **PASSAGE TO BE ENACTED.**

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

Bill "An Act to Amend the Laws Governing the Construction of Salt and Sand Storage Facilities"

(S.P. 764) (L.D. 2156)

- In Senate, **REFERRED** to the Committee on **TRANSPORTATION.**

TABLED - April 8, 1999 (Till Later Today) by Representative BOUFFARD of Lewiston.

PENDING - **REFERENCE IN CONCURRENCE.**

On motion of Representative JABAR of Waterville, **TABLED** pending **REFERENCE IN CONCURRENCE** and later today assigned.

HOUSE REPORT - **Ought to Pass as Amended by Committee Amendment "A" (H-134)** - Committee on **TRANSPORTATION** on Bill "An Act to Prohibit the Transportation of Open Containers that Contain Liquor"

(H.P. 154) (L.D. 216)

TABLED - April 8, 1999 by Representative BOUFFARD of Lewiston.

PENDING - **ACCEPTANCE OF COMMITTEE REPORT.**

On motion of Representative JABAR of Waterville, **TABLED** pending **ACCEPTANCE OF COMMITTEE REPORT** and later today assigned.

HOUSE DIVIDED REPORT - Majority (10) **Ought to Pass as Amended by Committee Amendment "A" (H-184)** - Minority (3) **Ought to Pass as Amended by Committee Amendment "B" (H-185)** - Committee on **CRIMINAL JUSTICE** on Bill "An Act to Repeal the Maine Criminal Justice Academy Certification Requirements for Sheriffs"

(H.P. 139) (L.D. 201)

TABLED - April 13, 1999 (Till Later Today) by Representative POVICH of Ellsworth.

PENDING - **ACCEPTANCE OF EITHER REPORT.**

On motion of Representative POVICH of Ellsworth, **TABLED** pending **ACCEPTANCE OF EITHER REPORT** and later today assigned.

HOUSE DIVIDED REPORT - Majority (10) **Ought to Pass as Amended by Committee Amendment "A" (H-192)** - Minority (3) **Ought Not to Pass** - Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act to Allow Noncommercial Whitewater Rafting Clubs to Submit More than One Amended Membership List in Any Calendar Year"

(H.P. 435) (L.D. 577)

TABLED - April 13, 1999 (Till Later Today) by Representative DUNLAP of Old Town.

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

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

The Bill was **READ ONCE.** **Committee Amendment "A" (H-192)** was **READ** by the Clerk and **ADOPTED.** The Bill was assigned for **SECOND READING** Thursday, April 15, 1999.

HOUSE DIVIDED REPORT - Majority (8) **Ought Not to Pass** - Minority (5) **Ought to Pass** - Committee on **JUDICIARY** on Bill "An Act to Ensure Compliance with Court Orders Relating to Child Visitation"

(H.P. 1057) (L.D. 1488)

TABLED - April 13, 1999 (Till Later Today) by Representative THOMPSON of Naples.

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

The SPEAKER: The Chair recognizes the Representative from Southwest Harbor, Representative Stanwood.

Representative **STANWOOD:** Mr. Speaker, Men and Women of the House. This is a divided report. The bill was very straightforward and simple. I want to pontificate a bit about it. I want to make sure my miter is on straight. Several of you honorable members of the House are lawyers and as you accept clients in divorce proceedings, I hope that you will always keep children in mind when there are minor children and those issues are being addressed. Parents love their children and children love both parents. What this bill does is ensures compliance with court orders. I hope many of you become judges and as you issue your rulings on these matters, I trust you will expect

those to be carried out wherever they may be tested. This is not always the case and this will ensure that if a parent is wronged by being denied a visitation because of a parent or the other spouse having a difficult time, the affected party can go to court to pay a filing fee and get a hearing date and a hearing. If the judge rules in his or her favor, he still loses. He loses the filing fee, but more importantly, he loses that visitation time. Visitation with both parents or equal time is very, very important to these children. They love their mothers and their fathers and vice versa. I know nobody likes to order a judge to do much of anything. They like to have sole say in these matters. This bill would require that if a spouse was wronged by the other spouse in denying visitation by that child or children, that he would order restoration of that time. That is all this bill does. He could also impose a \$100 contempt forfeiture, but that is not the real issue. The issue is that parent has been wronged and that child has been wronged by the other parent. This would only restore the time lost. I would ask that we defeat this motion and accept the Minority Report.

The SPEAKER: The Chair recognizes the Representative from Durham, Representative Schneider.

Representative **SCHNEIDER:** Mr. Speaker, Men and Women of the House. I urge you to vote against the pending motion and to adopt this bill. This is a simple and a just bill. What it does is when parents have been divorced and one has primary custody of the children if a parent wrongfully denies visitation to the other parent and the judge finds that the visitation has been wrongfully denied and further that the judge finds that the person is in contempt of court by denying that visitation it requires the judge to grant visitation to the spouse who has been wrongfully denied. It is a remedy that fits the offense. It gives visitation where the visitation was wrongfully denied. I urge you to vote against the pending motion and to pass this bill. Thank you very much.

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

Representative **THOMPSON:** Mr. Speaker, Men and Women of the House. This bill makes one change in the current law, so it is a simple issue which I would like to lay out for you. Under current law, if someone is found in contempt, there is a list of remedies available to the judge, which include changing the terms of the parental contact issues to require stricter terms or whatever the case may be. Secondly, it may order that additional visitation be provided to take the place of visitation that was wrongfully denied. Third, a forfeiture of at least \$100. Those are the three things available to the judge at this time. The bill attempts to change the second one which currently says that the court may order additional visitation be provided for a parent to take the place of visitation that was wrongfully denied. That change says that the court must do that. Now, committee members that opposed this bill agree that in most all cases that should be the case. Whenever we say must, it means the judge cannot do differently. The truth is our statutes on these issues are based upon what is in the best interest of the child. There are rare occasions, some occasions however, where it may not be in the best interest of the child for the court to order a one for one, which I think is the intent of the bill, replacement of visitation. The judge may find both parties in contempt. It may find that one denied ordered visitation and may find that the other party did something else that contributed to it and find both of them in contempt. It is only in one direction that there will be a mandatory remedy. These cases are not black and white, cut and dry. If they were, we would not have as many disputes in domestic areas involving children and custody. They

are very tough. They are the toughest cases judges have to deal with. I agree with the intent of the good Representative in presenting this bill. I understand the issue. If you make it mandatory, there will be wrongs made by the court with having no choice on how to decide. That is why I am on the Majority Ought Not to Pass Report. Thank you.

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

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

ROLL CALL NO. 80

YEA - Baker, Berry RL, Bouffard, Brennan, Brooks, Bryant, Bull, Colwell, Cote, Davidson, Dudley, Dunlap, Duplessie, Etnier, Fisher, Frechette, Fuller, Gagnon, Green, Hatch, Jabar, Kane, Lemoine, Lovett, Madore, Mailhot, Matthews, McDonough, McGlocklin, McKee, Mitchell, Norbert, O'Neil, Perry, Pieh, Povich, Powers, Quint, Richard, Richardson J, Rines, Samson, Sanborn, Savage W, Saxl JW, Saxl MV, Shiah, Stanley, Stevens, Sullivan, Tessier, Thompson, Townsend, Tripp, Twomey, Usher, Volenik, Williams, Mr. Speaker.

NAY - Ahearne, Andrews, Bagley, Belanger, Berry DP, Bowles, Bragdon, Bruno, Buck, Bumps, Cameron, Carr, Chick, Chizmar, Cianchette, Clark, Clough, Collins, Cowger, Cross, Daigle, Davis, Desmond, Duncan, Foster, Gagne, Gerry, Gillis, Glynn, Gooley, Heidrich, Honey, Jacobs, Jodrey, Jones, Kneeland, Labrecque, LaVerdiere, Lindahl, MacDougall, Mack, Martin, Marvin, McAlevey, McKenney, McNeil, Mendros, Murphy E, Murphy T, Nass, Nutting, Peavey, Perkins, Pinkham, Plowman, Richardson E, Rosen, Savage C, Schneider, Sherman, Shields, Shorey, Sirois, Snowe-Mello, Stanwood, Stedman, Tobin D, Tobin J, Tracy, Trahan, Treadwell, True, Tuttle, Waterhouse, Weston, Wheeler EM, Wheeler GJ, Winsor.

ABSENT - Bolduc, Campbell, Dugay, Goodwin, Joy, Kasprzak, Lemont, Mayo, Muse, O'Brien, O'Neal, Skoglund, Watson.

Yes, 59; No, 78; Absent, 13; Excused, 0.

59 having voted in the affirmative and 78 voted in the negative, with 13 being absent, the Majority **Ought Not to Pass** Report was **NOT ACCEPTED**.

Subsequently, the Minority **Ought to Pass** Report was **ACCEPTED**.

The Bill was **READ ONCE** and was assigned for **SECOND READING** Thursday, April 15, 1999.

HOUSE DIVIDED REPORT - Majority (7) **Ought Not to Pass** - Minority (6) **Ought to Pass as Amended by Committee Amendment "A" (H-172)** - Committee on **STATE AND LOCAL GOVERNMENT** on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Require a Vote of 2/3 of Each House of the Legislature to Enact or Include a Tax or License Fee

(H.P. 255) (L.D. 359)

TABLED - April 13, 1999 (Till Later Today) by Representative AHEARNE of Madawaska.

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

On motion of Representative AHEARNE of Madawaska, **TABLED** pending his motion to **ACCEPT** the Majority **Ought Not to Pass** Report and later today assigned.

HOUSE DIVIDED REPORT - Majority (11) **Ought to Pass as Amended by Committee Amendment "A" (H-171)** - Minority (2) **Ought Not to Pass** - Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Provide for Citizen Participation in the Hancock County Budget"

(H.P. 716) (L.D. 1006)

TABLED - April 13, 1999 (Till Later Today) by Representative AHEARNE of Madawaska.

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

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

The Bill was **READ ONCE**. **Committee Amendment "A" (H-171)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Thursday, April 15, 1999.

HOUSE DIVIDED REPORT - Majority (12) **Ought Not to Pass** - Minority (1) **Ought to Pass as Amended by Committee Amendment "A" (H-179)** - Committee on **TRANSPORTATION** on Bill "An Act to Prohibit the Use of Hand-held Phones by Operators of Moving Motor Vehicles"

(H.P. 68) (L.D. 81)

TABLED - April 13, 1999 (Till Later Today) by Representative JABAR of Waterville.

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

The **SPEAKER**: The Chair recognizes the Representative from Lewiston, Representative Bouffard.

Representative **BOUFFARD**: Mr. Speaker, Men and Women of the House. I rise to tell you that I am not going to debate this. I just want you to be aware that this issue has gotten even national debate on television. I don't have to use this forum here to debate the issue. It is becoming a problem and what I did with my bill here is rather than make it punitive with a fine, I just made it a reportable bill, whereas the State Police when investigating an accident, rather than just putting driver inattention, that they will report what the driver inattention is. That is where I find if we can gather data on the use of cell phones because right now there is no data out there to guide us one way or the other. If we can gather some data, then maybe something can be done to prevent even one loss of life due to someone using a hand held phone. Mr. Speaker, I request a division.

Representative **BOUFFARD** of Lewiston **REQUESTED** a division on the motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

Representative **GLYNN** of South Portland **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**: 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. 81

YEA - Ahearne, Bagley, Baker, Belanger, Berry DP, Berry RL, Bolduc, Bowles, Brennan, Brooks, Bruno, Bryant, Buck, Bull, Bumps, Cameron, Carr, Chick, Chizmar, Cianchette, Clark, Collins, Colwell, Cote, Cowger, Cross, Daigle, Davidson, Davis, Dudley, Dugay, Duncan, Duplessie, Etnier, Fisher, Foster, Fuller, Gagne, Gagnon, Gerry, Gillis, Glynn, Gooley, Green, Hatch, Heidrich, Honey, Jabar, Jacobs, Jodrey, Jones, Kane, Kneeland, LaVerdiere, Lemoine, Lindahl, Lovett, MacDougall, Mack, Madore, Martin, Marvin, Matthews, McGlocklin, McKee, McKenney, McNeil, Mendros, Mitchell, Murphy E, Murphy T, Nass, Norbert, Nutting, O'Neal, O'Neil, Peavey, Perkins, Perry, Pieh, Pinkham, Plowman, Povich, Richard, Richardson E, Richardson J, Rines, Rosen, Samson, Sanborn, Savage C, Savage W, Saxl JW, Saxl MV, Schneider, Sherman, Shiah, Shorey, Skoglund, Stanley, Stanwood, Stedman, Stevens, Sullivan, Tobin D, Tobin J, Townsend, Tracy, Trahan, Treadwell, True, Twomey, Usher, Waterhouse, Weston, Wheeler EM, Wheeler GJ, Williams, Winsor, Mr. Speaker.

NAY - Andrews, Bouffard, Clough, Desmond, Dunlap, Frechette, Labrecque, Mailhot, McAlevey, McDonough, Powers, Quint, Shields, Sirois, Snowe-Mello, Tessier, Thompson, Tripp, Tuttle, Volenik.

ABSENT - Bragdon, Campbell, Goodwin, Joy, Kasprzak, Lemont, Mayo, Muse, O'Brien, Watson.

Yes, 120; No, 20; Absent, 10; Excused, 0.

120 having voted in the affirmative and 20 voted in the negative, with 10 being absent, the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

HOUSE DIVIDED REPORT - Majority (11) **Ought Not to Pass** - Minority (2) **Ought to Pass as Amended by Committee Amendment "A" (H-175)** - Committee on **TRANSPORTATION** on Bill "An Act to Amend the Seat Belt Law Regarding the Enforcement of Penalties"

(H.P. 869) (L.D. 1226)

TABLED - April 13, 1999 (Till Later Today) by Representative SAXL of Portland.

PENDING - Motion of Representative JABAR of Waterville to **ACCEPT** the Majority **OUCHT NOT TO PASS** Report.

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

Representative **PERKINS**: Mr. Speaker, Men and Women of the House. I don't mind losing on an issue, I do it regularly here. I just want to make sure that everybody understands what the issue is. I have a feeling there is a little bit of misunderstanding and I respectfully suggest that maybe even one or two people on the committee don't fully understand what this is about or what we did last session.

We hear the term a lot now a days about institutional memory, or loss thereof, due to term limits. I am starting to wonder if there is some validity in the concern. Those of you who were here in the, I think, 117th that we passed the seat belt law. Those of you who were here, or followed it in the press, remember that it was very divisive. It went back and forth between the House and Senate. In fact, if got defeated in the House. It went to the other body and it was modified, amended, and it came back to this body and the upshot of it is, it narrowly went out to the people as a referendum. It could not pass either body as a law so it went out to the people.

One of the very pivotal points in the debate was whether it was going to be a secondary or primary offense. It was

extremely pivotal. In fact, after it got defeated in this body, it got amended in the other body. I would just like to read to you a little bit of the debate that went on regarding that issue. This is a Senator, one of the prime sponsors of the original bill for the seat belt mandate. This is talking about the amendment now. "This is the amendment that reduces the enforcement to secondary enforcement instead of primary." This is after it went back and forth several times here. "The best law that we could pass would have been primary enforcement. There is no question that that sends out a more positive message. This amendment positions the bill in a way that will be acceptable and hopefully we will be able to enact it." Here is more debate. This is in the House, in this chamber after it came back from the other body and that amendment. This is a quote from one of the members of the Transportation Committee. "This amendment makes the matter a secondary enforcement to law enforcement officers which was a concern to some of you. It is an important difference, so we now talking with this amendment about a major imposition on anyone's life should they choose because of personal beliefs not to wear a seat belt."

I would like to stress upon you that that was the pivotal point in the debate. Lo and behold in the last Legislature and very few people even know it happened and if you look at one of your green sheets, the one with the copy of the existing law, you will see the box that I circled. It says Paragraph E, "Deleted the second sentence which had read 'an operator is not subject to the penalty established in paragraph D unless the operator is required to pay a fine for the primary offense.' That is what we repealed in the last Legislature effectively making it a primary offense. A very pivotal difference that failed to pass in here. It went out to the people as a secondary offense.

What my bill would do is simply restore it to the way it was when the people voted on it. It is a matter of people's trust. The referendum barely passed. It was less than 1 percent statewide. Vast areas of the State of Maine voted the other way. As a secondary offense it barely passed. I would like simply to restore the trust of people.

I would like to say one more thing. This 11 to 2 sounds like quite a disparity, but from talking to some of the members on the committee and other people, I think once they realize what this is about, I think you will see a big shift. I would request a roll call please.

Representative **PERKINS** of Penobscot **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 Eliot, Representative Wheeler.

Representative **WHEELER**: Mr. Speaker, Men and Women of the House. Just to clarify a little bit of the confusion on the bill. As the good Representative from Penobscot, Representative Perkins, did say. What his bill will do is actually make it tougher on your constituents. I don't know how many of you here want to make it tougher on your constituents. I know I don't, for one. If we keep the law the way it is right now, if they get stopped for a tail light out, for example, the officer does not have to give them a ticket to cite them for the seat belt. The way the law was previously was they had to get a ticket for that break light or tail light or whatever it was and then they would get a ticket also for the seat belt. If you want to change it so that your constituents will get two tickets instead of just being noted or warned for the seat belt, then I urge you to vote with

Representative Perkins. If you want to keep the law a lot similar and more educational to your constituents, then I urge you to vote the Majority Ought Not to Pass Report. Thank you.

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

Representative **GAGNE**: Mr. Speaker, Ladies and Gentlemen of the House. I rise to oppose this motion. I was a cosponsor with Representative Perkins on this bill. I agree wholeheartedly that we don't need more restrictions. In fact, I believe the present seat belt law has been extended too far. You just heard them try to explain to you the difference. They said that what we would do here would be confusing. What you just heard was confusing. I want you to know that everyone, the law says we must wear a seat belt. Enforcement is guilt and fear of non-compliance. If you don't wear it, you have a possibility of a \$60 fine if you are stopped for any other offense. That is enough. That is as far as it should go. That is what we voted for. When that referendum came out and we were voting ourselves in the booth we said that it was okay and it was really a close vote. He mentioned that and it was. The people primarily passed that, I am sure, having that seat belt law in this state because they knew it was going to be a secondary offense. Last session we added something to it to make it even more difficult so that we would be fined or picked up or whatever for that. That is what bothers me the most. What I would like you to do is to say that we oppose what transportation has told us and instead we are going to return it to what it was when we voted. Maine is proud of their independent nature. We have always felt that we can make our own decisions. We do it every day when we get into our car and buckle up. We don't need the added fear that we are going to be doubled up on fines, which is what would happen. Let's support the bill that we had put in and vote against this motion and return the law to its original status that we voted on years ago. Thank you.

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

Representative **SAVAGE**: Mr. Speaker, Ladies and Gentlemen of the House. I know this is a controversial issue. As a matter of fact, I just got off the phone not more than 15 minutes ago about this very issue. I just want to point out that you cannot be stopped if you are suspected of not having your seat belt on. Keep that in mind when you vote.

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

Representative **LINDAHL**: Mr. Speaker, Men and Women of the House. The original referendum when it went out, the people voted for the concept of mandatory seat belts. I doubt if most people in this body realize the difference between primary and secondary enforcement. The original bill that went out required secondary enforcement. That is correct. A juvenile operator of a car was responsible for all adults in his car being buckled up. If they got stopped for a violation and there was an adult in the car that was not buckled up, then that juvenile was liable for a summons to appear in court. The Legislature in its infinite wisdom thought that was wrong and we made adults responsible for their own actions. We made the change. Now if a car is stopped for a tail light out and there is an adult in the car, then that adult can be summonsed to court for not wearing a seat belt. That is the changes that we made to the seat belt law. I think it is a good change. It does not require that you summons a juvenile operator, let's say, that happens to be in the car. You don't have to summons him and get a conviction before you can summons an adult in the car. I think that makes

sense to me. With this change you have to write two summons now. I don't know how you would follow that up with summonsing an adult in the car for not wearing a seat belt. You would have to wait until you got a conviction on the driver. Say he was speeding. You would have to get that conviction before you could get a conviction of the seat belt violation. It just makes it almost impossible to enforce. I urge you to accept the Majority Ought Not to Pass. Thank you.

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

Representative **MENDROS**: Mr. Speaker, Ladies and Gentlemen of the House. I urge you to vote against the pending motion. This is an issue of due process. When the person gets the ticket, they get two tickets, one for the whatever the violation is and one for not wearing a seat belt. If they don't get a ticket for the other issue, then they could have been pulled over for no reason at all because there is no proof that they were actually pulled over for a valid reason. This country is based on due process. That is what protects our citizens. We need that protection so they are pulled over for a frivolous reason. They were validly pulled over. They get a ticket. They are found guilty on that count, then they would be found guilty for not wearing a seat belt. Don't convict them of not wearing a seat belt then they have no due process at all. Thank you.

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

Representative **PERKINS**: Mr. Speaker, Men and Women of the House. I just wanted to comment on a couple of statements. Please don't get confused. In the Legislature that came after it went out to the people, there was an actual bill in to make it a primary offense. I remember seeing the bill and I told myself I was going to watch that, then somehow it disappeared. The bill disappeared, but what happened was in an amendment or in another bill in Transportation, it was mentioned a minute ago, there were some amendments added. One had to do with juveniles. Don't make a mistake. This is not what we are talking about here. There was another amendment that exempted rural mail carriers, that passed. On that bill, somehow it got tacked on to repeal the section that I have circled on the green sheet that I won't hold up that said that you had to be stopped for something else and you had to be found guilty. In other words, you had to be fined for that. We took that out so you still have to be stopped for something else, but the police officer can just say that he thought your tail light was blinking, but I see it isn't. By the way, your seat belt. I thought your sticker was run out, but, by the way, it isn't or any number of things. In other words, they don't need suspicion of anything. They can nab you for your seat belt. It has, in effect, become a primary offense.

I would just like to mention one thing. As far as my bill being harmful for your constituents. If you could have been to the hearing and the work session, you would see who was on which side. All the police officers and the entire state public service people were against my bill. Ask yourself, is that against or for the constituents? My last question is, where were the police and the public safety people back when we debated the bill five years ago. Why didn't they tell us at that time that this wouldn't be workable? Certainly they did the research, but we never heard a word until it got put in that way in the last Legislature. Thank you.

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

Representative **WHEELER**: Mr. Speaker, Men and Women of the House. Just to clarify who the opponents were of the bill. They were Public Safety. I emphasize safety officials that patrol the roads every day and that deal in public safety every day. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Lewiston, Representative Bouffard.

Representative **BOUFFARD**: Mr. Speaker, Men and Women of the House. Let's use this scenario here. You are driving your automobile and one of your tail lights is not working. You are now in violation of the law because a car is supposed to have everything operational. A policeman pulls you over to give you a warning to say get your light fixed. If you are not wearing your seat belt, now he has to turn around and fine you for having a broken tail light, go to court and get a conviction there so that he can cite you for not wearing a seat belt. I think that we have to leave a little bit of discretionary knowledge to the State Police and our law enforcement officers. This would be a very difficult law the way that it was written before to enforce. Therefore, I caution you to accept the Majority Ought Not to Pass Report.

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

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

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

Representative **PLOWMAN**: Mr. Speaker, Men and Women of the House. To anyone who would answer the question, could the scenario go like this? He gives you a warning that your tail light is out and he gives you a warning that you should be wearing a seat belt.

The **SPEAKER**: The Representative from Hampden, Representative Plowman has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Northport, Representative Lindahl.

Representative **LINDAHL**: Mr. Speaker, Men and Women of the House. Yes, he can stop you for a warning for a tail light or speeding and still give you a warning for not having a seat belt. It is officer discretion.

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

Representative **CAMERON**: Mr. Speaker, Ladies and Gentlemen of the House. Very quickly, when you vote on this I ask you to keep in mind the young man that died here in Maine on Monday or Sunday just this past week. It was a rollover. There were four young folks in the car. The one that died did not have a seat belt on and came out of the car and the car rolled on him. The other three children lived or young people lived. That is what this is really about is saving lives folks. A little inconvenience on the part of the rest of us to save the lives of teenagers or adults I think is worth the inconvenience. Thank you.

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

Representative **PLOWMAN**: Mr. Speaker, Men and Women of the House. After this was passed last year I received some calls. I have an assisted living facility in my district. The volunteer drivers who used to come pick up some of the people who live in the assisted living housing had to stop. Their agency told them they could no longer pick up some of the clients because the seat belts would not fit around the clients. I had a woman who could not go to her medical appointment. It sounds

great. You could send a bus. You could send something that doesn't require that you have to have seat belts. In Newburgh, Maine, it is a little hard to get a bus all the way out to the middle of no where. This volunteer agency would no longer allow its volunteers to pick up this woman and several other women who lived in this community housing. We caused some problems along the way to the point where the liability is so strict that we hurt people. Please keep that in mind.

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

Representative **GAGNE**: Mr. Speaker, Men and Women of the House. I have to stand again and tell you this is not whether you are for or against seat belts. We are talking about a bill that has to do with stopping you and charging you with offenses. Keep that in mind when you are voting on this. It is important to teach safety habits. It is important that babies are in car seats. It is important that they have driver education and teach them all those things. It is important to have seat belt awareness and people wear them. Yes, some choose not to and you see the results. We are looking at a bill here that is going to make it a stronger penalty. I know they keep telling you they can still not cite you, but you have been on the road. If you have ever been stopped by police, how many times have you been told too bad we stopped you, we won't charge you. Keep that in mind too. Vote no.

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

Representative **MCALLEVEY**: Mr. Speaker, Ladies and Gentlemen of the House. As one of the cosponsors of the original bill, we had a compact with the people. We worked it out here. We came up with some language. We sent it to them for their consideration and they choose to enact it, not a pig in a poke. They got everything right up front what the bill would and wouldn't do. I have never taken a dead person out of a seat belt in all my life as a police officer. Seat belts do save lives. If we are going to make this substantive change, then we better send it back to the people because that is where it originated from. The law to mandate seat belts came from the people, not from this body. It came through this body. If we are going to make this substantive change, then we should go back to the people who authorized it in the first place and tell them we would like to enhance it further. It is their compact with us. I hope you keep that in mind before you vote. Thank you.

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

Representative **LINDAHL**: Mr. Speaker, Men and Women of the House. I have only spoken once. This is my second time. In answer to my good friend, Representative Plowman, there is a medical exemption for people who have medical problems. If it ends up being a liability problem, it has nothing to do with the seat belt. If the doctor says they have a medical condition, whether it is obesity or had open heart surgery and can't wear the seat belt, then there is a medical exemption. I would also like to answer to my good friend, Representative McAlevey from Waterboro, the people did not have the choice. They only had the choice of enacting what we gave them. That was it. They did not have the choice. They enacted the concept of seat belts and we made some changes to it, which I think made it a better bill. Thank you.

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

ROLL CALL NO. 82

YEA - Bagley, Baker, Berry DP, Berry RL, Bouffard, Bowles, Brooks, Bruno, Bull, Bumps, Cameron, Carr, Chick, Clark, Colwell, Cote, Cowger, Daigle, Davidson, Davis, Desmond, Dudley, Dugay, Duncan, Dunlap, Duplessie, Etnier, Fisher, Frechette, Fuller, Gagnon, Green, Hatch, Heidrich, Jabar, Jodrey, Kane, Kneeland, Labrecque, LaVerdiere, Lemoine, Lindahl, Lovett, Madore, Mailhot, Martin, Marvin, Matthews, McGlocklin, McKee, McKenney, Mitchell, Murphy E, Murphy T, Norbert, O'Neal, O'Neil, Perry, Pieh, Povich, Powers, Quint, Richard, Richardson E, Richardson J, Samson, Sanborn, Savage C, Savage W, Saxl JW, Saxl MV, Shiah, Stanley, Stanwood, Stevens, Sullivan, Tessier, Thompson, Tobin D, Townsend, Tripp, True, Tuttle, Twomey, Usher, Volenik, Wheeler GJ, Williams, Mr. Speaker.

NAY - Ahearne, Andrews, Belanger, Bolduc, Bragdon, Bryant, Buck, Chizmar, Cianchette, Clough, Collins, Cross, Foster, Gagne, Gerry, Gillis, Glynn, Gooley, Honey, Jacobs, Jones, Kasprzak, MacDougall, Mack, McAlevey, McDonough, McNeil, Mendros, Nass, Nutting, Peavey, Perkins, Pinkham, Plowman, Rines, Rosen, Schneider, Sherman, Shields, Shorey, Sirois, Skoglund, Snowe-Mello, Stedman, Tobin J, Tracy, Trahan, Treadwell, Waterhouse, Weston, Wheeler EM, Winsor.

ABSENT - Brennan, Campbell, Goodwin, Joy, Lemont, Mayo, Muse, O'Brien, Watson.

Yes, 89; No, 52; Absent, 9; Excused, 0.

89 having voted in the affirmative and 52 voted in the negative, with 9 being absent, the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

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

SENATE PAPERS

Bill "An Act Concerning Licensure of Chiropractors" (EMERGENCY)

(S.P. 784) (L.D. 2199)

Came from the Senate, **REFERRED** to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** and ordered printed.

REFERRED to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** in concurrence.

Bill "An Act to Permit Persons Out-of-state to Ship Malt Liquor and Wine to Maine Residents"

(S.P. 785) (L.D. 2200)

Came from the Senate, **REFERRED** to the Committee on **LEGAL AND VETERANS AFFAIRS** and ordered printed.

REFERRED to the Committee on **LEGAL AND VETERANS AFFAIRS** in concurrence.

ORDERS

On motion of Representative COLWELL of Gardiner, the following Joint Order: (H.P. 1545)

ORDERED, the Senate concurring, that Bill, "An Act to Correct Errors and Inconsistencies in the Laws of Maine," S.P. 18, L.D. 3, and all its accompanying papers, be recalled from the Engrossing Department to the House.

READ and PASSED.

Sent for concurrence.

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

At this point, pursuant to his authority under House rule 401.1, the Chair assigned Representative COTE of Lewiston to Seat 69.

On motion of Representative HEIDRICH of Oxford and Representative WHEELER of Eliot, the House adjourned at 12:25 p.m., until 9:00 a.m., Thursday, April 15, 1999 in honor and lasting tribute to Myrtle Callahan of Mechanic Falls.