

MAINE STATE LEGISLATURE

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State of Maine

Volume I

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ONE HUNDRED AND NINETEENTH LEGISLATURE
FIRST REGULAR SESSION
45th Legislative Day
Thursday, May 6, 1999

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

Prayer by Honorable Ronald E. Usher, Westbrook.

National Anthem by Jamie Bannister from Lewiston High School.

Pledge of Allegiance.

Under suspension of the rules, members were allowed to remove their jackets.

The Journal of yesterday was read and approved.

ORDERS

On motion of Representative SKOGLUND of St. George, the following Joint Order: (H.P. 1574)

ORDERED, the Senate concurring, that Bill, "An Act to Stop the Construction of the Prison at Warren," H.P. 1512, L.D. 2160, and all its accompanying papers, be recalled from the legislative files to the House.

READ.

The SPEAKER: The Chair recognizes the Representative from St. George, Representative Skoglund.

Representative **SKOGLUND**: Mr. Speaker, Ladies and Gentlemen of the House. This is my fifth term in this body and standing this morning I am sure it is the most important thing I have done while serving as a Representative. I bring an opportunity to this body to discuss and vote on the largest, most expensive project and perhaps most important project this state has undertaken. That is reformation of the correctional system.

A year ago the earlier Legislature passed without discussion in the House, went under the hammer, a corrections bill that was necessary, but very little understood and as I said, not discussed at all the House or Senate. What brought about this situation was the need for corrections improvement, overcrowding in our facilities, not only in our major prisons, but in our youth centers, and financial neglect of those facilities over the last decade. In order to correct these problems, a committee was set up. The question presented to the committee was this, how can Maine reduce the per prisoner cost per day? Maine, apparently, has a high day, per prisoner cost. It is over \$70 a day. The question was given, how can we reduce that cost? The committee met and made recommendations and went to the appropriate committee in this Legislature and then was passed without discussion. My contention is this and I think this is very important, the wrong question was asked. Rather than asking how can we reduce the per prisoner cost of incarceration, we should have asked, how can we reduce the number of people that we are keeping behind bars or in prison facilities? I will repeat that, we should have asked, how can we reduce the number of people that we feel need to be kept incarcerated?

I stood quietly or sat quietly while this was passed during the last session, as did all of my colleagues. The plan was so carefully put together by corrections that we were given the impression that if any one part of it was questioned, the whole

plan would collapse if we didn't endorse the entire thing. I have thought about that very carefully since and much. The State Prison in Thomaston is in my district. I have been in and out of there many, many times as a visitor. I am probably as familiar with the prison through my visits there, through my association with my neighbors and friends who work as guards and administrators. I am not unaware of the needs of our prison facilities.

In South Warren we have what is called the Super Max to contain the most violent and dangerous of our prisoners. I have been there only once. I wish each of you could visit the Super Max in Thomaston. It is a frightening place and a sad thing to see young men locked in cells without even bars. They just have a type of glass that they peer out through. They are in those cells 23 hours a day. If they are not insane now, they will be. Perhaps it is necessary to have a place like that to keep prisoners in the State Prison in Thomaston in line. If they don't behave, they go to the Super Max. In looking that over, I had to say to myself that I cannot be part of a system that is going to expand and make more available this type of horrendous facility.

I hope that you are as surprised as I am that there has been no significant increase in crime in Maine over the last decade. We have a relatively low crime rate in Maine. The reason for the overcrowding of our facilities is simply that this Legislature has extended sentences and made more things into crimes. We have also taken away what they call much of the good time where a prisoner if he behaved himself was given so many days off his sentence. It gave the prisoners incentive. It was something to work toward or something to earn by improving their behaviors and attitudes. We changed our attitude toward crime and punishment I think within the last 10 years as part of a national movement, a get tough on crime movement. I had a neighbor who used to say that news gets to St. George in a wheelbarrow. National trends get to Maine in a wheelbarrow, but they do arrive here. It becomes difficult to oppose these national trends when the person pushing the wheelbarrow is probably someone you know and respect. I have great respect for the Department of Corrections. I have great respect and admiration for our commissioner, Mr. Magnusson, who is one of my constituents and a friend.

Nevertheless, I feel that we are caught up in this national craze of building prisons. If you have read your magazines lately and watched the television, you will see that there is a trend throughout the country to build more and more and larger prisons. We can say, but in Maine we really need the prisons. We need the prisons, perhaps because we are trying to keep people there who could be outside under closer supervision. That is the part of our system that is lacking. Early release, easing these released prisoners back into their communities. We are told that if we build a large prison in South Warren, replacing the Thomaston facility will cost some \$63 million, but we will enjoy what is called the economy of scale. We will put all of these bad ones in one area. It will be cheaper and more efficient.

I want to point out to you some of the fallacies of the economy of scale. When you put too many of anything in one spot it creates a problem. When you put too many hens in one farm in Turner, it is likely to present a problem. If you put all of the bad ones in Maine in Warren, you are going to increase your social problems. The economies of scale never take into account the social cost and the environmental cost, so that the economies of scale look good on paper, but do not look good in

practice. The proposed site for the new prison in South Warren is under severe environmental threat if this new facility is put in. The Town of Warren has already experienced certain population growth and development. They have a moratorium on developments. This proposed prison would bring in over 800 inmates. There is a problem with disposal of the wastewater. There is a problem in the surrounding communities of relatives of these people incarcerated moving in. I think we should take a good look at the feasibility of an alternative to one massive prison.

If I may take a little more of your time to describe the prison in Thomaston as it is now, there has been a great deal of misinformation given out about the prison in Thomaston. It has been deliberate misinformation. That particular facility has not dangerously overcrowded, nor are we in danger of a prisoner uprising. I have on a desk a stack of papers from the prisoners in Thomaston over an inch thick saying, "Thank you Representative Skoglund. Do not let them build a new prison in South Warren." The prisoners themselves do not want a prison in South Warren. If I may read from one of the prisoners. He writes, "Facilities may look nice from the outside and feel better from the inside, but it is still a prison and what is good for Massachusetts or New York may not be applicable to Maine. The last thing that Mainers should want is a real prison in this state. With the management tools here, craft room, industries, single cell, Super Max, stereos and TV to name a few. What is happening in other states is not happening here. There is no violence, chaos or major scam. Why introduce this to the prison population by creating a new prison and running it with the same absurdity that causes problems in other states?" That is the word from inside the prison.

Thomaston prison is not one single building. It is a series of buildings around an interior courtyard that you don't see from the outside. Within the courtyard one does not get the impression of a crowded, unhealthy, unhappy place. We did not have the opportunity to vote on this before, but you have the opportunity to vote on it this morning. I hope that you will realize what we are doing this morning sets the correctional policy in this state for another three generations. We can go ahead with improvements in our youth facilities and our other prisons without building a state of the art prison in South Warren. You will remember that this is to be financed by the Government Facilities Act. Many of your voters, I am sure, were rather surprised that this did not go before the voters.

I would like to remind you before I sit down that Maine has always been a real leader in reform and improvement in society. We were leaders in the reform for improved treatment for the insane. We were leaders in penal reform early in the last century. We were leaders in the reform that lead to a drastic reduction of consumption of alcohol beginning in this century. We can be leaders in correctional reform. If this Legislature will turn down the proposal for a new prison in Warren and instead look at other ways that we can solve the problem of people who are on drugs, alcohol and mentally disturbed, for those are our prison population. I hope the lasting monument to this century is not a prison in South Warren, state of the art enclosed by razor wire. I ask for your support, ladies and gentlemen. Thank you.

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

Representative **POVICH**: Mr. Speaker, Men and Women of the House. It is not my preferred position in any batting order to follow and debate the accomplished orator from St. George, my

friend and inspiration, Representative Skoglund. So in the words of a distinguished non-orator, Jack Webb, I will present just the facts.

This bill stops the construction of a correctional facility in the town of Warren. The Warren project was authorized as part of Phase I of the Department of Corrections Master Plan pursuant to PL 1997 chapter 752. The recommendation for improving our state corrections system was widely discussed for two years. The commissions meetings were public. The legislative hearings on the construction of plans were public. The financing was public and interested intervening parties testified in support of the construction. They included the Maine Council of Churches, The Maine Civil Liberties Union, The Maine Sheriff's Association and many, many representatives of community and social service organizations. Chief Justice Dan Wathen and the Judiciary supports this plan.

Chapter 752 was passed by unanimous consent of both the Criminal Justice Committee and the 118th legislature. In its current incarnation as an after deadline request, the committee concurred with the 118th and vote a unanimous ONTP motion.

The Criminal Justice Committee urges you to not allow this third commitment to our committee. The public hearing was fortifying. It fortified our commitment to the corrections master plan. The proponents talked about overcrowded prisons, and the need to address crime in a responsible and progressive manner. We need humane and secure incarceration, effective treatment/rehabilitation and community support upon release. We all want the prisoners to hit Route 1A. They will come out folks. They need to know which way to turn on Route 1A. They currently don't have that ability in many cases. Money spent should be spent on education and schools. We need to be proactive instead of being reactive. We do not disagree with these points. Our committee focuses on these points every committee workday. We disagree with the propose action. The Corrections Master Plan will go a long way to fix the problem.

The committee agrees with all of these points and in fact has lead the discussion to not focus on bricks and mortar, but instead to focus on programs and treatment. The committee over the past 4 years has considered a very thoughtful plan. We have made the policy recommendations that this body without exception, every time has accepted. We have pursued the Department of Corrections relentless for sex offender therapy, substance abuse treatment, work opportunities and job training. We focused on more transition to the community at the end of the sentence. This plan will increase our programs and services by percent. By closing the facility in Thomaston, the operational savings of 7.5 million per year will pay for the costs of the new facility, releasing important part one money to fund the program improvements. Only within this corrections master plan can we accomplish these needs.

Why? Because the current costs to operate this archaic prison consumes the funds that our Legislature appropriates. We, through productivity have determined to grow our programs only by diminishing our bureaucratic costs. Maine's second highest prison costs in the county and the Maine State Prison being the most expensive facility in our system prevents the investment in community transition and community based programs this entire body supports. That is good correction philosophy.

The Corrections Master Plan is so interconnected that by closing the prison, you prevent the opening of the second juvenile facility that is planned for Charleston. Our Juvenile

Master Plan and correcting the atrocious conditions at the Maine Youth Center depends on this population shift. Only the new facility in Warren can accommodate these population shifts. Stopping the prison will pretty much disengage phase 2 of the plan which affect Windham and it's therapeutic mission and, of course, the facility in Washington County won't go forward.

The bond market is going to become very nervous by our actions today should we stop the construction at Warren. We have signed \$6.5 million in contracts already. Sailing this ship of state requires fair winds and following seas with the bond market.

The Department of Corrections has been very responsible in assuring the affected communities that current promises made will be fulfilled. The state will not be abandoning the communities. At least the Criminal Justice Committee is going to make sure that we follow this and bird dog this process.

The plan is sound, the commitment to treatment resources is there. I urge you to defeat the resolution. Thank you very much.

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

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

The SPEAKER: The Representative may pose her question.

Representative MCKEE: Mr. Speaker, Men and Women of the House. The good Representative Skoglund questioned the process. My question is this, if we voted on the renovations for the State House through the Government Facilities Act and a vote was taken, the implication that the good Representative made is that we would be voting through the same process on this. It does not appear to me that we have voted on it before. Is a bill coming? Will we be voting on it in the same way? Thank you.

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

Representative MCALEVEY: Mr. Speaker, Ladies and Gentlemen of the House. I will try to answer your question, if I may. We did have a bill that we worked. This is our fifth year of preparing for this. When we heard the bill two years ago we had had three years of studies. There were public hearings throughout the state. We had a public work session. DOC and the committee came to the caucuses in both chambers and briefed the caucuses. We had numerous work sessions. In fact, when they first came to us we didn't accept their plan. It was too costly. We sent them back and said it was too much money. Do it within existing resources. There was plenty of opportunity for public comment as well as comment from this chamber or the other chamber. Yes, it did go under the hammer without any debate. It was a unanimous report. The people that were serving here in the Legislature, at the time, had been fully briefed.

Two points that I would like to make is right now the rate of capacity for the adult prison is 1,437 beds. We have 1,437 cells. As of yesterday, the population is 1,610. That means we have 173 prisoners that we are housing who don't have their own cell and don't have their own bed. They are sleeping on mattresses on the floor. I will as a rhetorical question and then move on to one more point. Does anyone in this chamber want to take somebody home for 8 to 12 and give them a bed and three squares? I don't think so. The population is going to increase. There is nothing we can do about that. There is something the

DOC is doing about this. Not only in the plan we received on building new beds, but we adopted a policy and a procedure called restorative justice where we are taking the low-level offenders, the D and E misdemeanors that normally would go to jails or go to our prison for two or three years and we are trying to handle those cases through restorative justice boards, community reparation boards. We are diverting them out of jail or prison. We are also diverting our children out of the Youth Center with family group conferencing boards, which is a whole concept of restorative justice that we discussed.

We need to keep more people out of prison. We are working on that. Yes, truth in sentencing. We did take away good time. Previous to this, people would 15 days out of a 30 day sentence whacked off their sentence. The public didn't like it. They didn't appreciate it. We have changed the good time to three days a month. Prisoners do not want to go to the new facility. I don't blame them. I am going to let the cat out of the bag here, but the new facility is probably going to be non-smoking. The new facility is, everyone in the prison works, but you don't get of your cells. Currently, people at Thomaston do not have to work. There will be more than enough jobs in industry and more than enough jobs in the kitchens and more than enough jobs in the laundry. When you move to the new facility you are going to work or you don't get let out.

Thirdly, when they move their property to the new prison, they are going to have to leave behind their stashes of drugs and their stills for alcohol and their little dark cubby holes for God knows what they do. I don't blame prisoners for not wanting to go to a new facility. It is a strange environment. Fifty percent of the people living in Thomaston today are living either a life sentence or because of the length of the sentence, they will die in prison there. The Department of Corrections, as well as the committee, is very sensitive to that. We are going to try to move people to keep them in the same community. If you have lived for 35 years in a group of people around you, you feel comfortable. They are your support group and they protect you. You respond visa versa. We are going to try to have that happen.

The new facility is going to be cleaner. It is going to be safer for the employees. What about all of our corrections officials that work in our prisons? They are doing 20 year stretches at 8 to 12 hours a day. They are incarcerated behind those locked doors just as our prisoners are. I don't blame the prisoners for not wanting to move. It is going to upset their balance. We have 10 physical prisons in this state. That is 10 wardens, 10 superintendents, 10 laundries, 10 kitchens, 10 medical staffs and we are shrinking them to five. The cost of saving those monies and the economy of scale will be paying the principle and the interest on the bonds. We are doing it within existing resources without taking money out of the general fund. We asked them to find a way to pay for it and they did.

I understand there are people who do not want to see the prison move. I know one of the issues is the sewer. The prison issues have already negotiated and are working out a deal with the people in Thomaston to still pay them \$180,000 a year for 10 years to underwrite the sewer costs. The issue is this, there are no more beds. There are 173 people sleeping on cots, mattresses or on the floor. Those of you who want to throw the key away and say, let them sleep there, fine, but somebody is going to get seriously hurt. Thank you ladies and gentlemen.

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

The SPEAKER PRO TEM: The Chair recognizes the Representative from St. George, Representative Skoglund.

Representative **SKOGLUND**: Mr. Speaker, Ladies and Gentlemen of the House. A few more comments, if I may. The good Representative from Ellsworth mentioned that we did not want to upset the investors, which I think adds some credence to my argument that this is motivated, in part, by the prison industry. Someone is going to make money on loaning that \$63 million for Warren Prison. It is interesting to me that the *Wall Street Journal* published an article on the proposed prison in Warren. I talked at some length with the *Wall Street Journal* reporter amazed that they would take an interest in some little back water project in Knox County. When the article came out the reporter didn't mention that I had filed a bill to stop the building of the prison. The reporter didn't mention that a poll taken in Knox County by the *Courier Gazette* showed that two out of three people in Knox County who responded do not favor a new prison. The closer you are to a situation the less necessary you believe it is to replace the Thomaston Prison. That was not mentioned in the *Wall Street Journal* article. The spin put on that by the *Wall Street Journal* was that the prison is such a splendid idea that both Warren and Thomaston want it so they can process the affluent flowing from it. Yes, the bond market is interested in creating new prisons.

Being a carefully thought out plan, one would think that we would know what is going to happen to the old prison in Thomaston. No one knows what is going to happen to the old prison. I question whether or not the department can make a commitment to continue to pay Thomaston for not using its sewer disposal. Thomaston, within the past few years, built a \$12 million sewer plant. Of course, the prison is the largest customer. The prison is paying something like \$186,000 a year to Thomaston. If the prison pulls out, the citizens will be stuck. The department says they will continue to pay, but can the department legally commit the state's money for the next 12 years? I seriously wonder if the Department of Corrections can commit the state's money to Thomaston for the next 12 years.

Once again, it depends on your point of view. I don't think we have done all that we can to reduce the number of people incarcerated. I think the Legislature should look at the appropriateness of our sentences.

A mother called me from Down East. Her son had gotten on the drug habit and broke into some place and was sent to Thomaston for 16 years. Is that appropriate? I think we should think about it. I hope that when you vote, you will support reconsideration. I ask for a roll call, Mr. Speaker.

Representative SKOGLUND of St. George **REQUESTED** a roll call on **PASSAGE**.

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

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

Representative **POWERS**: Mr. Speaker, Men and Women of the House. Representative Skoglund has asked us to consider a very, very important question. Based on the theory of build it and they will come, he is asking us to consider what kind of a society we want to be. Will we be a society that puts first the locking up of troubled people or the treatment of troubled

people? I call your attention to something that was sent to us on our desks yesterday over the names of Senator Daggett and Representative Brennan. I understand they sent it because of their work on the Substance Abuse Commission, but I found it extremely pertinent to this discussion happening today. The editorialist was David Broder and he was explaining two programs, one in Maryland and one in Arizona. Decisions have been made to put funding first toward treatment for certain drug offenders. There is now specific demonstration, "The defenders diverted from prison and tested drug free at the end of their treatment programs. Further, the program appears to be substantially cheaper than putting people in prison." That article concludes with some remarks from Lieutenant Governor Kathleen Kennedy Townsend of Maryland who is the coordinator of her state's anti-crime program says, "A combination of sanctions and treatments work best. Addicted Americans are not the enemy. They require treatment."

I am not assured that by the time the new facilities that the Corrections Department has proposed are built, there will be the savings of significant money to provide the programs, which are promised and so desperately needed at this time. It does look good on paper. I have seen those figures. They persuaded me initially. As I look at how money goes, a little bit more in depth in my position on the Appropriations Committee this year than I have in previous years. I am not so sure in 2002 or 2003 that those savings will be of the size that is calculated. I am skeptical that the economy actually will be realized in three, four or five years. I ask you to consider seriously this opportunity that Representative Skoglund has presented us. To take a stand for significant statement of how you want our society to be. By our expenditure of dollars, will be a state that puts treatment and rehabilitation first or one that puts locking up first? Thank you.

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

Representative **MUSE**: Mr. Speaker, Men and Women of the House. I stand before you today with sort of odd feelings about this. I spent 22 years, practically my entire adult life working in corrections. When I first came to this body, serving on the Criminal Justice Committee was the last place that I wanted to be. It was only after a conversation with Speaker Mitchell, who with her hand on my shoulder, gave me that look and told me it would be the best place for me to be. I realized that, of course, I wanted to be on the Criminal Justice Committee. I am delighted to have had that conversation with her and I am delighted to serve on that committee ever since then. One of the first things we addressed in the first year of my first term was the construction of the new prison and revamping the entire corrections system for the State of Maine. I had just completed work, spending five years working on the construction of the new Cumberland County Jail. Many of the players involved in this were the same players that were involved in that program. In the words of Speaker Mitchell, I was able to hit the ground running in that committee. I knew what I was looking at. I knew what the blueprints looked like. I knew who the players were and I knew what they were talking about. I knew what was being hidden and certain things were.

Representative Skoglund has said, and quite accurately I might add, that somebody is going to make money here. Ladies and gentlemen, is their a construction company anywhere in the world that operates for the sake of losing money. They are in business to make money. That is their job, but it is our job to watch and to establish guidelines for what they are doing and we

have done that for the last three to five years. It was stated that the Super Max is a terrible place. Yes it is. It is a terrible place for not very nice people. By its own name, it is the Super Max. Inmates are locked up there for 23 hours a day, not because they are good citizens and not because they have done good things. They have violated and broken the rules in the very society that we have made them go and live in, which is the state prison. They can't even conform to the rules in jail, so they are sent to the worst of the worst. There are worse in our country, by far. We could look at Marian, Illinois, where inmates spend 23 hours a day locked in their rooms some 20 stories below ground. It gets much worse than the Super Max, but this new facility will not be an addition to the Super Max.

This will be something called, direct supervision. That is not a corrections concept that came to Maine in a wheelbarrow. It is a concept that has been embraced by the United States Justice Department, the National Institute of Corrections and it is a trend that requires an inmate in the facility to conform to the rules. It allows us to stop saying you are going to lay on your bunk for 12 hours a day and watch, *So You Think You Know Maine*. It is not going to happen. I don't want to go through the entire philosophy of direct supervision versus linear supervision. We have had these conversations in our committee for several years. I am delighted, truly delighted, that Representative Skoglund brought this bill forward because I hope, I really hope, that it has ignited a sense of concern and sense of awareness in this body as to the need for program dollars in our correctional facilities. I hope that fire that has been lit doesn't die out, because I agree with Representative Skoglund and I have said it for many, many, many years. We do lock up too many people in the State of Maine. There are alternatives. They cost money and certainly in the words of James Garfield back in 1988 who said that it is cheaper to reduce crime than to build jails in our country. That is very true, but we also know that the condition in our facilities right now is overcrowded and we can't keep putting the roosters into the hen house, as the Representative stated, and not expect problems.

This plan has been worked and reworked and reworked again very publicly by members of this body. It is a project whose time has come. The time came several years ago for this project. Now we have an opportunity to move forward with it. Now we have an opportunity to continue to look at implementing more programs. We need to do that. We should do that. I hope that the people who question this remember that when somebody comes forward and says we need to hire another 25 probation officers so we can implement programs and stop putting so many people in prison. The time will come for that. Thank you Mr. Speaker.

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

Representative PERKINS: Mr. Speaker, Colleagues of the House. I have talked this over with the good Representative from Thomaston several times and I agree with him. I listened carefully to see what he might have left out of his speeches that I might comment on. I don't want to be redundant. I found virtually nothing. I just want to share with you a couple of feelings. It is very difficult to speak against a unanimous report out of committee, not only one, but two out of two separate Legislatures. Jotting down notes, I would have to say that Representative Powers gave a very eloquent speech and said a lot of the things that I was feeling and couldn't seem to get written down in my notes. I congratulate her for that.

Some of the words that Representative Skoglund shared with us really resonate. One is what we are doing here is setting policy for generations. The decision to build this facility, it sets the policy for generations. It sets the direction. A lot of the things we do in here, I am starting to realize, we try to jog things and tinker with things or tear things down or start/stop them. Sometimes nobody looks or very few people look at the long-range picture. I have to congratulate Representative Skoglund for being a visionary in this regard where a lot of us get caught up in the daily grind. He is a visionary. I have a nagging feeling that he is on to something here. He said that Maine needs to be a leader. We always have been leaders. We were one of the earliest to abolish capitol punishment. We are proud of that. The hangman's noose is no longer a symbol of this state. That thinking has been abolished for decades and decades. Somehow or other I feel that a huge prison is kind of like the noose. It is kind of a symbol of something that we should be able to outgrow. We should have new ways of dealing with these problems.

I was glad to know we had programs of restorative justice and people are taking a look, but I don't think we are taking a look at treatment nearly to the degree that we should. If we let this huge thing be built, we are heading down a direction that is going to be very difficult to turn around. Representative Skoglund is a voice crying in the wilderness and I think we ought to listen to him. Thank you.

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

Representative MCALEVEY: Mr. Speaker, Ladies and Gentlemen of the House. I do agree that we are failing and that every time we put somebody in prison somewhere along their life we failed them, because they should have had the substance abuse counseling. The reality is, the state has made the decision to lock up its most dangerous criminals. The reality is, where else are you going to put them? I am talking about a fella by the name of Flemming who is doing life in prison for killing two people, one person he physically bit off parts of her anatomy before he killed her. I am talking Megison and Shotsleve who killed a woman in Parsonsfield and hit her so hard with frying pan that it took her head off. They don't deserve to be in society anymore. The majority of the people at Thomaston, we have failed them, yes, but except for the first time murders, in most cases, most of the people had a life of crime. We are talking about very, very violent rapists, murders, people who beat people within inches of their lives. They have had due process. They have had representation and our society, this state, has said you can no longer live uncontrolled in society. You must live in a confinement area. Yes, we are failing the people before they even get there. The bottom line is some of these people are broke and we can't fix them. It doesn't mean we shouldn't try. We need to give them the counseling. We put a 60 bed crisis bed intervention unit in Thomaston two years ago for mental health services. That doesn't mean we shouldn't provide for them.

The three Cs of correction are care, custody and control. We do our very, very best to care for these people. We need to keep them in custody to keep us safe from them, but make no mistake, many of the most violent people that are in Thomaston are not in the Max. These people know how to do time. They are sitting in Thomaston. They know how to make the system work for them. Basically the people in the Max are the people who can't do time. The people who for the first time in their lives

at age 21 or 19, someone has said you will do ABC and D. They don't know how to mind. They are a danger to our regular population. We do owe each person in prison the best possible medical services, psychological services, drug and alcohol counseling and sex abuse counseling. We tried to do that. If we did a better job on the outside, we would have less people in prison. There is a personal responsibility here. The majority of people in Thomaston got there because they earned their way there by doing very, very horrid and despicable things to innocent people. They are entitled to services. They are entitled to programs and they should get them. We should provide everything we can to provide for them. They have demonstrated that they cannot live out society because someone else is going to get murdered or someone else is going to be horribly raped.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Bangor, Representative Baker.

Representative BAKER: Mr. Speaker, Men and Women of the House. Back in the late '80s and early '90s, when the recession came to Maine, it wasn't just school funding that got cut. It was also the programs in prisons. We had affective substance programs at that time. We had education programs designed to help our incarcerated citizens. Many of those programs were lost. We see the effects of that loss. Last spring when I learned that this prison was to be built I was simply astounded that the state was ready to put \$63 million into bricks and mortar and not into programs. I received a letter from the Penobscot County Jail last summer. I went to see the young man who had been in prison for 13 years. He was 31 years old at the time. He was in maximum security, set to be released on July 1. He had not been able to get psychiatric counseling. He had not been able to get any treatment programs because he was in maximum, but he was going to be on the street. He said that he didn't want to be on the street and you don't want me on the street if I can't get treatment. I began visiting others in prison and learned that, in fact, there are so few programs in our county jails. Furthermore, there is little connection between the county jail system and the state system. Of course, the county jail system is but a training ground for the state prisons, if we don't provide the treatment there.

I don't know much about the bricks and mortar issue of this particular prison, but in my gut I know that it would seem that we would want to put those precious dollars to programs before we put them to bricks and mortar. Some of you know that shortly after I entered the Legislature, my 31 year old daughter was raped in her Washington D.C. apartment. She was not the only one that week. There were three brutal rapes in the same neighborhood. Five months later when they captured the young man who had done this devastation, we learned that he was 17 years old at the time and he had been out of juvenile detention for one month where he had been incarcerated for eight months for the crime of rape. This man had been out for one month with no treatment, no programs and ready to destroy lives again. I have to tell you that I would like to see the Department of Corrections put the same emphasis on treatment programs. We know that most of our prisoners have substance abuse problems, but they are not being treated. They come out more addicted. I am told it is so easy to get alcohol inside and it is so easy to get drugs inside. Why don't we look at what we really need to do here, rather than to continue the prison industrial complex, rather than build it knowing they will come, rather than creating the situation that has just happened in Pennsylvania

where they didn't have all their beds filled so they began to get fill in from New York with amazing problems.

I would like to see this Legislature come to terms with what it would mean to bring the same amount of money, \$63 million, to bear on the treatment of our incarcerated citizens. Think of the personnel we could employ that way and get these people back out into the tax base so that you and I are not having to pay \$30,000 a year to keep a person in prison, \$50,000 maximum, robbing the school budget and, in fact, putting our worse resources where they really deserve to go. I applaud the Representative who has brought this to our attention. I think we, as a Legislature, deserve the chance to really look at it. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Augusta, Representative O'Brien.

Representative O'BRIEN: Mr. Speaker, Ladies and Gentlemen of the House. Part of me does apologize for standing to speak, I wasn't going to speak. I want to be home as early as everyone else. We haven't even got off the front page of our calendar, but as a member of the Criminal Justice Committee, I really feel the need to defend our committee and defend what has been said here today. I have been on this committee for the last three years. I have found it to be not only fun, but it has been an incredible committee. We have heard from several outside sources that of all the committees that they have ever worked with and lobbied before in their however many years that they have been lobbyists or spokesperson, they have found this committee to be the most deliberative and the most bipartisan committee that they have ever worked for. Perhaps it is because it is the term, criminal justice, that it may stress the term that we are hard-nosed people. I want to assure you that every day when we go in there, we spend literally hours on one bill. We deliberate between public safety, the needs of the public and the needs of the offenders and that includes treatment.

With all due respect to those who have their own committees and don't have the time to come and sit before the Criminal Justice Committee, we talk about treatment every day. We hold the Department of Corrections feet to the fire as tough as you can hold feet to the fire. We talk about substance abuse treatment. We talk about mental health treatment. We talk about sex offender treatment. We talk about the educational needs of our criminal offenders. Probably more than anything else, since I have been there, we have talked about the juvenile justice system and this all feeds into what we are talking about today. Before we can provide the treatment, believe me, this is all part of the package, we need to provide a safe environment for these offenders. It is not safe now. We need to provide a safe environment, a bed and three square meals a day after we do that, which this bill does, we then will be able to do the treatment. For those of you who also don't know, we have heard this plan over and over and over again.

All of the pieces fit together. There is a community corrections piece which includes all of these treatments that all of you so eloquently have spoken of and we hope that you will support them when they come up on the floor in the future. There is the community corrections piece, there is the juvenile justice piece, there is the Youth Center piece. All of this fits together. If we break off Warren, the Youth Center or this, it is not going to fit together. We have talked about this. This was a unanimous report for two years. There were some interesting points brought up during the last public hearing last week, but I would urge you to defeat this pending motion and accept the

unanimous report of the Criminal Justice Committee on all of our very, very hard deliberative work. Thank you.

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

Pursuant to Joint Rule 404, the affirmative vote of two-thirds of those members present is required for **PASSAGE**.

ROLL CALL NO. 118

YEA - Baker, Buck, Chick, Desmond, Duplessie, Fuller, Gerry, Goodwin, Gooley, Green, Joy, Mack, McKee, Mendros, Mitchell, Perkins, Pieh, Powers, Richard, Sirois, Skoglund, Stedman, Tracy, Trahan, Twomey, Volenik.

NAY - Ahearne, Andrews, Bagley, Belanger, Berry DP, Berry RL, Bolduc, Bowles, Brennan, Brooks, Bruno, Bryant, Bull, Bumps, Cameron, Campbell, Carr, Chizmar, Cianchette, Clark, Clough, Collins, Colwell, Cote, Cowger, Cross, Daigle, Davidson, Davis, Dudley, Dugay, Duncan, Dunlap, Etnier, Fisher, Foster, Gagne, Gagnon, Gillis, Glynn, Hatch, Heidrich, Honey, Jabar, Jacobs, Jodrey, Jones, Kane, Kasprzak, Kneeland, Labrecque, LaVerdiere, Lemoine, Lemont, Lindahl, Lovett, MacDougall, Madore, Mailhot, Martin, Marvin, Matthews, Mayo, McAlevey, McDonough, McGiocklin, McKenney, McNeil, Murphy E, Murphy T, Muse, Nass, Norbert, Nutting, O'Brien JA, O'Brien LL, O'Neal, O'Neil, Peavey, Perry, Pinkham, Plowman, Povich, Quint, Richardson E, Richardson J, Rines, Rosen, Samson, Sanborn, Savage C, Savage W, Saxl JW, Saxl MV, Sherman, Shiah, Shields, Snowe-Mello, Stanley, Stanwood, Stevens, Sullivan, Tessier, Thompson, Tobin D, Tobin J, Townsend, Treadwell, Tripp, True, Tuttle, Usher, Watson, Weston, Wheeler EM, Wheeler GJ, Williams, Winsor, Mr. Speaker.

ABSENT - Bouffard, Bragdon, Frechette, Schneider, Shorey, Waterhouse.

Yes, 26; No, 119; Absent, 6; Excused, 0.

26 having voted in the affirmative and 119 voted in the negative, with 6 being absent, 26 being less than two-thirds of the membership present, the Joint Order **FAILED OF PASSAGE**.

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **CRIMINAL JUSTICE** reporting **Ought Not to Pass** on Bill "An Act to Increase the Length of Probation for Domestic Violence from one Year to 2 Years"

(H.P. 51) (L.D. 65)

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" (H-429)** on same Bill.

Signed:

Representative:

MUSE of South Portland

READ.

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

Majority Report of the Committee on **CRIMINAL JUSTICE** reporting **Ought Not to Pass** on Bill "An Act to Require the Revocation of Probation for a Person Convicted of Domestic Violence if the Person Fails to Attend a Certified Batterers' Intervention Program"

(H.P. 290) (L.D. 398)

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" (H-430)** on same Bill.

Signed:

Representative:

MUSE of South Portland

READ.

Representative POVICH of Ellsworth 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 **LABOR** reporting **Ought Not to Pass** on Bill "An Act to Reward Academic Excellence for Students Who are 16 and 17 Years of Age"

(H.P. 810) (L.D. 1133)

Signed:

Senators:

DOUGLASS of Androscoggin
LaFOUNTAIN of York
MILLS of Somerset

Representatives:

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

SAMSON of Jay
 DAVIS of Falmouth
 TREADWELL of Carmel

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-404)** on same Bill.

Signed:

Representatives:

MacDOUGALL of North Berwick
 MACK of Standish

READ.

Representative HATCH of Skowhegan moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

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

Representative MACK: Mr. Speaker, Right Honorable Men and Women of the House. This bill is an incentive to study and be a good student. If you do well in school, under this bill, you would be allowed to work a few more hours. Some may argue that students working is bad, because it would hurt their grades. This bill allows students with an 85 or better average to work a few more hours. These are the students with good grades. These are the ones that should be rewarded with the ability to work a few more hours. Many students are involved in athletics or other extracurricular activities. They spend many more hours in athletics than these students would spend working. Athletics can build character. No one is suggesting that we cut back time on athletics. Work can build character as well. These working students learn the value of a dollar, showing up on time, getting a job well done and time management. These are all valuable skills they need for their entire life.

Many high school students want to go to college. They need to work a few extra hours to be able to afford to go to college and continue their education. This bill would allow them to do that and to further their dream of further education. I urge you to vote against the pending motion and reward these students with the ability to work a few extra hours. Thank you.

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

Representative HATCH: Mr. Speaker, Ladies and Gentlemen of the House. Just a brief explanation. During the First Regular Session of the 115th, the Committee on Labor was faced with a large number of bills concerning various aspects of the Child Labor Law. To its credit, rather than look at these bills piecemeal, the committee undertook a comprehensive review of these laws and passed a single bill. That bill was based on many hours of presentations and discussions. The current Subsection 774 is a result of that work. One of the key principles that the committee used in determining the validity of an action was that work, while useful and necessary component of a minor's life, should not interfere with a minors education. LD 1133 increases the number of hours that a 16 or 17 year old may work on a school day and decreases the number of daily hours allowed when school is not in session.

The Minority Report changes that. The amendment proposed in Section 1 of the bill has some technical problems. In one ranking period the minor might be eligible for the extra 10 hours a week and the next period they might not. This puts pressure on the worker, student and the employer to make sure that accurate and timely transcripts are always on file. While the bill states that it is the responsibility of the student to provide this information, the employer has overall responsibility for conduct of

the business and therefore, will suffer the legal consequences. It will make enforcement somewhat more complicated and probably involving the relevant school department to confirm ranking periods and grades. It should be noted that not every school system uses the same ranking method or standards, so making a judgment to whether a minor meets 80 percent standards could be difficult in some cases.

In addition, this proposal does not take into account those students who are home schooled who may not have rankings as anticipated by law. In summation, I would just like to say that we took a good look at this bill. It was brought forward on behalf of two business owners in the local area. We didn't see that we should be changing the law. We have good standing now working between the Education Department and the Department of Labor in regards to how many hours a student can work. They are required to take and check with the local superintendent if they want to work. I thank you very much and I hope that you will vote Ought Not to Pass.

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

Representative MACDOUGALL: Mr. Speaker, Men and Women of the House. The reason why I am on the side that I am on this morning is not because of the business or businesses that may have wanted this. It is more on the students side. I would like to share a few things with you this morning. We talk a lot in our education policy about preparing kids for the world of work. It is predominant theme though the whole education discussion. These particular students would have to maintain that B average in order to work those additional hours. That is only a certain percentage of the amount of students there are. Out of that number, perhaps only a few might want to exercise this option. If they so choose because they have earned that particular grade as an average, they might actually have an opportunity to learn about a business, basically broadening their education. They might be exposed to an experience that they wouldn't have otherwise. There is a catch in this. If they lose that B average and their grades falter, this additional ability to work these hours goes away. It rewards good work and just provides another opportunity.

In something of a personal nature many years ago when I was in high school and was preparing to go to college, I was 17 years of age during my senior year. I ended up working close to full time that year. It was a decision I made with my family. As I tried to set up my goals and priorities and being in a position to be able to help pay for the tuition. It was not easy. It was a very difficult ordeal. I gave up a lot of social things that were more pleasant, but that was a goal that I had sought and that I was able to seek out. All I am saying is that this bill provides that opportunity for those youngsters who have their goals set either for college or for some other endeavor after high school that in their particular family situation may require them earning as much money as possible. So, that leaves that option open.

Lastly, I would just say that our country has been full of people who have been blessed with what I would call overachievers, people who can rise above the average. This particular bill, if we pass it this morning, will just simply allow those individuals an opportunity to expand their horizons. I ask your support. Mr. Speaker, when the vote is taken, I request the yeas and nays.

Representative MacDOUGALL of North Berwick **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 PRO TEM**: The Chair recognizes the Representative from Gardiner, Representative Colwell.

Representative **COLWELL**: Mr. Speaker, Men and Women of the House. Thank you for the opportunity to address you on this bill. I am the sponsor of this bill, but I would like to say that I really do commend the good Representative from Skowhegan on her comments on the fairness and deliberations that the Labor Committee gave to this bill. When I put this in, I merely was trying to offer some flexibility in a way that kids who need to generate additional income to further their academic aspirations. As the bill was worked, it became clear that all the problems with the bill that the good Representative from Skowhegan mentioned were significant problems. Rather than impose a unilateral system on all our school boards and school systems throughout the state in order to accommodate my bill, it became clear to me that perhaps I should try to achieve this goal in another arena. Indeed I am working with the Department of Education on an alternative that would leave our child labor laws in the delicate and perhaps, I think, good balance that they are in now and still be able to offer some flexibility. I just wanted to say that I do appreciate the work of the Labor Committee. I would like to just say, vote your conscience on this one. Thank you very much.

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

Representative **MCKEE**: Mr. Speaker, Men and Women of the House. I rise in support of the Majority Ought Not to Pass Report. I would like to tell you why. Like many of you, I worked through high school and I remember how very difficult it was. I did not wish that upon my children. When I began to teach in 1963, I had students who worked 40 hours a week. They worked all night and then came school. They could barely keep their eyes open throughout the day. In 1981, when I came back into the classroom, I was delighted. Most students worked 5 to 10 hours a week. Not one student in the honors class worked and not one student in the advanced placement class was encouraged to work. We knew that athletics and extracurricular activities were important for the emerging adult and especially for the adolescent. I can tell you having just stepped out of the classroom less than two hours ago that that is not the case today. Work consumes our youth. Almost every student I teach has a job. A daily lament is I was too tired to do my homework.

I am working closely with a young woman who because she is 18, she is allowed to work longer. She is a bright young woman who should be going to college, but is so tired at the end of every day, she works about 30 hours a week. She could be an A or B student, but because she is so tired, she is learning very little and her chances of getting into college are diminishing on a daily basis. Jobs are readily available. Students are under a great deal of pressure to take extra jobs. We have various work programs in our high schools that also encourage these students to work. I will tell you and I am sure the other teachers sitting here on the floor of this House will tell you the same thing, let these students be students. We have parents complaining about homework. Please do not give our students homework. How in the world will we be able to prepare our students for the world if we can only do the work during their time in school. That is the pressure that we are under.

Neil Postman wrote a book long ago called *the Disappearance of Childhood* lamenting what we do to children to get them to grow up so much more quickly. I fear that

adolescence is also rapidly disappearing and students are encouraged to become adults at such an early age. The classroom is the place for them. We are doing things on a daily basis that are important. Please do not encourage students to work past 10 hours, if at all possible. Statistics show that our students do best if they work only 10 hours. They would actually improve their grades if they worked 5 to 10 hours. I am not opposed to students working, but putting a limit on it is extremely important. I urge you to accept the Majority Ought Not to Pass Report.

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

Representative **MATTHEWS**: Mr. Speaker, Men and Women of the House. I hope you will follow my good Chair from Skowhegan, Representative Hatch, and other speakers. The issue did get thoroughly discussed by the committee. I just want to share with you just a recent example of this legislation and the concern that we should have about it in expanding the amount of hours for high school kids to work. Just recently I happened to be with my wife at a particular grocery store, that will remain anonymous. This was after 9:00. It happens in many families. You do that later now. On the way out to the vehicle to put the packages in the vehicle, this young kid that I happened to recognize because he happened to be going out with, dating, a member of our family. He is a young upstanding good kid, hardworking. He happened to mention to my wife and I that he had worked almost seven hours that day after school and was tired. He wanted to go home. He had a lot of work to do. The supervisor of this particular food store was not listening to him. I said that there is a protection, child labor laws, that protect you. I gave him that information. I gave him the Department of Labor's number. Come to find out, this kid had been forced to work a lot of extra hours. This kid is one of those young bright Maine kids that we have many of that was really burning it at both ends. I don't want to see that happen ladies and gentlemen of the House. We have to be very, very careful. I think the most important job that these kids can do is to get a good education. High school is just the start. This young kid probably with my help and others will get him situated and back on track. I think this is happening more and more today. We have to be very, very careful. We have to protect these young kids and don't expand this good, workable regulation. Let's keep the kids in school and let's keep them doing their homework. Thank you Mr. Speaker.

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

Representative **SAMSON**: Mr. Speaker, Men and Women of the House. I stand to support the Ought Not to Pass motion. Although I am sure the intentions of this bill are meant to be good, in reality, they will not be good. Ten or 12 years ago there was a major revamp of the child labor laws in the state. I think they have worked to the benefit of the children in the state. I just want you to remember that the child labor laws we have in place today are number one, met to protect the children in the state. Number two, to protect the wages. Number three, to protect the jobs. Those laws are working and I hope that you will vote Ought Not to Pass. Thank you.

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

Representative **DAVIS**: Mr. Speaker, Men and Women of the House. When I started teaching in 1959, students did work, but they supported their mothers and fathers. They generally were

kids from poor families. When I retired in 1996 kids worked to support their habits, their cars, their girlfriends and boyfriends. In my opinion, one of the most common things that has happened in the American high school are kids working. Hundreds and hundreds of them work. Their academic performance goes down. The atmosphere of the high school goes down. High School is for learning. They should be drinking deeply of the spring of learning and they are not. The child labor laws, in my opinion, are being slowly undone. It started in the '60s and has accelerated. The town, state, federal and city governments seem to encourage this. It has been, in my opinion, exploited from the very beginning. They are supposed to work five hours and they end up working 10. They are supposed to work 10 hours and they work 20 and so on. I would urge you to follow Representative Hatch's recommendation and light and vote her way. Thank you very much.

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

Representative **GOODWIN**: Mr. Speaker, Men and Women of the House. In my other life, I am on a school board in Washington County. The present law allows 20 hours a week, four hours a day. A lot of our high school kids get on a bus at 7 in the morning and by the time they get back it is 3 o'clock. That four hours a day that they are going to be working into the evening hours. Granted in this bill they must maintain high averages and high standards, but 20 hours a week is a lot of apply in the off hours. I applaud Representative Colwell from Gardiner and his comments about the Labor Committee. We worked as hard on this bill as we did on workers' comp bills. We came to a resolution and I ask this body to support the Majority Ought Not to Pass Report. Thank you.

The SPEAKER PRO TEM: 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. 119

YEA - Ahearne, Bagley, Baker, Belanger, Berry DP, Berry RL, Bolduc, Bowles, Brennan, Brooks, Bruno, Bryant, Bull, Bumps, Cameron, Campbell, Carr, Chick, Chizmar, Cianchette, Clark, Clough, Cote, Cowger, Cross, Davidson, Davis, Dudley, Dugay, Duncan, Dunlap, Duplessie, Etnier, Fisher, Fuller, Gagnon, Gagnon, Gerry, Glynn, Goodwin, Green, Hatch, Honey, Jabar, Jacobs, Jodrey, Kane, Kneeland, LaVerdiere, Lemoine, Lemont, Lindahl, Lovett, Madore, Mailhot, Martin, Marvin, Matthews, Mayo, McDonough, McGlocklin, McKee, McNeil, Mendros, Mitchell, Murphy E, Murphy T, Muse, Nass, Norbert, Nutting, O'Brien LL, O'Neal, O'Neil, Peavey, Perry, Pieh, Pinkham, Povich, Powers, Quint, Richard, Richardson E, Richardson J, Rines, Rosen, Samson, Sanborn, Savage C, Savage W, Saxl JW, Schneider, Sherman, Shiah, Shields, Sirois, Skoglund, Snowe-Mello, Stanley, Stanwood, Stevens, Sullivan, Tessier, Thompson, Tobin D, Tobin J, Townsend, Tracy, Trahan, Treadwell, Tripp, True, Tuttle, Twomey, Usher, Volenik, Watson, Weston, Wheeler EM, Wheeler GJ, Williams, Mr. Speaker.

NAY - Andrews, Buck, Collins, Colwell, Foster, Gillis, Gooley, Heidrich, Jones, Joy, Kasprzak, Labrecque, MacDougall, Mack, McAlevey, McKenney, O'Brien JA, Perkins, Plowman, Saxl MV, Stedman, Waterhouse, Winsor.

ABSENT - Bouffard, Bragdon, Daigle, Desmond, Frechette, Shorey.

Yes, 122; No, 23; Absent, 6; Excused, 0.

122 having voted in the affirmative and 23 voted in the negative, with 6 being absent, the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Bridgton, Representative Waterhouse who wishes to speak on the record.

Representative **WATERHOUSE**: Mr. Speaker, Men and Women of the House. In reference to item (4-1) having been out of the room on legislative business, I wish it to be recorded that if I was present I would have voted nay.

Six Members of the Committee on **LEGAL AND VETERANS AFFAIRS** report in Report "A" **Ought to Pass as Amended by Committee Amendment "A" (H-384)** on Bill "An Act to Expedite Removal of Invalid Voter Names from Voter Lists" (H.P. 322) (L.D. 438)

Signed:

Senators:

CAREY of Kennebec
FERGUSON of Oxford

Representatives:

MAYO of Bath
HEIDRICH of Oxford
McKENNEY of Cumberland
GAGNE of Buckfield

Six Members of the same Committee report in Report "B" **Ought Not to Pass** on same Bill.

Signed:

Senator:

DAGGETT of Kennebec

Representatives:

LABRECQUE of Gorham
CHIZMAR of Lisbon
TUTTLE of Sanford
FISHER of Brewer
PERKINS of Penobscot

READ.

On motion of Representative TUTTLE of Sanford, Report "B" **Ought Not to Pass** was **ACCEPTED** and sent for concurrence.

Majority Report of the Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought Not to Pass** on Bill "An Act to Amend the Illegal Transportation of Liquor Law" (H.P. 706) (L.D. 973)

Signed:

Senator:

DAGGETT of Kennebec

Representatives:

CHIZMAR of Lisbon
TUTTLE of Sanford
FISHER of Brewer
GAGNE of Buckfield
McKENNEY of Cumberland
SHIAH of Bowdoinham

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-383)** on same Bill.

Signed:

Senators:

CAREY of Kennebec
FERGUSON of Oxford

Representatives:

LABRECQUE of Gorham
MAYO of Bath
PERKINS of Penobscot
HEIDRICH of Oxford

READ.

Representative TUTTLE of Sanford moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

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

Representative THOMPSON: Mr. Speaker, Men and Women of the House. I would encourage you to defeat the pending motion, Ought Not to Pass. This is my bill. I have a vested interest in it. Let me tell you a little bit about my motivation for bringing this bill forward and then I will tell you what it does. I happened to be in Bridgton Court last fall covering for someone. I don't get into court as much as I used to. I was sitting there and I watched three people go through court cases for possession of unauthorized amounts of alcohol that were purchased in another state. One young man paid a \$150 fine for possession of a case and half of beer. As a matter of fact, these incidences all took place in the good Representative from Fryeburg's town. They came to the Bridgton District Court. A couple weeks later I happened to be in York County in a courthouse and saw some of the same things going on.

Since I have been here I have been very concerned about the practice of the liquor enforcement people in the state where they observe people, sit in the New Hampshire parking lot, purchasing alcohol. When they cross the state line, they are stopped and given citations in the State of Maine for purchasing too much alcohol in the State of New Hampshire. I understand why the law is on the books, to stop large quantities of alcohol from coming in from out of state and to protect our local businesses. However, I think this absurd what we charge people for. If someone is in possession of a case and a half of beer, they are violating the law of the State of Maine and subject to be summonsed into court and fined.

One of my other options was to file a bill to prohibit liquor enforcement people from going into New Hampshire and observing Maine citizens as they made their purchases. I decided that was a bit unwieldy and complicated. What I tried to do was to set new limits on how much beer and wine could be brought into the state without violating Maine law. My amendment does simply two things. It says, you can bring four cases of beer or a case of wine into the State of Maine without being stopped by the police and cited with what could potentially be a criminal violation.

This also has to do with my area being a tourist area. Someone from out of state that packs up to go away on a vacation for a week often does their grocery shopping before they go and buys a couple of cases of beer and throws them into the trunk. If they cross into Maine with that two cases of beer, they are in violation of state law. This is a great way to encourage tourism. You didn't know about this foolish law in the first place and now we are going to give you a ticket and bring you into court and make you pay a fine. I think the amounts that I have proposed in this bill are very reasonable. They will discourage the liquor enforcement people from going after the average citizen who just happens to be buying a couple of cases

of beer. I would ask you, encourage you, to defeat the Ought Not to Pass report and to support, just barely a Minority Report.

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

Representative TUTTLE: Mr. Speaker, Men and Women of the House. As you have heard, the bill increases the amounts of spirits, wine and malt liquor that may be legally transported within the state. Presently under Maine law, you are allowed three gallons, which would be about 16, 12 ounce cans or a two-third of a case to bring in the state. You would be allowed to bring in four quarts of wine and four quarts of alcohol, spirits.

Under Representative Thompson's proposal that would change in that it would go from three to nine gallons, which is two cases of beer. The wine would increase from four quarts to twelve quarts. The spirits or alcohol would increase from four quarts to twelve quarts. As you have heard Representative Thompson say to you, it is his feeling that the present restrictions are too great and that current law is too restrictive for those who are entering the state for a month or on a summer long vacation. Being on the opposite side, I deal with this issue a lot in talking with my constituents. In analyzing the issue, I feel that the limitations on the transport of liquor are in place for a good reason.

The purpose of the current law is to regulate alcohol, payment of taxes and competition with other states. The liquor enforcement is open to discussion on issues like this. In recent years I have seen an increase, as many of us know, in the amounts of penalties in this area. In my opinion, if there are people that are presently breaking the law, by passing this bill we are encouraging them to do it in a greater extent. In my opinion, I think that we have to encourage people to come to Maine to buy in Maine. For that reason, I would ask that you support the Majority Ought Not to Pass Report. Thank you Mr. Speaker.

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

Representative MCALEVEY: Mr. Speaker, Ladies and Gentlemen of the House. I support the position of my good friend from Naples. I always thought as a law enforcement officer busting people for bringing alcohol into the state was a cheap pinch. Our liquor enforcement capabilities are limited. I think as a public policy matter, we can send a strong message to that department and that bureau. They should be investing their time in looking in the parking lots in Maine for people who are buying alcohol and then selling it to juveniles in Shop N' Save and small variety store parking lots. Their energies could be best spent teaching alcohol server training to people who serve alcohol in establishments so they don't drive away intoxicated. I think this is good public policy. I think that we need to redirect their efforts into enforcement within the State of Maine. Their size and their number of people available are very small. They are limited for a state this size. I think it is good public policy to direct them in their investigative efforts elsewhere than continuing this practice, which I think is an old blue law and should go away eventually. Thank you.

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

Representative MAYO: Mr. Speaker, Men and Women of the House. I, too, rise to support the good Representative from Naples and urge you to accept the Majority Ought to Pass Report. I would call your attention to what the rest of New England does with regard to this issue. On malt limits, Massachusetts has a 20 gallon statute and Maine has three.

New Hampshire has no limits and Vermont has six gallons. As to wine, Massachusetts has three gallons and Maine has four quarts, which isn't even a case. New Hampshire has no limits and Vermont has six gallons, which allows you to bring into the State of Vermont a little in excess of one case. Hard liquor, Massachusetts has one gallon. Maine and Massachusetts are alike on this one. New Hampshire has none and Vermont has two gallons.

Ladies and gentlemen, this is an old, old law that is currently on the books. I think it is time to make a change in this particular statute. It is very confusing to those people who come into the State of Maine, as the good Representative from Naples said for a week, weekend or a month vacation. They don't realize that this state's laws with regard to the transportation of liquor are so antiquated. I would urge you to vote against the Majority Ought Not to Pass Report and move forward with the Minority Report. Thank you very much.

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

Representative **GAGNE**: Mr. Speaker, Ladies and Gentlemen of the House. I am on the committee's Ought Not to Pass report as well. We had the State Liquor Enforcement Officer talk to us as well about this topic. You have to remember here that we make money on liquor. That is part of the revenue that comes into the State of Maine. We open it up to nine gallons instead of four quarts or 20 gallons or whatever it is, you are also infringing on the sales here in the state and you are going to hurt us in that regard. Also, I think it kind of opens the door. If we get this amount of liquor this year and another bill comes in and we keep expanding this, then we are kind of wide open. I felt that based on the information that we had, that the best thing was to stay with the laws that we do have right now until we do remove the sale of liquor by the state.

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

Representative **THOMPSON**: Mr. Speaker, Men and Women of the House. There is just one more thing that I wanted to add that I forgot to say when I was up the first time. That is, I know there is a fair number of people here that are going to vote with me because virtually everyone of them have violated this law themselves. If you honestly asked yourself, have you ever violated this law yourself and should you have been a criminal and do you know anybody that has violated this law, should they be a criminal? If so, I should carry about three quarters of the votes in this hall. Thank you.

The Speaker resumed the Chair.

The House was called to order by the Speaker.

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

Representative **MURPHY**: Mr. Speaker, Men and Women of the House. I rise on this bill today to tell a little history on what we did, what actually happened in the State of Maine back in 1992. What happened was a gentleman from Massachusetts came to the Portsmouth Liquor Store and they had a sale on wine. In New Hampshire liquor stores you can buy wine. He was going on his way to Efinham, New Hampshire to his camp. He bought a couple of cases of that wine on sale to take to camp for the summer. He came out of the store, put the wine in his

trunk, got in the car and his wife suggested they go to the mall in Maine and do a little shopping. There was a big colored picture in the *Boston Globe* and it was saying all Maine points north. He said, "I took the wrong turn." He went north to all Maine points and he went across the border and they stopped him. They took all his wine. They had no intentions of drinking it in Maine. They had no intentions of coming to Maine and it just gives us a bad impression. If we want tourists to come here, I don't think we ought to stop them on the border to see what they have in their trunk. Believe me, 95 in New Hampshire has two liquor stores. One going south and one going north. Back in 1994, the statistics in New Hampshire of how many Maine people, not from York County necessarily, but from the other counties in this state and went over the border and bought liquor in one month in March 1994. There were a lot of them, especially from Cumberland, York and Oxford Counties. The three big liquor stores in New Hampshire at that time was Portsmouth, Somersworth and North Conway. That is where most of the Maine customers went and bought their liquor. It is not the tourists coming in here and buying the liquor. We are. I think it is unfair that we cannot spend out money where we want to. This is the United States. We earn our money and they should be able to spend it where they want to. I think we would make a lot more money and be a lot friendlier state if we would allow people to come and go freely with whatever goods they want to. I hope you would support the motion of the good Representative from Naples. Thank you.

The SPEAKER: The Chair recognizes the Representative from Cumberland, Representative McKenney.

Representative **MCKENNEY**: Mr. Speaker, Men and Women of the House. I am sorry to have to rise in opposition to the Representative from Bath, my mentor, but perhaps he has mentored me too well. I also find it ironic that a legislator from the coast needs to stand up here and defend the sanctity of our border with New Hampshire. You have heard that this bill is probably unenforceable. More than likely it is. You have heard that we should put our enforcement dollars in other places. Probably we should. You have also heard that they are cheating now. They are bringing more alcohol across our borders as we speak. That is probably true, but to increase it just encourages more cheating. The bottom line is this. It is a very simple issue for me. We should discourage shopping in New Hampshire. We shouldn't encourage it. They are the worst neighbors anybody could have. Legislators are just like people too. They want to shop in a place that is tax-free and they want to shop in a place that has cheap alcohol. We should be above that. Thank you.

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

Representative **TRUE**: Mr. Speaker, Ladies and Gentlemen of the House. It is rare that I speak against any particular person that is on this committee having served on it for six years. I feel strongly that I should support the Ought Not to Pass for this reason. I have on many occasions risen to bring out the point that those of us that live on the border have a very, very, very difficult time, and have for a long while, dealing with the sales tax. I thought about putting in a bill just for controversy sake to have the line of the sales tax to go and move in an easterly direction. It is very difficult for the people in my district to really become more law abiding citizens with these because, truthfully, of the economy. The economy is not good in Oxford County. If you read the pamphlets and things which we have had for the last four years, I think that can be proven. I do feel that

somehow we have got to do it so that people are not breaking the law. That is why I shall support this action. I certainly don't support cheating. I don't support drinking. However, I have lived long enough to know that it is going to occur. If we can avoid that, then we should. I don't believe it will cost us a great deal of money. If we find that it does, maybe that, again, would be impetus to do something about the tax situation which we have in Maine. I thank you.

The SPEAKER: The Chair recognizes the Representative from Lisbon, Representative Chizmar.

Representative CHIZMAR: Mr. Speaker, Men and Women of the House. I would like to personally thank Representative True for stealing my thunder. What I have left in lieu of repeating what he has said is, I have served on the Legal and Veterans Affairs Committee for five years. This is the third occasion that I will have to express my opinion and vote Ought Not to Pass on this issue. Mr. Speaker, I request a roll call.

Representative CHIZMAR of Lisbon 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 Bridgton, Representative Waterhouse.

Representative WATERHOUSE: Mr. Speaker, Ladies and Gentlemen of the House. I just want to respond to the good Representative from Cumberland that talked about the sanctity of the border and getting it confused. I think what those of us who are on the border with New Hampshire are not concerned with the sanctity of the border as much as we are concerned with the high taxes and being competitive. That is the situation. I don't want to do anything that is going to stop the flow of commerce and that is what this is. I am really surprised that this has never been challenged in court. We had a situation in my town of Harrison that the Town of Harrison was charging a camp a certain amount of fee for their out of state campers. They were taxing them at a higher rate and it was challenged in court. It went all the way to the US Supreme Court. The US Supreme Court found Harrison in violation of the interstate commerce. I read that decision and they actually mentioned this situation with the border and the alcohol. They said that issue has not been addressed yet. I do feel as though this type of policy is the wrong type of policy. I think that it does violate the US Constitution and the Interstate Commerce Act. I hope you will vote against the pending motion. Thank you.

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

ROLL CALL NO. 120

YEA - Ahearne, Bagley, Baker, Berry DP, Berry RL, Bolduc, Bumps, Carr, Chizmar, Clark, Colwell, Cross, Desmond, Fisher, Gagne, Gerry, Glynn, Hatch, Lemoine, Lovett, Martin, Matthews, McDonough, McKee, McKenney, Norbert, O'Brien JA, O'Brien LL, O'Neal, Pieh, Pinkham, Powers, Richard, Saxl MV, Sherman, Shiah, Sirois, Tessier, Tobin D, Townsend, True, Tuttle, Twomey, Williams, Mr. Speaker.

NAY - Andrews, Belanger, Bowles, Brooks, Bruno, Bryant, Buck, Bull, Cameron, Campbell, Chick, Cianchette, Clough, Collins, Cote, Cowger, Daigle, Davidson, Davis, Dudley, Dugay, Duncan, Dunlap, Duplessie, Etnier, Foster, Fuller, Gagnon, Gillis, Goodwin, Gooley, Green, Heidrich, Honey, Jacobs, Jodrey,

Jones, Joy, Kane, Kneeland, Labrecque, LaVerdiere, Lemont, Lindahl, MacDougall, Madore, Mailhot, Marvin, Mayo, McGlocklin, McNeil, Mendros, Mitchell, Murphy E, Murphy T, Muse, Nass, Nutting, O'Neil, Peavey, Perkins, Perry, Plowman, Povich, Quint, Richardson E, Richardson J, Rines, Rosen, Samson, Sanborn, Savage C, Savage W, Saxl JW, Schneider, Shields, Shorey, Skoglund, Snowe-Mello, Stanley, Stanwood, Stedman, Stevens, Sullivan, Thompson, Tobin J, Tracy, Trahan, Treadwell, Tripp, Usher, Volenik, Waterhouse, Watson, Wheeler EM, Wheeler GJ, Winsor.

ABSENT - Bouffard, Bragdon, Brennan, Frechette, Jabar, Kasprzak, Mack, McAlevey, Weston.

Yes, 45; No, 97; Absent, 9; Excused, 0.

45 having voted in the affirmative and 97 voted in the negative, with 9 being absent, the Majority Ought Not to Pass Report was **NOT ACCEPTED**.

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

The Bill was **READ ONCE**. Committee Amendment "A" (H-383) was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Friday, May 7, 1999.

Majority Report of the Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought Not to Pass** on Bill "An Act to Prohibit Lobbying by Government Agencies" (H.P. 1271) (L.D. 1832)

Signed:

Senators:

DAGGETT of Kennebec

CAREY of Kennebec

Representatives:

TUTTLE of Sanford

CHIZMAR of Lisbon

FISHER of Brewer

MAYO of Bath

SHIAH of Bowdoinham

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-415)** on same Bill.

Signed:

Senator:

FERGUSON of Oxford

Representatives:

GAGNE of Buckfield

LABRECQUE of Gorham

PERKINS of Penobscot

HEIDRICH of Oxford

McKENNEY of Cumberland

READ.

Representative TUTTLE of Sanford 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.

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

The SPEAKER: The Chair recognizes the Representative from Durham, Representative Schneider who wishes to address the House on the record.

Representative **SCHNEIDER**: Mr. Speaker, Men and Women of the House. On item (4-1), I would have voted nay.

The SPEAKER: The Chair recognizes the Representative from Mapleton, Representative Desmond who wishes to address the House on the record.

Representative **DESMOND**: Mr. Speaker, Men and Women of the House. Having been out of the chamber on legislative business during Roll Call 119, LD 1133, I would like to be recorded as yea.

Majority Report of the Committee on **MARINE RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-396)** on Bill "An Act to Establish an Appeals Process for Lobster Fishing License Denial"

(H.P. 1387) (L.D. 1993)

Signed:

Senators:

GOLDTHWAIT of Hancock

PENDLETON of Cumberland

Representatives:

STANWOOD of Southwest Harbor

HONEY of Boothbay

ETNIER of Harpswell

LEMONT of Kittery

McNEIL of Rockland

USHER of Westbrook

PIEH of Bremen

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (H-397)** on same Bill.

Signed:

Representatives:

VOLENIK of Brooklin

PINKHAM of Lamoine

BAGLEY of Machias

READ.

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

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

Representative **VOLENIK**: Mr. Speaker, Men and Women of the House. The only difference between Report "A" and Report "B" is that Report "B" allows the waiver of one year of time in the apprentice program for every three years experience in the fishery. Report "A" does not. Both reports provide for an appeals process to get a lobster license back if a former fisherman was prevented from fishing because of illness or military service.

Remember those games where you advance along a board until you roll the wrong number or you land on a penalty space and then you have to go back to the beginning. You have to start from scratch and give up all your winnings. Do not pass go and do not collect \$200. Thank heavens we are adults now. We are in America. We have put aside our games and we go to work in a world where you work hard and you reap the benefits of your work knowing that your work, at least, will always be

there. Maybe that is true for you and I, but not for the lobster fishermen. The lobstermen must always remember to renew his license each year or else. The lobstermen with fishing experience often years and years of experience who is not in the military and was not prevented by illness or a medical condition from fishing for a year or who did not or could not renew his license for that year for any other reason than those two, must go back to square one. They must not pass go. They must start from scratch as an apprentice in the lobster program. They must fish on someone else's boat if they can find a sponsor. Giving up his boat for at least two years. He must give up his former income, living on less. Feeding his family on less and struggling to pay the mortgage on a boat that he can't even use for two years, even though he is a seasoned, experienced Maine fishermen.

Yes, a few of the fishermen who have fallen through the cracks will be helped by passage of Report "A," but the majority will simply continue their slide through the cracks, like a legal lobster sliding through the new vent. The heartlessness of the big guys, the full time, full gear, full press lobbying big guys of the Lobster Advisory Council who brought you Report "A." They will beach the boats of the little guys. The little guys without lobbyists who have only us to protect them and their livelihood. Listen to the big guys, if you will, vote for their Report "A" if you will. I, for one, will stand up for the little guy and try to protect his livelihood today by voting against the current motion so that we can go on to accept Report "B." Thank you.

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

Representative **PINKHAM**: Mr. Speaker, Men and Women of the House. This bill reflects back to the mother of all lobster bills that we passed back in 1995. That was when we created the apprenticeship program. The apprenticeship program was never meant to keep people that had a lobster license in the past and fishing experience out of the fishery. It only was meant to apply for the new people coming into the fishery that didn't have the lobster fishing experience. That is why the apprenticeship program was created. It was to train these people on how to lobster fish.

Two years ago when the moratorium went on lobster licenses in 1998, the name of the bill was "An Act to Limit New License Holders." The emphasis should be put on new. These people we are talking about with the three years experience aren't new license holders. They have had a Class 1, 2 or 3 license in the past. The Minority Report would allow these people who had past lobster fishing experience and could document it to the commissioner that they had this experience, then you would be able to waive one year of the apprentice program for each three years that they had a license. I ask that you vote no on the pending motion so we can pass the Minority Report and give some of these fishermen a license to make a living. Thank you.

Representative ETNIER of Harpswell **REQUESTED** a roll call on his motion to **ACCEPT** the Majority **Ought to Pass as Amended** Report.

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

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

Representative **ETNIER**: Mr. Speaker, Men and Women of the House. Back in 1998 there was a moratorium passed in this state on new lobster licenses with language in that moratorium for the Lobster Advisory Council to report back to this Legislature

with a plan for an appeals process for those people who have been denied access to a lobster fishing license. The Lobster Advisory Council, despite what you have heard, does not consist of lobbyists. It consists of full time lobster fishermen who are elected by lobstermen and women in their zone in each zone of the state from Kittery to Cutler. It was a unanimous vote of the Lobster Advisory Council to go with basically what is the Majority Report. We, on the majority, went along with their request. We made one or two minor changes, but it is basically the same report as they requested.

Ever since 1995, as the good Representative from Lemoine has mentioned, fishermen have known that entry was becoming limited in this fishery. All three bills that were considered in 1995 had moratoriums in them. Unfortunately from my perspective, we weren't able to put in a limited entry at that point. The word got out in 1995. How did the word get out? All seasoned and experienced lobster fishermen in the State of Maine had to go to their town office in their town and line up and prove to the Department of Marine Resources that they were lobstermen in the past. They either had to document landings or substantial investment in the fishery in order to qualify for a lobster license in the year 1996. Every fishermen in the state who wanted to remain a lobster fishermen had to go through that process. It wasn't an overly successful process. It actually let far more fishermen in who weren't real fishermen in the past. It was such a liberal criteria, but there was a severe heads up in 1995 that things were only going to get more restrictive.

For a variety of reasons, some valid and some not, a handful of people have been affected by the changes that have been made over the last few years to entry into this fishery. The Lobster Advisory Council and the majority of the committee could not devise what we felt was a clean method to accommodate only those who have been adversely affected with good reasons other than what are in the bill, which are justifiable military reasons and medical conditions of yourself or a family member. The Advisory Council and the majority of the committee felt those were very good reasons to be granted an appeal. We went with that. Several of those who have been denied a lobster fishing license in the past couple of years, I have constituents who fall into this, have already started going through the apprenticeship program. They found out in 1998 that they were not going to get a lobster license. They signed up for the apprenticeship program and they have been logging their time. Soon they will have completed their two years and they will be eligible to get a lobster license. A number of them have already started.

There is almost 400 people in the apprentice lobster license program at this point. In addition to the apprenticeship program, there are about 100 people who have applied for an existing waiver to the apprenticeship program that is in current law. There is 100 people who are waiting to get a lobster license through that existing waiver, which I won't go into detail here, because it is not before us today.

The majority of the committee felt strongly that the waiver that is contemplated in the Minority Report is well intentioned. We don't doubt that at all. It is sincere. It has what we feel is a serious potential impact of allowing many new license holders into a fishery that is crying out for serious limits on effort. Many fishermen currently fishing have been willing to accept cutbacks in the amount of traps they fish in order to address concerns they have regarding too many traps in the water and too many fishermen in many areas of the state. I urge you to please support the Majority Ought to Pass Report that is before you and

support the majority of the committee and the unanimous request of the Lobster Advisory Council. Thank you for your time.

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

Representative **PINKHAM**: Mr. Speaker, Men and Women of the House. I would just like to clarify a couple of things. Since the bill was passed in 1995, we have 2,029 less lobster fishermen right now that was shut out. Most of those people were shut out when the law was passed. These are people that had traps, had boats and had lobster fishing experience. Some of them have signed up for the apprenticeship program. If you have boats and traps and everything of your own to have to go two years with somebody else and can't use your own boat or can't use your own equipment, it is a hardship. These people have to make payments on this stuff and are unable to use it. Also, the students can come in without the apprenticeship program with 150 traps with no experience at all. I think we should be looking out more for the people that need to make a living. We are not talking about a lot. Like I say, there are 2,029 less than there was in 1995. There are also some 3,000 less traps in the water right now than there was in 1995. I think we need to be looking out for the people that need to make a living for their families. They still can't have 1,000 traps to get into the fishery. I think we need to be looking out for those people more really than we do for the seven or eight year old students that can get in with no training at all. Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative **LINDAHL**: Mr. Speaker, Men and Women of the House. I have a constituent right now that in 1995 he had a Class 1 license. He was in high school and he was lobstering to make his money and a marine patrol officer said, why don't you get a student license. It is only half price and you will be able to lobster with that. He did that. He got himself a student license for the next three years while he went on to college. While he was in college, he held that student license. This year he is not in college and he wants to go lobstering. Will either one of these bills allow him to get a license because he can't right now. Thank you.

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

Representative **ETNIER**: Mr. Speaker, Men and Women of the House. In response to the good Representative from Northport's question, I believe we have discussed this constituent. Neither one of these bills have the language in it that will help him in any way. There is no doubt about that. There is another bill that I have mentioned to you that has language that will help him, but it won't help him until that bill becomes law, which will be in September. Current law allows for a waiver from the apprentice program for a person that can document practical lobster fishing experience as a holder of a student license. I would think that also might help him. That is current law. Thank you.

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

ROLL CALL NO. 121

YEA - Andrews, Baker, Belanger, Berry DP, Berry RL, Bolduc, Bowles, Brennan, Brooks, Bruno, Bryant, Buck, Bull, Bumps, Cameron, Chick, Chizmar, Cianchette, Clough, Collins, Colwell, Cote, Cowger, Cross, Davidson, Dudley, Dunlap, Duplessie, Etnier, Fisher, Fuller, Gagne, Gagnon, Gooley, Green, Hatch, Honey, Jacobs, Jodrey, Kane, Kneeland, Labrecque, LaVerdiere, Lemoine, Lemont, Lindahl, Lovett, Madore, Mailhot, Martin, Matthews, Mayo, McDonough, McGlocklin, McKee, McKenney, McNeil, Mitchell, Murphy E, Murphy T, Muse, Norbert, Nutting, O'Brien JA, O'Brien LL, O'Neal, O'Neil, Perry, Pieh, Plowman, Povich, Powers, Quint, Richardson E, Richardson J, Samson, Savage C, Savage W, Saxl JW, Saxl MV, Schneider, Shiah, Snowe-Mello, Stanwood, Sullivan, Tessier, Tripp, True, Tuttle, Twomey, Usher, Watson, Wheeler GJ, Williams, Winsor, Mr. Speaker.

NAY - Ahearne, Bagley, Bragdon, Campbell, Carr, Clark, Davis, Desmond, Dugay, Duncan, Foster, Gerry, Gillis, Glynn, Goodwin, Heidrich, Jones, Joy, Kasprzak, MacDougall, Mack, Marvin, Mendros, Nass, Peavey, Perkins, Pinkham, Richard, Rines, Rosen, Sanborn, Sherman, Shields, Shorey, Sirois, Skoglund, Stanley, Stedman, Tobin D, Tobin J, Tracy, Trahan, Treadwell, Volenik, Waterhouse, Weston, Wheeler EM.

ABSENT - Bouffard, Daigle, Frechette, Jabar, McAlevey, Stevens, Thompson, Townsend.

Yes, 96; No, 47; Absent, 8; Excused, 0.

96 having voted in the affirmative and 47 voted in the negative, with 8 being absent, the Majority **Ought to Pass as Amended Report was ACCEPTED.**

The Bill was **READ ONCE. Committee Amendment "A" (H-396)** was **READ** by the Clerk and **ADOPTED.** The Bill was assigned for **SECOND READING** Friday, May 7, 1999.

Majority Report of the Committee on **NATURAL RESOURCES** reporting **Ought Not to Pass** on Bill "An Act to Amend Environmental Penalties to Prohibit Fines on First-time Violators"

(H.P. 1245) (L.D. 1774)

Signed:

Senators:

LIBBY of York
NUTTING of Androscoggin
TREAT of Kennebec

Representatives:

ETNIER of Harpswell
McKEE of Wayne
MARTIN of Eagle Lake
CLARK of Millinocket
COWGER of Hallowell
DAIGLE of Arundel

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-435)** on same Bill.

Signed:

Representative:

JOY of Crystal

READ.

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

Majority Report of the Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-408)** on RESOLUTION, to Amend the Constitution of Maine to Elect 2 Senators from Each County

(H.P. 452) (L.D. 615)

Signed:

Senators:

PENDLETON of Cumberland
GOLDTHWAIT of Hancock
DAVIS of Piscataquis

Representatives:

AHEARNE of Madawaska
BAGLEY of Machias
RINES of Wiscasset
BUMPS of China
KASPRZAK of Newport
JODREY of Bethel
RICHARDSON of Greenville
GERRY of Auburn

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

Signed:

Representatives:

McDONOUGH of Portland
TWOMEY of Biddeford

READ.

On motion of Representative AHEARNE of Madawaska, the RESOLUTION and all accompanying papers were **COMMITTED** to the Committee on **STATE AND LOCAL GOVERNMENT** and sent for concurrence.

Majority Report of the Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-411)** on Bill "An Act to Amend the Laws Relating to Notaries Public"

(H.P. 643) (L.D. 893)

Signed:

Senators:

PENDLETON of Cumberland
GOLDTHWAIT of Hancock
DAVIS of Piscataquis

Representatives:

AHEARNE of Madawaska
BAGLEY of Machias
RINES of Wiscasset
McDONOUGH of Portland
TWOMEY of Biddeford
BUMPS of China
KASPRZAK of Newport
JODREY of Bethel
RICHARDSON of Greenville

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (H-412)** on same Bill.

Signed:

Representative:

GERRY of Auburn

READ.

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

The Bill was **READ ONCE**. **Committee Amendment "A" (H-411)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Friday, May 7, 1999.

Majority Report of the Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-413)** on Resolve, Authorizing the Commissioner of Administrative and Financial Services to Sell or Lease the Interests of the State in the Maine Criminal Justice Academy in Waterville; Part of the Kennebec Arsenal in Augusta; Part of the Maine Youth Center in South Portland; and 2 Parcels in Gray Near the Pineland Center

(H.P. 1203) (L.D. 1713)

Signed:

Senators:

PENDLETON of Cumberland
GOLDTHWAIT of Hancock
DAVIS of Piscataquis

Representatives:

AHEARNE of Madawaska
BAGLEY of Machias
RINES of Wiscasset
McDONOUGH of Portland
BUMPS of China
KASPRZAK of Newport
JODREY of Bethel
RICHARDSON of Greenville

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

Signed:

Representatives:

TWOMEY of Biddeford
GERRY of Auburn

READ.

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

The Bill was **READ ONCE**. **Committee Amendment "A" (H-413)** was **READ** by the Clerk and **ADOPTED**. The Resolve was assigned for **SECOND READING** Friday, May 7, 1999.

Majority Report of the Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought Not to Pass** on Bill "An Act to Amend the InforME Laws"

(H.P. 1308) (L.D. 1867)

Signed:

Senators:

PENDLETON of Cumberland
GOLDTHWAIT of Hancock
DAVIS of Piscataquis

Representatives:

AHEARNE of Madawaska
BAGLEY of Machias
RINES of Wiscasset
McDONOUGH of Portland
TWOMEY of Biddeford
BUMPS of China
KASPRZAK of Newport
JODREY of Bethel

RICHARDSON of Greenville

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-414)** on same Bill.

Signed:

Representative:

GERRY of Auburn

READ.

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

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

Majority Report of the Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-410)** on Bill "An Act to Amend the Laws Governing Secession"

(H.P. 1433) (L.D. 2056)

Signed:

Senators:

PENDLETON of Cumberland
GOLDTHWAIT of Hancock
DAVIS of Piscataquis

Representatives:

AHEARNE of Madawaska
BAGLEY of Machias
RINES of Wiscasset
McDONOUGH of Portland
BUMPS of China
KASPRZAK of Newport
JODREY of Bethel
RICHARDSON of Greenville
GERRY of Auburn

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

Signed:

Representative:

TWOMEY of Biddeford

READ.

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

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

Representative **TWOMEY**: Mr. Speaker, Men and Women of the House. I do stand alone on this bill. I am not ashamed of that. The reason I voted against the committee report is because this is a mandate to municipalities. In my community we have had secession movements many times. This would be a third party negotiator that would be paid for 50 percent by the municipalities and 50 percent by the people who are trying to secede. I did not want that for my community. Thank you.

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

Representative **BUMPS**: Mr. Speaker, Men and Women of the House. The complexities of this piece of legislation or any other piece of secession legislation probably don't warrant a great deal of explanation on the floor this afternoon. I will ask for

you to consider the enormous amount of time that has been spent in the 116th, 117th, 118th and the 119th Legislatures on matters surrounding secession. I would also ask you to consider the enormous amount of time that the Committee on State and Local Government spent working on this particular bill and amending it to make what we consider to be a very viable instrument for managing secession attempts at the local level.

Representative Twomey from Biddeford has made a point that medication would be required in cases where conflict couldn't be resolved and when that mediation is required, the cost of that mediation would be shared by the municipality and the secession territory. That is true. I would simply suggest to you this afternoon that the costly alternative of bringing unnecessary secession attempts to this Legislature has cost the municipality far more than any mediation that this bill would require might cost. This is a collaboration. This is truly a compromise. It is an effort that has been worked on for several legislatures. I would simply ask for your support on the Majority Ought to Pass Report. Thank you.

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

Representative MCDONOUGH: Mr. Speaker, Ladies and Gentlemen of the House. I rise to ask you to support this bill. It is important. My community went through this process. It was very difficult. The questions that came up before the State and Local Government Committee were questions that were asked by the State and Local Government Committee of our city when we were here testifying. This frames the thing so there is a procedure in place that will treat everybody the same way. I think it is a good bill and would ask you to support it. Thank you Mr. Speaker.

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

A vote of the House was taken. 128 voted in favor of the same and 4 against, the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-410)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Friday, May 7, 1999.

Majority Report of the Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-442)** on Bill "An Act to Prohibit Law Suits by Municipalities Against Firearm or Ammunition Manufacturers" (EMERGENCY)

(H.P. 1537) (L.D. 2192)

Signed:

Senators:

PENDLETON of Cumberland
DAVIS of Piscataquis

Representatives:

AHEARNE of Madawaska
McDONOUGH of Portland
BUMPS of China
KASPRZAK of Newport
GERRY of Auburn

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

Signed:

Senator:

GOLDTHWAIT of Hancock

Representatives:

BAGLEY of Machias
RINES of Wiscasset
TWOMEY of Biddeford
JODREY of Bethel
RICHARDSON of Greenville

READ.

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

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

Majority Report of the Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought Not to Pass** on Joint Order Relative to Locating an On-Site Day-Care Center in the Capitol Complex

(H.P. 58)

Signed:

Senators:

PENDLETON of Cumberland
GOLDTHWAIT of Hancock
DAVIS of Piscataquis

Representatives:

BAGLEY of Machias
RINES of Wiscasset
McDONOUGH of Portland
KASPRZAK of Newport
JODREY of Bethel
RICHARDSON of Greenville

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-443)** on same Joint Order.

Signed:

Representatives:

AHEARNE of Madawaska
TWOMEY of Biddeford
BUMPS of China
GERRY of Auburn

READ.

Representative AHEARNE of Madawaska moved that the House **ACCEPT** the Minority **Ought to Pass as Amended** Report.

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

Representative O'BRIEN: Mr. Speaker, Colleagues of the House. I would just like to clarify what this is. This is a Joint Order that came out very, very early in the session. It finally is here and what this does is merely to establish a committee to look at the issue of establishing an on-site daycare center here in the capitol complex. Several of you have talked about this issue for many, many years, but during the construction period if it is ever going to happen, it is going to happen now. It is to look if it is feasible, the cost of it and to get the players involved in it. I envision for those you may see this as a huge fiscal note. I see this as a privately run entity with no subsidy for state employees. As many of you know, daycare is a huge issue. We have discussed this at length throughout the session. This would also include legislative and legislative staff. I thank you for your support.

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

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

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

Representative **KASPRZAK**: Mr. Speaker, Men and Women of the House. I would ask before we do vote on this matter that you consider that there has already been a study on this issue. Second of all, if you believe in government competing with private industry and private daycare centers, then you should be against this bill. Third, should we be using taxpayer funds to pay for daycare for state workers? I don't think so. I hope you will follow my light.

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

Representative **O'BRIEN**: Mr. Speaker, Colleagues of the House. Just to clarify something, before I even put this bill in, I was very concerned about whether it would affect my district. I sent letters to every single registered and licensed daycare home and center in the area asking for their opinions on this. I did receive many. Most of them were in support of this. This commission does not say that there will be one, it is to also include one of the members of the local daycare association to make sure that we aren't stepping on local businesses toes. I think that issue has been taken care. Thank you.

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

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

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

Representative **GLYNN**: Mr. Speaker, Men and Women of the House. To anyone that would be inclined to answer, I understand that the reporting date for this committee is, in a very short period of time, I would like to know what that reporting date is and how they can possibly make suitable recommendations in that time?

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

ROLL CALL NO. 122

YEA - Ahearne, Baker, Belanger, Berry RL, Bolduc, Bowles, Bragdon, Brennan, Brooks, Bryant, Bull, Bumps, Campbell, Chick, Chizmar, Clark, Colwell, Cote, Cowger, Cross, Daigle, Davidson, Davis, Desmond, Dudley, Duplessie, Etnier, Fuller, Gagne, Gagnon, Gerry, Goodwin, Green, Hatch, Jacobs, Kane, Kneeland, LaVerdiere, Lemoine, Lovett, Madore, Mailhot, Martin, Matthews, Mayo, McGlocklin, McKee, McKenney, McNeil, Mendros, Mitchell, Murphy E, Murphy T, Muse, Norbert, O'Brien JA, O'Brien LL, O'Neal, O'Neil, Peavey, Perkins, Perry, Pieh, Povich, Powers, Quint, Richard, Richardson J, Samson, Sanborn, Savage C, Savage W, Saxl JW, Saxl MV, Sherman, Shiah, Shields, Shorey, Sirois, Skoglund, Snowe-Mello, Stanley, Stanwood, Stevens, Sullivan, Tessier, Tobin D, Tobin J, Townsend, Tracy, Tripp, True, Tuttle, Twomey, Usher, Volenik, Watson, Wheeler GJ, Williams, Mr. Speaker.

NAY - Andrews, Bagley, Berry DP, Bruno, Buck, Cameron, Carr, Cianchette, Clough, Collins, Dugay, Duncan, Dunlap, Foster, Gillis, Glynn, Gooley, Heidrich, Honey, Jodrey, Jones, Joy, Kasprzak, Labrecque, Lemont, Lindahl, MacDougall, Mack,

Marvin, McDonough, Nass, Nutting, Pinkham, Richardson E, Rines, Rosen, Schneider, Stedman, Trahan, Treadwell, Waterhouse, Weston, Wheeler EM, Winsor.

ABSENT - Bouffard, Fisher, Frechette, Jabar, McAlevey, Plowman, Thompson.

Yes, 100; No, 44; Absent, 7; Excused, 0.

100 having voted in the affirmative and 44 voted in the negative, with 7 being absent, the **Minority Ought to Pass as Amended Report** was **ACCEPTED**.

The Joint Order was **READ**. **Committee Amendment "A" (H-443)** was **READ** by the Clerk and **ADOPTED**.

The Joint Order was **PASSED as Amended by Committee Amendment "A" (H-443)** and sent for concurrence.

Majority Report of the Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-393)** on Bill "An Act to Amend the Laws Regarding when a Merchant Must Remit Sales Tax"

(H.P. 306) (L.D. 422)

Signed:

Senator:

DAGGETT of Kennebec

Representatives:

GAGNON of Waterville

GREEN of Monmouth

DAVIDSON of Brunswick

COLWELL of Gardiner

STANLEY of Medway

LEMOINE of Old Orchard Beach

LEMONT of Kittery

MURPHY of Berwick

BUCK of Yarmouth

CIANCHETTE of South Portland

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (H-394)** on same Bill.

Signed:

Senators:

MILLS of Somerset

RUHLIN of Penobscot

READ.

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

The Bill was **READ ONCE**. **Committee Amendment "A" (H-393)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Friday, May 7, 1999.

Majority Report of the Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-392)** on Bill "An Act to Exempt Military Retirees from State Income Taxes"

(H.P. 360) (L.D. 485)

Signed:

Senator:

RUHLIN of Penobscot

Representatives:

GAGNON of Waterville

GREEN of Monmouth

DAVIDSON of Brunswick

COLWELL of Gardiner

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

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

Signed:

Senators:

DAGGETT of Kennebec
MILLS of Somerset

READ.

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

The Bill was **READ ONCE**. **Committee Amendment "A"** (H-392) was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Friday, May 7, 1999.

Majority Report of the Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A"** (H-395) on Bill "An Act to Create a Sales Tax Exemption for Child Abuse and Neglect Councils"

(H.P. 976) (L.D. 1374)

Signed:

Representatives:

GAGNON of Waterville
GREEN of Monmouth
DAVIDSON of Brunswick
COLWELL of Gardiner
STANLEY of Medway
LEMOINE of Old Orchard Beach
LEMONT of Kittery
MURPHY of Berwick
BUCK of Yarmouth
CIANCHETTE of South Portland

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

Signed:

Senators:

RUHLIN of Penobscot
DAGGETT of Kennebec
MILLS of Somerset

READ.

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

The Bill was **READ ONCE**. **Committee Amendment "A"** (H-395) was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Friday, May 7, 1999.

Majority Report of the Committee on **TRANSPORTATION** reporting **Ought Not to Pass** on Bill "An Act to Amend the Laws Pertaining to Entrances to Highways"

(H.P. 368) (L.D. 493)

Signed:

Senators:

CASSIDY of Washington
PARADIS of Aroostook

Representatives:

FISHER of Brewer

COLLINS of Wells
SANBORN of Alton
CAMERON of Rumford
WHEELER of Eliot
LINDAHL of Northport
BOUFFARD of Lewiston
SAVAGE of Union
WHEELER of Bridgewater

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A"** (H-431) on same Bill.

Signed:

Senator:

O'GARA of Cumberland

Representative:

JABAR of Waterville

READ.

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

Majority Report of the Committee on **TRANSPORTATION** reporting **Ought to Pass as Amended by Committee Amendment "A"** (H-434) on Bill "An Act to Ensure the Continued Operation of an Information Center in Fryeburg"

(H.P. 1259) (L.D. 1813)

Signed:

Senators:

O'GARA of Cumberland
CASSIDY of Washington
PARADIS of Aroostook

Representatives:

FISHER of Brewer
COLLINS of Wells
CAMERON of Rumford
WHEELER of Eliot
BOUFFARD of Lewiston
SAVAGE of Union
WHEELER of Bridgewater

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

Signed:

Representatives:

SANBORN of Alton
LINDAHL of Northport
JABAR of Waterville

READ.

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

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

Majority Report of the Committee on **TRANSPORTATION** reporting **Ought to Pass** on Bill "An Act to Change the Fine for Speeding in a School Zone"

(H.P. 1462) (L.D. 2094)

Signed:

Senators:

O'GARA of Cumberland

PARADIS of Aroostook
CASSIDY of Washington

Representatives:

FISHER of Brewer
COLLINS of Wells
SANBORN of Alton
WHEELER of Eliot
JABAR of Waterville
BOUFFARD of Lewiston
SAVAGE of Union

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

Signed:

Representatives:

CAMERON of Rumford
LINDAHL of Northport
WHEELER of Bridgewater

READ.

Representative WHEELER of Eliot 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 **TRANSPORTATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-432)** on Bill "An Act Requiring That the Costs of Transporting Highway Construction and Maintenance Materials to Isle au Haut by Barge or Ferry be Paid from the Highway Fund"

(H.P. 1522) (L.D. 2172)

Signed:

Senators:

O'GARA of Cumberland
CASSIDY of Washington
PARADIS of Aroostook

Representatives:

FISHER of Brewer
COLLINS of Wells
WHEELER of Eliot
JABAR of Waterville
BOUFFARD of Lewiston
SAVAGE of Union
WHEELER of Bridgewater
SANBORN of Alton

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

Signed:

Representatives:

CAMERON of Rumford
LINDAHL of Northport

READ.

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

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

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

(H.P. 71) (L.D. 84) Bill "An Act to Make It a Crime to Solicit a Child by Means of Computer to Commit an Unlawful Sexual Act" Committee on **CRIMINAL JUSTICE** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-449)**

(H.P. 211) (L.D. 289) Bill "An Act to Amend the Uniform Unclaimed Property Act concerning Tangible Property Held by Landlords or by State Institutions" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-463)**

(H.P. 276) (L.D. 384) Bill "An Act to Establish Victims' Rights for the Victims of Juvenile Crimes" Committee on **CRIMINAL JUSTICE** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-457)**

(H.P. 316) (L.D. 432) Bill "An Act to Adopt the Uniform Child Custody Jurisdiction and Enforcement Act" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-464)**

(H.P. 687) (L.D. 943) Bill "An Act to Implement the Tobacco Settlement" Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-448)**

(H.P. 694) (L.D. 961) Bill "An Act to Strengthen the State's Drug Laws" Committee on **CRIMINAL JUSTICE** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-454)**

(H.P. 787) (L.D. 1110) Bill "An Act Regarding the Calculation of Child Support When the Child Receives Disability Benefits" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-462)**

(H.P. 832) (L.D. 1155) Bill "An Act to Amend the Laws Regarding Abandoned Property" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-461)**

(H.P. 963) (L.D. 1361) Bill "An Act to Increase the Requirement that Drugs be Confiscated from 48 Hours to One Year" Committee on **CRIMINAL JUSTICE** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-458)**

(H.P. 1091) (L.D. 1538) Bill "An Act to Grant Immunity to Medical Professionals Conducting Body Cavity Searches for Drugs" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-460)**

(H.P. 1250) (L.D. 1798) Bill "An Act to Implement the Recommendations of the Commission to Study Providing Educators with More Authority to Remove Violent Students from Educational Settings" Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-453)**

(H.P. 1258) (L.D. 1812) Bill "An Act to Require the Development of a Basic Needs Budget" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-450)**

(H.P. 1389) (L.D. 1994) Bill "An Act to Amend the Laws Regarding Unlawful Cutting of Trees" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-459)**

(H.P. 1404) (L.D. 2009) Bill "An Act to Redefine Trafficking and Furnishing of Heroin in Terms of the Amount of the Drug Possessed" Committee on **CRIMINAL JUSTICE** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-456)**

CONSENT CALENDAR
First Day

(H.P. 1414) (L.D. 2021) Bill "An Act to Establish the Commission to Propose an Alternative Process for the Payment of Forensic Examinations for Sexual Assault Victims" Committee on **CRIMINAL JUSTICE** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-455)**

(H.P. 1533) (L.D. 2186) Bill "An Act to Authorize York County to Hold Bond Referenda for New County Facilities" Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-447)**

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. 530) (L.D. 1563) Bill "An Act to Implement the Recommendations of the Commission to Study the Funding and Distribution of Teletypewriters and Other Telecommunications Equipment for People with Disabilities"

(S.P. 351) (L.D. 1055) Bill "An Act to Bring Certain Maine Drug Test Levels into Conformity With Federal Standards" (C. "A" S-156)

(S.P. 527) (L.D. 1560) Bill "An Act to Amend the Qualifications for Appointment of the Adjutant General and Assistant Adjutant General" (C. "A" S-151)

(S.P. 620) (L.D. 1785) Resolve, Regarding the Conveyance of a Right-of-way Across the Elizabeth Levinson Center in Bangor (C. "A" S-160)

(S.P. 628) (L.D. 1793) Bill "An Act Regarding Funding for Vocational Technical Schools" (C. "A" S-159)

(S.P. 635) (L.D. 1802) Bill "An Act to Restore the Distribution Formula Between Private and Public Colleges within the Maine Student Incentive Scholarship Program" (C. "A" S-158)

(S.P. 649) (L.D. 1829) Bill "An Act to Establish a Permit for the Marine Shrimp Fishery" (C. "A" S-153)

(S.P. 672) (L.D. 1894) Bill "An Act to Amend the Statutes Regarding Maine Veterans" (C. "A" S-150)

(S.P. 702) (L.D. 1977) Bill "An Act to Create the Farmington Falls Standard Water District" (EMERGENCY) (C. "A" S-148)

(S.P. 703) (L.D. 1973) Bill "An Act to Support the Graduate Education of Speech Pathologists for Maine Schools" (C. "A" S-161)

(S.P. 724) (L.D. 2044) Bill "An Act to Amend the Charter of the Pleasant River Standard Water District" (C. "A" S-149)

(H.P. 1538) (L.D. 2193) Bill "An Act to Allow the Fort Kent County District to be Dissolved and Combined With the Town of Fort Kent" (EMERGENCY)

(H.P. 75) (L.D. 88) Bill "An Act to Add to the List of Mandatory Reporters of Suspected Child Abuse Children's Summer Camp Employees" (C. "A" H-441)

(H.P. 297) (L.D. 405) Bill "An Act to Require That the State of Maine Comply with Federal Public Law 96-272, the Adoption Assistance and Child Welfare Act of 1980" (C. "A" H-440)

(H.P. 525) (L.D. 732) Bill "An Act to Require Certain Disclosures by Providers of Funeral Services" (C. "A" H-398)

(H.P. 535) (L.D. 742) Bill "An Act to Amend the Animal Welfare Laws" (C. "A" H-444)

(H.P. 569) (L.D. 790) Resolve, Regarding Legislative Review of Chapter 380: Energy Conservation Programs by Electric

Transmission and Distribution Utilities, a Major Substantive Rule of the Public Utilities Commission (EMERGENCY) (C. "A" H-400)

(H.P. 628) (L.D. 878) Bill "An Act to Require the State to Be Responsible for the Costs of School Employee Criminal History Records Checks and Fingerprinting" (C. "A" H-405)

(H.P. 703) (L.D. 970) Resolve, Authorizing the Knox County Commissioners to Borrow Not More than \$2,500,000 for Construction or Renovation of a District Court and Office Areas in Knox County (EMERGENCY) (C. "A" H-407)

(H.P. 856) (L.D. 1213) Bill "An Act Regarding the Effective Date of Guardian Ad Litem Training" (C. "A" H-439)

(H.P. 867) (L.D. 1224) Bill "An Act to Allow the Town of Cornville to Receive its 1997 Tree Growth Tax Reimbursement" (C. "A" H-389)

(H.P. 903) (L.D. 1281) Bill "An Act to Raise Penalties for Cases of Cruelty to Animals or Birds" (C. "A" H-419)

(H.P. 960) (L.D. 1358) Bill "An Act to Promote Stability in Labor Management Relations in the Public Sector" (C. "A" H-433)

(H.P. 1002) (L.D. 1400) Bill "An Act to Amend Juvenile Corrections Laws and to Establish a Juvenile Records Repository" (C. "A" H-428)

(H.P. 1038) (L.D. 1460) Bill "An Act to Allow Sharing of Information for Child Protective Investigations" (C. "A" H-438)

(H.P. 1053) (L.D. 1484) Bill "An Act to Conform the Maine Tax Laws for 1998 With the United States Internal Revenue Code" (EMERGENCY) (C. "A" H-387)

(H.P. 1103) (L.D. 1550) Resolve, to Establish a Task Force to Study the Improvement of Public Water Supply Protection (C. "A" H-425)

(H.P. 1107) (L.D. 1566) Bill "An Act to Clarify the Definition of Terms Relating to Scheduled Drugs" (C. "A" H-420)

(H.P. 1116) (L.D. 1575) Bill "An Act to Criminalize Internet Dissemination of Child Pornography" (C. "A" H-418)

(H.P. 1127) (L.D. 1586) Bill "An Act to Require a Mortgagee to Record the Discharge of a Mortgage Within 30 Days" (C. "A" H-382)

(H.P. 1128) (L.D. 1587) Bill "An Act to Allow the Surviving Veteran Spouse of a Veteran to Continue to Receive the Property Tax Exemption" (C. "A" H-388)

(H.P. 1162) (L.D. 1673) Bill "An Act to Amend the Abandoned Property Laws" (C. "A" H-436)

(H.P. 1182) (L.D. 1693) Bill "An Act to Clarify the Regulation of Viatical Settlement Contracts When Sold as Investments" (C. "A" H-402)

(H.P. 1198) (L.D. 1708) Bill "An Act to Amend the Home-release Monitoring Program" (C. "A" H-417)

(H.P. 1201) (L.D. 1711) Bill "An Act to Clarify the Law Governing Disbursements from the Groundwater Oil Clean-up Fund" (C. "A" H-426)

(H.P. 1254) (L.D. 1808) Bill "An Act to Amend the Definition of Lender Under the Uncontrolled Hazardous Substance Sites Law" (C. "A" H-423)

(H.P. 1284) (L.D. 1845) Bill "An Act to Limit the Imposition of Excise Taxes on Watercraft" (C. "A" H-385)

(H.P. 1299) (L.D. 1860) Bill "An Act Allowing the Appointment of Temporary Guardians of Minors" (C. "A" H-437)

(H.P. 1310) (L.D. 1871) Bill "An Act to Revise Procedures for Probation Revocation" (C. "A" H-427)

(H.P. 1311) (L.D. 1872) Bill "An Act to Establish Municipal Cost Components for Unorganized Territory Services to be

Rendered in Fiscal Year 1999-00" (EMERGENCY) (C. "A" H-386)

(H.P. 1367) (L.D. 1965) Bill "An Act to Establish the Maine Dental Education Loan Program" (C. "A" H-406)

(H.P. 1442) (L.D. 2063) Bill "An Act to Maintain Protection of Sand Dunes Under Existing Law" (C. "A" H-424)

(H.P. 1449) (L.D. 2070) Bill "An Act to Protect Library Materials in Circulation and to Designate Secure Archival Repositories" (C. "A" H-416)

(H.P. 1459) (L.D. 2091) Bill "An Act to Amend the Charter of the Richmond Utilities District" (C. "A" H-399)

(H.P. 1546) (L.D. 2202) Bill "An Act to Improve the Effectiveness of the Driver Education and Evaluation Programs" (C. "A" H-403)

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

(H.P. 947) (L.D. 1344) Bill "An Act to Provide Long-term Funding for the Land for Maine's Future Program" (C. "A" H-390)

On motion of Representative CAMPBELL of Holden, was **REMOVED** from the Second Day Consent Calendar.

The Committee Report was **READ**.

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

Representative JOY: Mr. Speaker, Ladies and Gentlemen of the House. This is one of those bills that wants to continue the Land For Maine's Future Program continuing to take land from private ownership and placing it into public ownership. I believe this is the bill that takes a portion of the real estate transfer tax and puts it into a fund to continue that process. In so doing, ladies and gentlemen, it makes a hole in the general fund. One that has to be filled by some other means. We have had proposals to us indicating that we need considerable dollars for GPA. I suggest that we don't need to be diverting money to other uses when we need to fill those gaps for GPA. Mr. Speaker, I request a roll call.

Representative JOY of Crystal **REQUESTED** a roll call on **ACCEPTANCE** of the Unanimous Committee 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 Unanimous Committee Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 123

YEA - Bagley, Baker, Berry RL, Bolduc, Bragdon, Brennan, Brooks, Bryant, Bull, Bumps, Cameron, Chizmar, Cianchette, Colwell, Cote, Cowger, Davidson, Davis, Desmond, Dudley, Dugay, Dunlap, Duplessie, Etnier, Fisher, Fuller, Gagne, Gagnon, Goodwin, Green, Hatch, Jabar, Jacobs, Kane, Kneeland, LaVerdiere, Lemoine, Lemont, Mailhot, Martin, Matthews, McDonough, McGlocklin, McKee, Mitchell, Murphy E, Muse, Norbert, O'Brien JA, O'Brien LL, O'Neil, Perkins, Perry, Peh, Povich, Powers, Quint, Richard, Richardson J, Rines, Samson, Sanborn, Savage W, Saxl JW, Saxl MV, Shiah, Sirois, Skoglund, Stanley, Stevens, Sullivan, Tessier, Townsend, Tracy,

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

NAY - Ahearne, Andrews, Belanger, Berry DP, Bowles, Bruno, Buck, Campbell, Carr, Chick, Clough, Collins, Cross, Daigle, Duncan, Foster, Gerry, Gillis, Glynn, Gooley, Heidrich, Honey, Jodrey, Jones, Joy, Kasprzak, Labrecque, Lindahl, Lovett, MacDougall, Mack, Madore, Marvin, Mayo, McKenney, McNeil, Mendros, Murphy T, Nass, Nutting, O'Neal, Peavey, Pinkham, Plowman, Richardson E, Rosen, Savage C, Schneider, Sherman, Shields, Shorey, Snowe-Mello, Stanwood, Stedman, Tobin D, Tobin J, Trahan, Treadwell, True, Waterhouse, Weston, Wheeler EM, Winsor.

ABSENT - Bouffard, Clark, Frechette, McAlevey, Thompson. Yes, 83; No, 63; Absent, 5; Excused, 0.

83 having voted in the affirmative and 63 voted in the negative, with 5 being absent, the Unanimous Committee Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-390)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Friday, May 7, 1999.

(H.P. 1068) (L.D. 1499) Bill "An Act Concerning the Regulation of Certain Commercial Contracts of Insurance" (C. "A" H-401)

On motion of Representative O'NEIL of Saco, was **REMOVED** from the Second Day Consent Calendar.

The Committee Report was **READ** and **ACCEPTED**. The Bill was **READ ONCE**. **Committee Amendment "A" (H-401)** was **READ** by the Clerk.

On further motion of the same Representative, **TABLED** pending **ADOPTION** of **Committee Amendment "A" (H-401)** and later today assigned.

(H.P. 1184) (L.D. 1694) Resolve, to Grant Salvage Rights for Revolutionary War Vessels Submerged in the Penobscot River to the Brewer Historical Society and the Bangor Historical Society (EMERGENCY) (C. "A" H-409)

On motion of Representative CAMPBELL of Holden, was **REMOVED** from the Second Day Consent Calendar.

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

Representative CAMPBELL: Mr. Speaker, Men and Women of the House. I don't want to take much time, but in fact have been asked about clarification of this particular title. As the title reads, Resolve, to Grant Salvage Rights for Revolutionary War Vessels Submerged in the Penobscot River to the Brewer Historical Society and the Bangor Historical Society. Many of us live around bits and pieces of history. I was born and brought up on the banks of the Penobscot and didn't realize until Bangor began efforts to dredge the river that there were Revolutionary War vessels submerged in the river. Over time there has been a lot of activity there from the logging efforts as well as commerce. As I researched it, it brought to my attention that there was a Penobscot Expedition of 1779 of more than 40 Revolutionary War vessels. They were sent from Boston. Apparently the British had occupied Castine and this expedition was sent from Boston with close to 40 ships. They were to stop in Boothbay and pick up 1,500 troops, but, in fact, only picked up 1,000. When they got to Castine, they decided not to attack and proceeded to sail up the Penobscot. Once in the Penobscot they

became trapped by the British vessels. In route, the different ships were scuttled by the crews. The crews then walked back to Boston.

I would like to read to you a letter from the Department of the Navy describing this. "When the smoke cleared, two continental Navy ships, three Massachusetts State Navy Ships, 11 privateers and perhaps 20 transports had been scuttled by their crews or sunk by the British, in the worst naval defeat of the revolution and possibly of the history of the United States. The Warren lies in Campden Cove near Winterport. We understood that the Providence which had been John Paul Jones first command with three Massachusetts Navy ships and five privateers lie near Bangor. The Active may be near the mouth of the Kenduskeag Stream. The Diligent is believed to be near the Chamberlain Bridge. I believe the transports being slower than the war ships would tend to lie near Sandy Point below Bangor and Brewer."

Another person on one of the vessels was Paul Revere. Many of us probably don't know that and Paul probably wasn't proud enough to put it on his resume. The title while we worked this in committee became changed. I commend the State and Local Government for making more sense of the issue as they developed this. My initial intent was to gift the title to the Brewer and Bangor Historical Society. In fact, as this little brief in the Department of the Navy letter mentioned, they became scuttled all the way up the river. State and Local Government, in its wisdom, decided that it would be more appropriate to gift those vessels to the communities for which inside their boundaries in the river those vessels lie.

My other intention was both local ownership and local preservation of these artifacts. Because of the statutes, both federal and local statutes in the state, the federal government and the state government have to maintain ownership. Let me read the title to clarify it. The reason we changed the title was to give that ownership and local display to those local communities. The title as seen in (H-409) now reads Resolve, to Direct the Maine State Museum and the Maine Historic Preservation Commission to Include, Consult and Involve Local Historical Societies and Affected Municipalities in the Recovery and Local Display of Certain Revolutionary War Artifacts. In fact, the local display and preservation became more important. In the wisdom of the State and Local Government, we now afford local historical societies to display these artifacts. Thank you.

The Committee Report was **READ** and **ACCEPTED**. The Bill was **READ ONCE**. **Committee Amendment "A" (H-409)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Friday, May 7, 1999.

On motion of Representative CAMERON of Rumford , the House **RECONSIDERED** its action whereby Bill "An Act to Amend Juvenile Corrections Laws and to Establish a Juvenile Records Repository"

(H.P. 1002) (L.D. 1400)
(C. "A" H-428)

Was **PASSED TO BE ENGROSSED as Amended**.

The same Representative **PRESENTED House Amendment "A" (H-475)** which was **READ** by the Clerk and **ADOPTED**.

The Bill was **PASSED TO BE ENGROSSED as Amended** by **Committee Amendment "A" (H-428)** and **House Amendment "A" (H-475)** and sent for concurrence.

On motion of Representative CAMERON of Rumford , the House **RECONSIDERED** its action whereby Bill "An Act to Clarify the Regulation of Viatical Settlement Contracts When Sold as Investments"

(H.P. 1182) (L.D. 1693)
(C. "A" H-402)

Was **PASSED TO BE ENGROSSED as Amended**.

The same Representative **PRESENTED House Amendment "A" (H-474)** which was **READ** by the Clerk and **ADOPTED**.

The Bill was **PASSED TO BE ENGROSSED as Amended** by **Committee Amendment "A" (H-402)** and **House Amendment "A" (H-474)** and sent for concurrence.

BILLS IN THE SECOND READING

Senate As Amended

Bill "An Act Requiring Labeling of Unpasteurized Milk Products"

(S.P. 281) (L.D. 799)
(C. "A" S-162)

Bill "An Act to Promote Maine's Family-friendly Business and Investment Strategies"

(S.P. 487) (L.D. 1447)
(C. "A" S-147)

House As Amended

Bill "An Act to Amend the Androscoggin County Budget Process"

(H.P. 758) (L.D. 1048)
(C. "A" H-321)

Bill "An Act to Ensure Compliance With Disability Access Laws by the Baxter State Park Authority"

(H.P. 1189) (L.D. 1699)
(C. "A" H-381)

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

ENACTORS

Emergency Measure

An Act Making Unified Appropriations and Allocations for the Expenditures of State Government and Highway Funds and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2000 and June 30, 2001

(H.P. 691) (L.D. 958)
(C. "A" H-255)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 115 voted in favor of the same and 3 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Continue Restorative Justice

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

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 102 voted in favor of the same and 12 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act Regarding Continuing Education for Professional Land Surveyors

(H.P. 917) (L.D. 1295)
(C. "A" H-232)

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

On motion of Representative O'NEAL of Limestone, **TABLED** pending **PASSAGE TO BE ENACTED** and later today assigned.

Emergency Measure

An Act to Simplify the Collection of Fees for the Maine Dairy Promotion Board and Maine Dairy Nutrition Council

(S.P. 460) (L.D. 1335)
(C. "A" S-104)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 106 voted in favor of the same and 1 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Amend the Charter of the Dover-Foxcroft Water District

(H.P. 993) (L.D. 1391)
(C. "A" H-242)

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

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

Emergency Measure

An Act to Amend the Lobster Trap Escape Vent Laws

(H.P. 1139) (L.D. 1624)
(C. "A" H-247)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 110 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Clarify Basic Health Care Services to be Offered by Maine Health Maintenance Organizations

(S.P. 584) (L.D. 1664)
(C. "A" S-112)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 104 voted in favor of the same and 7 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Appropriate \$125,000 for the Fort Knox Visitor Center

(S.P. 744) (L.D. 2103)
(C. "A" S-115)

The SPEAKER: The Chair recognizes the Representative from Bucksport, Representative Rosen.

Representative **ROSEN**: Mr. Speaker, Ladies and Gentlemen of the House. I would just like to briefly provide you with some information explaining this bill that is before you. One hundred and twenty-five thousand dollars to fund the Fort Knox Visitor Center. Fort Knox State Park is located in Prospect and this is money that will be appropriated to construct a new visitor center. A little history, in 1992, parts of Fort Knox were being closed due to lack of attention and disrepair. The entire fort was threatened with complete closure. As a matter a fact, the Department of Conservation was facing an unfunded requirement of park repair throughout the state of approximation \$13 million. In response to that, the Legislature presented a referendum to the general public twice to try to raise the funds to repair the state parks and twice they were voted down. The people who lived in the district were not willing to see the fort completely closed and they developed the Friends of Fort Knox which went ahead and took a \$3.3 million roof repair project and raised the money to go ahead and repair the roof on their own. They reduced the total cost of the \$3.3 million down to \$1.5 million through in kind contributions from people all across the state and cash contributions. That included the United Bikers of Maine, the Masons, elementary students and schools throughout this state, many in your districts. For example, elementary school students in the communities of Bangor, Bucksport, Cherryfield, Deer Isle, Stonington, Frankfort, Glenburn, Lawrence, Greenville, Newport, North Orrington, Orland, Searsport, Vinalhaven and many more carried their gymnasium floors with pennies to raise money to support Fort Knox. The roof was repaired and the fort was restored and open to the public.

Now, the Friends of Fort Knox are restoring a separate building to provide public access for a true visitors center that will offer an entrance into the fort that is appropriate for today's visitor. This is a \$700,000 project. The Friends have received \$125,000 in a private donation. If the state matches it with this \$125,000, they will then be eligible to go back to that private source for further funding. Once again, the Friends are presenting you with a \$700,000 restoration for a cost to the state of \$125,000. The reason for the emergency is because they want to begin construction this June to take advantage of the construction season. As a matter a fact, they have already started the project. I would appreciate your support. Thank you.

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 107 voted in favor of the same

and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

(H.P. 636) (L.D. 886)
(C. "A" H-248)

Emergency Measure

An Act to Ensure Adequate Nutrition for Low-income Legal Aliens

(H.P. 1470) (L.D. 2110)
(C. "A" H-267)

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

Representative **GLYNN**: Mr. Speaker, Ladies and Gentlemen of the House. I rise to point out to my fellow colleagues that the proposal pending before us is an appropriation of \$613,000 a year annually for the purchase of food stamps. The policy that accompanies this bill is not within the binder of the information that has been supplied to us. I can say that upon my preliminary investigations, I find that there are other alternatives for funding for this, rather than taking general fund appropriations in the part II budget for these purposes.

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

Representative **KANE**: Mr. Speaker, Men and Women of the House. This is a departmental bill. It has to do with the provision of food stamps for illegal aliens. In the 118th Legislature a bill was presented to us by the department and the Legislature made a policy decision that allows us to extend the federally funded food stamp program to illegal aliens. This does nothing more or less than being able to continue that. The problem was that unless we acted with an emergency provision there would be an interruption of services to this population. It is a departmental program under the overall DHS program. It is not a new program. It is primarily federally funded. I urge your support for the emergency enactment as a continuation of what is a very basic staple program in DHS. Thank you.

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 101 voted in favor of the same and 37 against, and accordingly the Bill was **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**.

Emergency Measure

An Act to Make Supplemental Allocations from the Highway Fund and Other Funds for the Fiscal Year Ending June 30, 1999

(S.P. 759) (L.D. 2135)
(C. "A" S-116)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 118 voted in favor of the same and 1 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

Resolve, to Study Lobster Hatcheries

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 107 voted in favor of the same and 13 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

Emergency Measure

Resolve, to Establish the Energy Policy Commission

(H.P. 851) (L.D. 1185)
(C. "A" H-254)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 101 voted in favor of the same and 20 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

Emergency Measure

Resolve, to Review Traffic Congestion Including Truck Traffic along the Route 1 York Corridor

(S.P. 571) (L.D. 1638)
(C. "A" S-117)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 103 voted in favor of the same and 21 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

Emergency Measure

Resolve, Regarding Legislative Review of Chapter 306: Uniform Disclosure and Informational Filing Requirements, a Major Substantive Rule of the Public Utilities Commission

(H.P. 1173) (L.D. 1684)
(C. "A" H-243)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 122 voted in favor of the same and 0 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

Acts

An Act to Amend the Membership of the Commission on Safety and Health in the Maine Workplace

(H.P. 566) (L.D. 787)
(C. "A" H-260)

An Act to Amend Maine's Payroll Processing Laws

(S.P. 297) (L.D. 869)
(C. "A" S-105)

An Act to Allow the Department of Transportation to Designate No-passing Zones Upon Request From a Municipality

(H.P. 682) (L.D. 938)
(C. "A" H-256)

- An Act to Require That Certified Public Accounting and Public Accounting Firms Have a Majority of Their Owners Hold Certificates
(H.P. 685) (L.D. 941)
(C. "A" H-234)
- An Act to Amend the Motor Vehicle Laws
(S.P. 317) (L.D. 951)
(C. "A" S-107)
- An Act to Clarify the Standard for Cause in the Request for Proposal Process for the Department of Mental Health, Mental Retardation and Substance Abuse Services
(H.P. 692) (L.D. 959)
(C. "A" H-229)
- An Act to Restore Municipal Revenue Sharing
(H.P. 701) (L.D. 968)
(C. "A" H-218)
- An Act to Require That a Translator Be Available to Employees in the Workers' Compensation Process
(H.P. 726) (L.D. 1016)
(C. "A" H-262)
- An Act to Clarify the Laws Relating to Nonstate-funded School Construction Projects Approved by the Commissioner of Education that Replace Existing School Buildings
(S.P. 349) (L.D. 1053)
- An Act to Clarify Municipal Obligations to an Unlicensed Mobile Home Park
(S.P. 367) (L.D. 1068)
- An Act to Relate the State Liquor Tax to the Amount Transferred to the General Fund
(S.P. 372) (L.D. 1073)
- An Act to Repeal Bedding, Upholstered Furniture and Stuffed Toys Laws
(H.P. 794) (L.D. 1117)
(C. "A" H-252)
- An Act to Amend Certain Laws Administered by the Department of Environmental Protection, Bureau of Land and Water Quality
(H.P. 837) (L.D. 1160)
(C. "A" H-278)
- An Act to Require Legislative Review of Rules Regarding Campaign Report Filing Forms
(S.P. 383) (L.D. 1162)
(H. "A" H-241 to C. "A" S-44)
- An Act to Clarify Landlord Access to Premises in Residential Tenancies
(S.P. 385) (L.D. 1164)
- An Act to Provide for Management of the Harvest of Seaweed
(S.P. 392) (L.D. 1171)
(C. "A" S-114)
- An Act to Change the Reimbursement Rate for Law Enforcement Personnel Who Testify in Court
(H.P. 894) (L.D. 1251)
(C. "A" H-277)
- An Act to Allow Student License Holders to Become Eligible for Commercial Lobster and Crab Fishing Licenses
(H.P. 948) (L.D. 1345)
(C. "A" H-249)
- An Act to Ensure that Workers' Compensation Death Benefits are Paid to Dependents Without Regard to Country of Residence
(H.P. 954) (L.D. 1352)
(C. "A" H-263)
- An Act Regarding Notification to Parties Affected by Marine Construction
(H.P. 969) (L.D. 1367)
(C. "A" H-222)
- An Act to Prevent Forgery, Alterations or Counterfeiting of Maine State Lottery Tickets
(S.P. 467) (L.D. 1406)
- An Act to Add Members to the Maine Turnpike Authority
(H.P. 1018) (L.D. 1429)
(C. "A" H-238)
- An Act to Make Minor Corrections to the Laws Governing Financial Regulation and Debt Collection
(H.P. 1023) (L.D. 1434)
(C. "A" H-245)
- An Act to Reorganize the Real Estate Appraisers Law
(H.P. 1026) (L.D. 1437)
(C. "A" H-251)
- An Act Regarding the Operation of a Motorized or Electric Bicycle on a Public Way
(H.P. 1058) (L.D. 1489)
- An Act to Amend the Charter of the Veazie Sewer District
(H.P. 1110) (L.D. 1569)
(C. "A" H-227)
- An Act to Repeal Registration Requirements of Cable Television Franchise Agreements and the Filing of Wage Rates and Benefits
(S.P. 553) (L.D. 1615)
(C. "A" S-109)
- An Act to Amend the Laws Regarding Professional Engineers
(S.P. 556) (L.D. 1618)
(C. "A" S-118)
- An Act Regarding the Boundaries of State and State Aid Highways
(S.P. 570) (L.D. 1637)
(C. "A" S-108)
- An Act to Clarify the Laws Regarding Fund Raising During the Legislative Session
(S.P. 575) (L.D. 1655)
(S. "A" S-68)
- An Act Concerning Service Relating to the Disclosure of Financial Records
(H.P. 1161) (L.D. 1672)
- An Act to Provide Immunity to Enhanced 9-1-1 Developers and Providers
(H.P. 1185) (L.D. 1695)
(C. "A" H-253)
- An Act to Amend the Membership of the Information Services Policy Board
(H.P. 1200) (L.D. 1710)
(C. "A" H-269)
- An Act to Amend the Petroleum Market Share Act
(S.P. 592) (L.D. 1716)
- An Act to Amend the Charter of the East Pittston Water District
(S.P. 600) (L.D. 1723)
(C. "A" S-110)
- An Act Relating to New and Used Car Document Fees
(H.P. 1210) (L.D. 1739)
(C. "A" H-240)
- An Act to Amend the Habitual Truancy Law

(H.P. 1211) (L.D. 1740)
(C. "A" H-276)
An Act to Clarify the Law Concerning Representations Made
in Insurance Contracts

(H.P. 1233) (L.D. 1762)
(C. "A" H-246)

An Act to Clarify the Definition and Licensure of Insurance
Consultants, Financial Planners and Investment Advisors

(S.P. 639) (L.D. 1806)
(C. "A" S-111)

An Act to Change the Names of Divisions within the Bureau
of Forestry to More Accurately Reflect the Roles and Duties of
Those Divisions

(H.P. 1362) (L.D. 1960)

An Act to Clarify the Duties of the State Auditor

(H.P. 1399) (L.D. 2004)

An Act to Amend the Maine Lemon Laws

(H.P. 1405) (L.D. 2010)
(C. "A" H-279)

An Act to Improve the State Budgeting Process

(S.P. 729) (L.D. 2079)

An Act to Make Commercial Vehicle Weight Limits Consistent
with Federal Law

(S.P. 731) (L.D. 2081)

An Act to Provide Increased Access to Dental Care in Maine

(H.P. 1467) (L.D. 2099)

An Act to Provide Funds for a National World War II Memorial
in Washington

(H.P. 1476) (L.D. 2116)
(C. "A" H-270)

An Act to Implement the Recommendations of the
Commission on Eating Disorders

(H.P. 1563) (L.D. 2215)

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

Resolves

Resolve, Directing the Department of Human Services to
Study Methods to Increase Access to Health Care for Low-
income Maine People

(H.P. 605) (L.D. 845)
(C. "A" H-265)

Resolve, to Prevent Tampering With Indian Archeological
Sites

(H.P. 738) (L.D. 1028)
(C. "A" H-257)

Resolve, to Direct the Maine Agricultural Experiment Station
to Conduct a Pilot Project on Blueberry Cultivation in the St.
John River Valley

(H.P. 1007) (L.D. 1418)
(C. "A" H-228)

Resolve, Directing the Department of Human Services to
Conduct a Review of Certain Reimbursement Rates under the
Medicaid Program

(H.P. 1473) (L.D. 2113)
(C. "A" H-275)

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

An Act to Improve Access to Dental Care for Children
(H.P. 1226) (L.D. 1755)
(C. "A" H-274)

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

On motion of Representative SHIAH of Bowdoinham, was
SET ASIDE.

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

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

HOUSE DIVIDED REPORT - Majority (10) **Ought to Pass** -
Minority (3) **Ought Not to Pass** - Committee on
TRANSPORTATION on Bill "An Act to Change the Fine for
Speeding in a School Zone"

(H.P. 1462) (L.D. 2094)

Which was **TABLED** by Representative WHEELER of Eliot
pending his motion to **ACCEPT** the Majority **Ought to Pass**
Report.

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

Representative LINDAHL: Mr. Speaker, Men and Women of
the House. This is my fourth term, my first term was on the
Labor Committee and most of your reports are divided reports
and they're pretty much partisan. My third term on the
Transportation Committee I've never seen that I can recall, a
partisan report and this one isn't either. This is a very simple
matter of doubling the fines in school zones. I believe we have a
problem with enforcement in school zones and I don't think
doubling the fines is necessarily the answer.

Right now, currently, the minimum fine for speeding 10 mph
over the speed limit in any zone is \$95.00. That's the minimum
fine. For school zone, currently, the minimum fine for speeding
from 1 to 15 mph over the speed limit is \$125.00. I think that is
sufficient. This bill also allows them to post a sign saying fines
doubled in school zones. I don't think that will do it.

They can currently if they want to post signs, saying minimum
fine in the school zone is \$125.00. That should be sufficient to
do it. I've made some phone calls to different police agencies
and here's the response I got. This is today. Repeat violators
are not a problem with this. You get somebody and you fine
them \$125.00 for 25 mph in a school zone. That's sufficient.
Most people that get picked up for speeding in a school zone,
their not paying attention, they should be; the answer is
enforcement. It isn't doubling the fines. We're going to make the
fine for speeding in the school zone right up there with OUI,
maybe we could try summary execution, we'll have no repeat
violators in that way.

Right now police officers are hesitant to write summonses for
speeding for it's going to hit somebody \$125.00. You come
through a school zone, you go across Route 3 towards Belfast,
it's a 55 mph zone, most people drive 55, 60, 62 mph, maybe a
little faster. I know I've seen some of the legislators pass me on
that way over there and I drive right along. I won't mention any
names. It's right at the crest of a hill, you hit the flashing yellow
signs it says 15 mph, you're doing 60 mph, you've actually got to
almost lock your brakes up to get slowed down to 15 mph.
Fifteen mph is very, very slow. Most of us drive more than 15
mph through this parking lot out here.

I know two of the ought not to pass on this bill are retired police officers, I'm a retired police officer. I have received these complaints of speeding in school zones. We put up signs saying 15 mph when children are present. Then we put up signs that blink yellow with flashing lights that say 15 mph, people still speed through those zones. The only thing that works is have a police officer go out there and run radar.

In my little town of Northport, we have a school on a side street and I went down there personally because of complaints and all the officers were tied up and I sat there with the radar and I stopped every single car that came through at 18 mph, 16 mph, 30 mph and that's it and I was very hesitant to write any summonses to anybody unless they're doing at least 15 mph over the speed limit. It's a very expensive fine.

I was talking to a deputy chief in Lewiston, he said most people are unaware what the fine is until they get a ticket and the officer writes on there \$125.00 if you want to pay to the violations bureau. That's a \$125.00. Everybody going speeding through these school zones are driving BMW's heading to some corporate law office where they make all kinds of money. A lot of these people are ordinary, hard working people that are just getting by and you whack them \$185.00 is what the fine will be, \$185.00 for driving 10 mph over the speed limit in the school zone, that's too much. That's way too much.

The deputy chief in Portland said doubling the fines is not as good as heightened awareness, so if you really think that putting a sign up saying the fine is double in the school zone, go sit out on Interstate 95 where the fines are currently doubled in a construction zone and watch the speed of the cars go through there. That is not going to work. I feel if we want to do something about speeding in school zones we ought to have a fund within the highway fund or something out of the appropriations establishing \$100,000 grant, let police agencies throughout the State of Maine apply to this money to hire off duty officers to go into these school zones and write tickets, do enforcement. If you hire one officer for four hours, he goes to the school zone for a half hour, runs radar and in the next three an a half he goes out in some other part of the town where they have a speeding problem, write tickets. That will more than pay for that officer's salary and you'll pay for this 1031 that we just passed. That's the cops in court, doubling the reimbursement to the towns to \$50.00 for officers that go to court off duty. We could pay for that by doing that. That's what will slow people down from speeding in school zones.

I really ask you to take and consider this. Any town that wants to now can put up a sign that says minimum fine for speeding \$125.00. I think that is sufficient. Thank you.

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

Representative **JABAR**: Mr. Speaker, Ladies and Gentlemen of the House. If there's one area that we want strict enforcement, I think it's to protect our children. This continues to be a problem with people driving too fast in school zones and sure we could put a police officer at every school zone, but that's not realistic, it cannot be done.

The signs that you see in construction sites, at least the information we received was that it works. Being able to put a sign up that says fines doubled is a very simple message and putting up a sign that says \$125.00 or \$150.00 or \$185.00 is not as affective as saying the fine is double. The greater the speed the greater your fine. If you're going through a school zone and you're going to fast, then you should have to pay double what

anybody else would pay if it's not a school zone. Those signs that say fines doubled is very easy to understand and it works in the construction site areas then this will work in the school zones. It would be nice to have police officers at every stop and every school zone where there's a problem, that's not realistic. But this is something that we feel and the committee felt would work to help slow drivers down in school areas. Whatever we can do to help our kids is something we should be doing in this area. Thank you.

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

Representative **WHEELER**: Mr. Speaker, Men and Women of the House. It's not very often I rise in opposition to my good friend from Northport, Representative Lindahl, but we do disagree a little bit on this issue. As the Representative from Northport did say that repeat violators are not the problem. The problem are the violators that are not caught and with these signs that fines are doubled in school zones it will help officers that are not there, that cannot be there for towns that can't afford to have an officer there all the time. Slow the traffic down. If we could just save one child's life by having a fines doubled sign up, it's well worth my vote at least on this issue.

During the day when school is open, all the children coming from town are congregated in this one area. This is why emphasis needed to be set on these school zones and I ask you, how many of you go down the highway and when you see the fines doubled sign I would dare to ask if you do slow down a little bit at least. I know myself that I see it I check to make sure that I am still going the speed limit. So I urge you to support the Majority Ought to Pass Rreport. Thank you.

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

Representative **COTE**: Mr. Speaker, Ladies and Gentlemen of the House. I don't usually rise that often, but considering this bill, I do rise in opposition on ought to pass. We have quite a few school zones in my district. We have one on East Avenue. We have one by Pettingill School. We have one by Wallace School. We have one down by Lewiston Middle School. We've got one down by Longley School. We've got so many school zones in my district and other districts in Lewiston that people don't abide by that 15 mph sign. So it doesn't really matter what the circumstances are, people still don't abide it. I go 15 mph in a school zone and here's this car going by me 30, 35, 40, 45 mph. They don't care. We have signs near the Post Office by the walkway, state law, stop for pedestrians in a crosswalk. Do they stop? No, they don't stop, they don't even abide by it.

We have to find a law that we can toughen up to stop these violators from doing this. Raising the fine is not going to help. The fine is stiff enough. It's a matter of catching them doing it and there's no police officers in my district that's there to catch these guys or even stop them to give them a violation. Let me go that fast I'll get pulled over within a second and given a ticket. But let these other people do it, they don't get pulled over, they don't even get a fine or summons to appear in court on this in a school zone.

So I urge you to vote in opposition on the Ought to Pass. Thank you.

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

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

Representative ROWE: Mr. Speaker, Men and Women of the House. The reason I came down here is, I put this bill in and I wanted to tell you why. I heard some debate, I believe there is some misunderstanding. I care a lot about children and I know everybody does in here and I know your vote on the bill is not going to be an indication of how you feel about children and speeders in school zones because I know everybody in here opposes it. What I'm trying to do is to reduce the speed, we have a real problem in my city and I know in many of your towns and cities with people who speed in school zones. It doesn't matter if you have a sign that says 15 mph that has a picture of kids crossing the street, they still speed. In the city I'm from we have eight elementary schools most of those schools are on major thoroughfares where people speed during the course of the day. We put patrolmen on those. We do that when we can. We catch a lot of speeders, but we can't have patrolmen there all the time.

I put this bill in. This is the second session that I have put the bill in. I put it in the 118th. It didn't do very well. I went back and looked and talked to people. I would disagree with the Representative from Northport, Representative Lindahl, with respect to the impact this would have. It is human nature when you see a sign that says fines doubled that you slow down. I do when I go through construction sites. Maybe you don't, but the people I know do.

Right now under Maine law, the fine for speeding if you are going 15 miles or less over the speed limit in a school zone, you are fined \$125. You would be fined only \$95 if it was in a non-school zone. If you are speeding under 15 mph and it is a construction site, you are fined \$185. I would say to you, why should you be fined any less when you are speeding in a school zone than when you are fined in a construction site. If you want to change that other law, that is fine. I am suggesting there is nothing more important than our children. If this saves one life, it is worth it a hundred million times over. Under our current law, if you are speeding between 16 and 25 mph in a school zone, the fine now is \$145. In a non-school zone it is \$120. If you are speeding between 16 and 25 mph in a construction zone, it is \$235. If you are speeding between 26 and 29 mph in a non-school zone, it is \$160. In a school zone it is \$185. In a construction zone it is \$315.

Again, these are increases in the fines. They would go from \$125 to \$185 for less than 15 mph. It would be \$145 to \$235 for 16 to 25 and between 26 and 29 mph it would jump up to the same that it is in construction zone, \$315. What we are talking about is allowing the municipality to put a sign up in a school zone that says, fines doubled. You don't have to do it. This isn't mandatory. It authorizes municipalities to do that. That is all it does. My city has asked me to put this bill in. The city councilors in my city have asked me to put this bill in. My constituents have asked me to put this bill in because many of them live on Congress Street in Portland and many of them live on Stevens Avenue in Portland. Those are major thoroughfares where people continue to speed. Families are worried about their children. I know this may be a big deal, but I don't see it that way myself. It is a matter of allowing municipalities to put up a sign if they want to. Yes, it raises the fine, but it raises it only to the level where a speeder would be charged if they are speeding in a construction zone.

Again, I would say to you, that I think a child is every bit as important as a construction worker. I would ask for your support on this so that we can perhaps save a life of a child. Thank you very much.

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

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

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

Representative CLARK: Mr. Speaker, Colleagues of the House. For anyone that can answer, over the last 10 years, how many children have been hurt or killed in a school zone?

The SPEAKER PRO TEM: The Representative from Millinocket, Representative Clark 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. I wish I could answer that question. I know of none, but I am not positive of that. My good friend from Eliot, Representative Wheeler, said that when he sees those signs in construction zones, he slows down a little bit. Slowing down a little bit is not enough. If you are in a 40 mph zone and you slow down a little bit to 30 mph, you are still doing double the speed limit. Those signs just don't work.

When we had our break a week or so ago, I went to Virginia. I went down to Fairfax, Virginia. I happened to be on the beltway going around D.C. In the extreme left hand lane, they had what they called HOV lanes, high occupancy vehicle. If you got more than one person in your car, you get to drive in that lane because it is faster. The minimum fine for being in that lane with one person in your car it is \$500. That is \$500 for driving in the left lane with one person in your car. I kind of kept track for about 10 minutes when I was on there. The traffic was barely moving. It was right at rush hour in the early morning. I bet better than 50 percent of those cars were in that lane. There was no enforcement. It doesn't mean anything if you don't have the enforcement.

I repeat, I agree with Representative Rowe that this is a problem, but I don't believe this is going to address it. We are going to fine people the very minimum of \$185 for driving 10 mph over the speed limit. Like I say, some of these people are just barely getting by. You don't have any repeat offenders with this law. Out of all those people who get picked up for speeding in a school zone when they find out and the officer writes on that ticket for them to send into the violations bureau, minimum \$125, they are shocked. Most people think the fine is probably \$60 for 10 mph over the speed limit. It is currently enhanced by 50 percent. Very clearly he is saying that doesn't work. Doubling it won't work either because people don't normally read these signs. They don't see them. The most vehicles that I found speeding in school zones, believe it or not, were school buses. They knew the zone was there. They pull out of the yard and they pick right up to 20 mph. They just don't think it pertains to them and it does. I have experienced it. I have been there and I want to see this work. I want to see people drive slower in school zones. I just don't think this is a proper vehicle. Thank you.

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

Representative **MCKEE**: Mr. Speaker, Men and Women of the House. The thing I like about this bill is it allows for the local option. I can tell you in my community, it will help. If the price of a package of cigarettes has kept teenagers from smoking as much as they used to smoke, I can tell you that in my town where I teach, it will slow the teenage drivers down. We are located immediately adjacent to a grade school. It is one of the most dangerous districts in the entire state. The number one offender is the teenage driver. My classroom fronts the road and I can hear the tires peeling out. Unless there is vigilance every single moment, there is speeding and it is extremely dangerous. Fortunately, we have not had anyone killed, but we have had many, many near misses. I would urge your support of the Majority Ought to Pass as Amended Report. It will help specific communities. Thank you.

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

Representative **WHEELER**: Mr. Speaker, Men and Women of the House. Just to answer the good Representative from Millinocket, Representative Clark's question, I can't give you a definite number on deaths, but I know of a number of students that have been injured by getting hit by vehicles. Thank goodness there haven't been any deaths out of that, but the injury rate is a lot higher than most would desire it to be.

I represent district three, which has Eliot, parts of York, Kittery and Ogunquit in it. SAD 35 consists of Eliot and South Berwick, which soon will have three schools on Route 236. Those of you who are familiar with Route 236, it is like a Route 1, where the speed limit is 45 in some spots. We have tried to get the DOT to slow the speed limit down on this road. For some reason or another, an engineer study states that it shouldn't be slowed down. This bill here will help us protect our children by at least slowing some of the traffic down some of the time. Thank you.

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

Representative **PIEH**: Mr. Speaker, Men and Women of the House. I just want to recite one small story to you in support of the Majority Ought to Pass as Amended Report. There is a really nice, huge four lane road going between Bath and Brunswick on Route 1. Most of us fight our way down Route 1 through Wiscasset. We get on that road and the speed limit is 55 mph. Everyone goes 65. Over the last year, they have built a new overpass. They have put up the sign. It says speed limit 45, fines doubled. Every one went 45 mph. We all slowed down from going 10 mph over the speed limit that everyone drives at 45 mph. Anyone who has driven that can attest to that. I think the fines doubled is a really inexpensive way to help us with enforcement. I encourage you to support the Majority Ought to Pass Report. Thank you.

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

Representative **CHICK**: Mr. Speaker, Ladies and Gentlemen of the House. I have been listening to this debate. I would say that over time I have taken part in a lot of school activity as a school board member. Regardless of what we are discussing, whether it is approved by my good colleagues in the House, I shall usually come down on the side of the children. I believe what we are speaking about here this afternoon, of course people mix in a lot of points, but we are talking about trying to protect people that are in special situations, whether they are in school or on a construction site. I am sure, from what I have

seen, I can recall as a young boy in an adjoining state, there is only one, they instituted what the boys in Lebanon used to call the 200 Club. These are people who were found to be using alcoholic beverages. I can assure you that it sure got their attention in the 1930s, \$200. Some of them had to sell three or four cows to pay their fine. I really believe that we need this kind of a statute to get the attention of the motorists. One thing that somebody mentioned about the speed of school buses. I have seen indications were sometimes they might be going over the speed limit, but if there is an officer on the scene. I would really believe that they would be addressed the same as a motorist. I would hope that you people here this afternoon would support this motion to increase the fines. Thank you.

Representative **JABAR** of Waterville **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 PRO TEM: The Chair recognizes the Representative from Union, Representative Savage.

Representative **SAVAGE**: Mr. Speaker, Men and Women of the House. As Speaker Rowe mentioned, he did present the same bill last session. I want to tell you a member of our Transportation Committee who traveled the same route that I did when I mentioned the speed that people were coming up 17 by the school just outside of town here in Augusta. He said, "What school?" I guess what I want to say is if there was a big sign that said, school zone, fines doubled, he would have known there was a school there. I think those signs are impressive. If you don't believe so, watch the break lights when they come to those signs. Thank you.

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

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

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

Representative **PERKINS**: Mr. Speaker, Men and Women of the House. The question is, I am a little confused, I liked what the good Representative from Portland, Representative Rowe, said that this only enables the municipalities to decide whether to put the signs out. I don't see that in the bill unless it is written into the statute somehow. I have heard reference to an amendment. Oops, there is no amendment. Would somebody explain that part? It looks to me like it doesn't just enable them, it actually doubles the fine.

The SPEAKER PRO TEM: The Representative from Penobscot, Representative Perkins has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Portland, Representative Rowe.

Representative **ROWE**: Mr. Speaker, Men and Women of the House. In response to the Representative Perkins' question, the bill simply says that fines are doubled. It doesn't have a requirement. There is no requirement that a sign be placed up at all. There is no requirement under state law that a sign be put up to indicate how high the fine is. This will be up to a municipality should they choose to put up the sign. What this will do is it will change the fine for speeding in a school zone. It will make it double the fine for speeding in a non-school zone. It will make it the same as speeding in a construction zone. Thank you.

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

Representative **PERKINS**: Mr. Speaker, Men and Women of the House. It seems to me that I have heard two previous speakers say this doesn't really double the fine, it just enables the municipalities to decide whether to put the sign up or not. I am confused, but if nobody else is, don't bother answering.

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

Representative **ROWE**: Mr. Speaker, Men and Women of the House. To clarify the question, I wasn't clear perhaps, it does indeed double the fine. If this should be enacted, it will double the fine in statute. Make no mistake about that. It does not direct the municipality to put up a sign telling motorists that the sign has been doubled. A municipality will have no options to change the fine. It does double the fine in statute. What I said is the municipality would have the option to put up a fines doubled sign. Thank you.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Auburn, Representative Gerry.

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

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

Representative **GERRY**: Mr. Speaker, Men and Women of the House. I am for safety of kids in school zones, but if there is a problem now enforcing the speed limit and there is not enough police officers to get after the ones that are violating the law now, if we raise the fine, how is that going to solve the problem of not having an officer out there?

The **SPEAKER PRO TEM**: The Representative from Auburn, Representative Gerry has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Portland, Representative Rowe.

Representative **ROWE**: Mr. Speaker, Men and Women of the House. To answer the question, this will be a deterrent. The idea is you put up the sign and people will slow down. You have heard from several speakers this afternoon. I can attest to this myself, my spouse, my friends and the people I talk to, when they see the fines doubled signs at construction sites, they slow down. It doesn't matter if there is a police vehicle sitting there or not. They slow down because they afraid if they get caught they will pay a large fine. I would propose that should we enact this into law, this will be a deterrent. It will have a deterrent affect on motorists and will cause them to slow down whether a policeman or a law enforcement officer is nearby or not. That is what I think is the good thing about the sign. It is a very low cost way to slow motorists down in school zones. Thank you.

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

Representative **JOY**: Mr. Speaker, Ladies and Gentlemen of the House. I travel 95 a lot during the summer session. They have the signs up there that the fines are doubled. I try to slow down to the speed limit that is posted there that says that the fines are doubled. You are very much in danger of having somebody driving in your trunk. I wonder if someone could answer this question for me. Would they be more apt to slow down if the signs said \$125 fine or fines doubled? I would suspect they would slow down much quicker if they knew the exact amount of the fine. Thank you.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Rome, Representative Tracy.

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

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

Representative **TRACY**: Mr. Speaker, Men and Women of the House. If the municipality does not have the signs put up, doubling the fine, the fine stays at the current level? If they do put the signs up, it is doubled. Am I misinterpreting what I am hearing here or is it automatically doubled regardless if the sign is up or not? Thank you.

The **SPEAKER PRO TEM**: The Representative from Rome, Representative Tracy 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. The fine will be doubled regardless. It is going to be a state law that if you are caught speeding in a school zone, the fine is doubled. It is currently 50 percent higher. It is not mandating that they put these signs up. That is going to be a local option. They can or cannot put these signs up, whether they see fit. I just feel that if they want to put up a signs and they think signs are going to make a difference, a sign saying minimum fine \$125 will do the trick as well or better than a sign that says fines are doubled, especially if you think the fine is only \$50 for 10 mph over the speed limit.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Rome, Representative Tracy.

Representative **TRACY**: Mr. Speaker, Ladies and Gentlemen of the House. Wouldn't it be a lot better and clearer if it was mandatory that the signs were up? What we are doing here is, it appears to me, we are confusing the motorists. If they think the sign is not there, they are going to speed through and they are going to get caught. If they find it is a double whammy, then they are going to turn around and say, how did this happen? There is no sign there to indicate it. I am getting a little confused on this subject here. I do not know where I am going to vote. Thank you.

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

Representative **TRUE**: Mr. Speaker, Ladies and Gentlemen of the House. Think back 20, 30 or 40 years, if you will for a moment. All we ever had at a school zone was slow down. Next came the actual sign that looked like the policeman from a distance and that was supposed to have them slow down. Then we started putting patrol people out. Although they were not really police people, they could report the license numbers. We are still having problems. I don't know whether this will work or not, but I am certainly willing to try. I really think that we should do something because it isn't working now. Just a little thing that I read a little while ago that sometimes and some people still don't, perhaps, want to look and try to understand what it is all about. It said that a man and woman driving along in their automobile and they were arguing about something and the lady said, "Why don't you put on my glasses and maybe you will see what I see." Thank you.

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

Representative **MENDROS**: Mr. Speaker, Ladies and Gentlemen of the House. Someone asked a question about what would be more likely to deter? From my perspective, I haven't had a ticket in a while. I really thought a speeding ticket for 15 miles over would be about \$30. That seems reasonable to

me. If I saw a sign saying that the fines were doubled, I would figure it would be \$60. If I saw a sign that said \$125 minimum, that would strike a lot more fear in my heart than fines doubled. The thing that really scares me would be if I got a speeding ticket, regardless of what the cost was, my insurance rates are going to go up \$500 a year for the next three years to deal with that because of my age group and I am single.

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

Representative **JABAR**: Mr. Speaker, Ladies and Gentlemen of the House. I don't think the issue here is really how much the fines are and whether motorists know. Right now if I asked anybody here what do you think the fine is for going 20 over or 30 over, you wouldn't know. If I asked you what the fine is for operating under the influence, you wouldn't know. You know it is serious, but you wouldn't know what the figure is. Whether it is \$100, \$125 or \$150, really isn't the issue. The other variable is, the more you are over the speed limit, the greater the fine. When you go through a school zone, you can go 10 mph over, 20 mph over or 50 mph over. The significance of this bill is the perception and the impact of a sign that says, fines doubled, will have on a driver. That, I think, is the focus of this legislation and the reason for it. There is a belief that the signs that you see in the construction sites, fines doubled, have an impact. Consequentially, the belief is that if we do that in a school zone, that will have an impact. There is no guarantee, but the belief is it will have an impact. If it does have an impact, then it is worth the effort. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Rockland, Representative McNeil.

Representative **MCNEIL**: Mr. Speaker, Ladies and Gentlemen of the House. I seem to be getting real confused about whether this is going to be a deterrent or not a deterrent. I think the easiest thing for me and perhaps maybe for some of you is to decide whether this fine is appropriate or not. I will disagree with the Representative from Waterville, Representative Jabar. I believe that when we break the law we need to pay the fine. I don't believe that \$185 is even enough. I will be supporting this bill. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Windham, Representative Tobin.

Representative **TOBIN**: Mr. Speaker, Ladies and Gentlemen of the House. I am sorry to keep you here any longer than you have to be, but I am not sure if this bill would protect the school children or not. I would hate to get up tomorrow morning or the morning after this bill would have gone in and found out that we have lost one child because we didn't think as much of that child as we did of the construction worker. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Bridgewater, Representative Wheeler.

Representative **WHEELER**: Mr. Speaker, Men and Women of the House. I want you to know that I am standing up here for child safety. I am not one that would go against anything that would hurt children in our state. I think the issue before us is to reduce the speeding in school zones. It has been a problem for years. My experience as a law enforcement officer tells me that raising the fine is not going to do what we want to do. What we need to do and after talking with other police chiefs in the northern part of the state where I come from and asking them what they thought would really affect the speeding in school zones, is enhancing a police presence, the same as we do with the OUI law. We need to provide funds to allow the police

departments to pay for overtime. The fines you get from the violators will pay for that. This is where I am coming from. I don't think doubling the fines is going to do it. There is nothing more that says you have to post the sign. If you really want to do that, just put it in the law. That becomes a mandate and it probably won't pass.

The SPEAKER PRO TEM: 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. 124

YEA - Ahearne, Andrews, Bagley, Baker, Belanger, Berry RL, Brooks, Bruno, Bryant, Bull, Bumps, Chick, Chizmar, Cianchette, Clark, Clough, Collins, Colwell, Cote, Cowger, Davidson, Davis, Desmond, Dudley, Dugay, Duncan, Dunlap, Duplessie, Etnier, Fisher, Fuller, Gagnon, Goodwin, Gooley, Green, Hatch, Honey, Jabar, Jacobs, Kane, Kneeland, Labrecque, LaVerdiere, Lemoine, Lovett, Madore, Mailhot, Martin, Matthews, Mayo, McDonough, McGlocklin, McKee, McNeil, Mitchell, Murphy E, Murphy T, Muse, Norbert, O'Brien JA, O'Brien LL, O'Neal, O'Neil, Perkins, Pieh, Povich, Powers, Quint, Richard, Richardson J, Samson, Sanborn, Savage C, Savage W, Saxl JW, Saxl MV, Schneider, Shiah, Shields, Shorey, Sirois, Skoglund, Stanley, Stevens, Sullivan, Tessier, Tobin D, Tobin J, Townsend, Tracy, Trahan, Tripp, True, Tuttle, Twomey, Usher, Volenik, Wheeler GJ, Mr. Speaker.

NAY - Berry DP, Bolduc, Bowles, Bragdon, Buck, Cameron, Campbell, Carr, Cross, Daigle, Foster, Gagne, Gerry, Gillis, Glynn, Heidrich, Jodrey, Jones, Joy, Kasprzak, Lindahl, MacDougall, Mack, Marvin, McKenney, Mendros, Nass, Nutting, Peavey, Pinkham, Plowman, Richardson E, Rines, Rosen, Sherman, Snowe-Mello, Stanwood, Stedman, Treadwell, Waterhouse, Weston, Wheeler EM, Winsor.

ABSENT - Bouffard, Brennan, Frechette, Lemont, McAlevee, Perry, Thompson, Watson, Williams.

Yes, 99; No, 43; Absent, 9; Excused, 0.

99 having voted in the affirmative and 43 voted in the negative, with 9 being absent, the Majority Ought to Pass Report was **ACCEPTED**.

The Bill was **READ ONCE** and was assigned for **SECOND READING** Friday, May 7, 1999.

The Speaker resumed the Chair.

The House was called to order by the Speaker.

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

HOUSE DIVIDED REPORT - Majority (11) **Ought to Pass as Amended by Committee Amendment "A" (H-432)** - Minority (2) **Ought Not to Pass** - Committee on **TRANSPORTATION** on Bill "An Act Requiring That the Costs of Transporting Highway Construction and Maintenance Materials to Isle au Haut by Barge or Ferry be Paid from the Highway Fund"

(H.P. 1522) (L.D. 2172)

Which was **TABLED** by Representative **WHEELER** of Eliot pending his motion 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-432)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Friday, May 7, 1999.

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

ENACTORS
Emergency Measure

An Act to Amend the Maine Banking Code Regarding Extensions of Credit

(S.P. 595) (L.D. 1719)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 127 voted in favor of the same and 1 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Provide Labeling for Cider

(S.P. 705) (L.D. 1980)

(C. "A" S-119)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 109 voted in favor of the same and 9 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

Resolve, Regarding Assessment for Long-term Care

(H.P. 735) (L.D. 1025)

(H. "A" H-338 to C. "A" H-207)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 111 voted in favor of the same and 1 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

Acts

An Act to Prohibit the Misuse of Identification

(H.P. 162) (L.D. 224)

(H. "A" H-315 to C. "A" H-183)

An Act to Protect the Environment by Phasing Out the Use of Old Transformers that are Potential Sources of PCB Pollution

(S.P. 243) (L.D. 665)

(C. "A" S-125)

An Act to Expedite Disputes among Commercial Landlords and Tenants

(S.P. 266) (L.D. 759)

(C. "A" S-129)

An Act to Provide Partial Funding for Construction of the Edmund S. Muskie School of Public Service

(H.P. 925) (L.D. 1302)

An Act to Appropriate Additional Funding for Court-appointed Counsel

(S.P. 442) (L.D. 1317)

(C. "A" S-123)

An Act to Amend the Treatment of Security Deposits Upon the Sale of a Building

(S.P. 443) (L.D. 1318)

(C. "A" S-128)

An Act to Expressly Treat Involuntary Conduct as a Defense in the Maine Criminal Code

(H.P. 1267) (L.D. 1821)

(H. "A" H-339)

An Act to Appropriate Funds for Marketing to Promote Economic Development

(S.P. 664) (L.D. 1886)

(C. "A" S-120)

An Act to Revise the Accountancy Laws

(S.P. 706) (L.D. 1981)

(C. "A" S-126)

An Act to Prohibit Deceptive Charitable Solicitations

(S.P. 714) (L.D. 2036)

An Act to Revise the Lienholder Notification Law

(S.P. 715) (L.D. 2037)

An Act to Amend the Laws Governing Financial Institutions

(S.P. 762) (L.D. 2152)

(C. "A" S-131)

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

Resolves

An Act to Expand the Basic Service Calling Area in Certain Rural Areas

(S.P. 405) (L.D. 1194)

(H. "A" H-337 to C. "A" S-91)

Resolve, to Increase Access to Maine's Technical College System

(H.P. 1191) (L.D. 1701)

(H. "A" H-316)

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

An Act to Clarify 7-day Evictions in Tenancies at Will

(S.P. 623) (L.D. 1788)

(C. "A" S-127)

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

On motion of Representative MARTIN of Eagle Lake, was **SET ASIDE**.

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

REPORTS OF COMMITTEE

Ought to Pass As Amended

Report of the Committee on **TRANSPORTATION** on Bill "An Act to Consolidate Traffic Movement Permits within the Department of Transportation" (EMERGENCY)

(S.P. 756) (L.D. 2132)

Reporting **Ought to Pass As Amended by Committee Amendment "A" (S-167)**.

Came from the Senate with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-167)** and **SENATE AMENDMENT "A" (S-192)**.

Report was **READ** and **ACCEPTED**. The Bill **READ ONCE**. **COMMITTEE AMENDMENT "A" (S-167)** **READ** by the Clerk and **ADOPTED**. **SENATE AMENDMENT "A" (S-192)** **READ** by the Clerk and **ADOPTED**.

TOMORROW ASSIGNED FOR SECOND READING.

CONSENT CALENDAR

First Day

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

(S.P. 68) (L.D. 171) Bill "An Act to Provide State Funding for the Wells National Estuarine Research Reserve" **JOINT SELECT COMMITTEE ON RESEARCH AND DEVELOPMENT** and the Committee on **MARINE RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-166)**

(S.P. 204) (L.D. 593) Bill "An Act to Promote the Recycling of Fish Scales as Agricultural Fertilizer" Committee on **NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-183)**

(S.P. 262) (L.D. 757) Bill "An Act Concerning Recreational Clam Harvesting Licenses" Committee on **MARINE RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-164)**

(S.P. 308) (L.D. 910) Bill "An Act to Amend the Tax Law Regarding Tax Liability of Innocent Spouses" Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-173)**

(S.P. 381) (L.D. 1082) Bill "An Act to Reauthorize and Amend the Diesel-powered Motor Vehicle Emission Opacity Testing Program" (EMERGENCY) Committee on **NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-184)**

(S.P. 391) (L.D. 1170) Bill "An Act Concerning the Review of State Solid Waste Management Policies" (EMERGENCY) Committee on **NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-185)**

(S.P. 398) (L.D. 1189) Bill "An Act to Ensure Adequate Funding of Certain Public Safety Programs of Occupational or Professional Licensure Boards" Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-178)**

(S.P. 418) (L.D. 1207) Bill "An Act to Amend the Local Highway Laws" Committee on **TRANSPORTATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-169)**

(S.P. 461) (L.D. 1348) Bill "An Act to Provide for Fair and Open Procedures for a Waiver of Department of Education Rules" Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-165)**

(S.P. 486) (L.D. 1446) Bill "An Act to Create the Business Advisory Commission on Quality Child Care Financing" (EMERGENCY) Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-179)**

(S.P. 534) (L.D. 1596) Bill "An Act to Clarify the Sales Tax Exemption for Food Service in Educational Institutions"

Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-174)**

(S.P. 539) (L.D. 1601) Resolve, to Direct the Department of Environmental Protection and the Department of Economic and Community Development to Devise a Proposal for Long-term Funding of the Removal of Tire Dumps Committee on **NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-186)**

(S.P. 568) (L.D. 1635) Bill "An Act to Implement the Recommendations of the Advisory Committee on Results-based Initial Certification of Teachers" Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-170)**

(S.P. 735) (L.D. 2085) Bill "An Act to Update the Statutes and Provide for the Basic Needs of the Maine Conservation Corps" Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-171)**

(S.P. 765) (L.D. 2157) Bill "An Act to Amend the Laws Concerning Life and Health Insurance" Committee on **BANKING AND INSURANCE** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-182)**

(S.P. 792) (L.D. 2204) Bill "An Act to Amend the Calculation of Service Credits Under the Maine State Retirement System Pertaining to the Comprehensive Education and Training Act of 1973 Employees" Committee on **LABOR** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-177)**

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

(S.P. 572) (L.D. 1639) Bill "An Act to Amend the Laws Governing the Maine State Pilotage Commission" (EMERGENCY) Committee on **TRANSPORTATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-168)**

On motion of Representative **SKOGLUND** of St. George, was **REMOVED** from the First Day Consent Calendar.

The Committee Report was **READ** and **ACCEPTED**. The Bill was **READ ONCE**. **Committee Amendment "A" (S-168)** was **READ** by the Clerk and **ADOPTED**.

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

Representative **SKOGLUND** of St. George **PRESENTED** **House Amendment "A" (H-473)**, which was **READ** by the Clerk.

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

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

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

Representative **CAMERON**: Mr. Speaker, Men and Women of the House. What does this amendment do?

The **SPEAKER**: The Representative from Rumford, Representative **Cameron** has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from St. George, Representative **Skoglund**.

Representative **SKOGLUND**: Mr. Speaker, Ladies and Gentlemen of the House. I want to assure the good Representative that this has nothing to do with the State Prison

in Thomaston. This is a pilotage bill. Vessels coming into Penobscot Bay have to pick up a pilot before advancing up through the bay. As the law reads now, the Maine State Pilotage Commission sets the fees that pilots may charge. There is a minimum fee for pilotage and a maximum fee for pilotage. One of my constituents who is a pilot on Mitinicus thinks it is rather unusual and unfair that he cannot pilot a vessel up the bay for less than the Pilotage Committee has set for a minimum. In other words, there is no competition for pilots and as a result a certain group appears to have a monopoly of piloting these vessels up Penobscot Bay. He feels that it would be fair practice and competitive if he could pilot a vessel for whatever fee he chooses. For example, if he wanted to pilot a vessel in for the Rockland Lobster Festival, he would not be able to do it just to be a good pilot. He has to charge the minimum fee. It just seems reasonable to me that the fee for pilotage be set by the person who is doing the work and not by the Pilot Commission. Thank you.

On motion of Representative JABAR of Waterville, **TABLED** pending **ADOPTION** of **House Amendment "A" (H-473)** and later today assigned.

CONSENT CALENDAR

First Day

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

(S.P. 140) (L.D. 376) Bill "An Act to Require Disclosure to Insurance Consumers That Long-term Care Insurance Policies Meet the Standards for the Deductibility of Premiums" Committee on **BANKING AND INSURANCE** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-197)**

(S.P. 393) (L.D. 1172) Resolve, Establishing a Task Force to Study the Need for an Agricultural Vitality Zone Program Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-196)**

(S.P. 656) (L.D. 1878) Bill "An Act to Make More Uniform the Training of Firefighters" Committee on **CRIMINAL JUSTICE** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-194)**

(S.P. 680) (L.D. 1930) Bill "An Act to Protect Beneficiaries of Structured Settlements" Committee on **BANKING AND INSURANCE** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-203)**

(S.P. 690) (L.D. 1936) Bill "An Act to Modify the Juvenile Code with Regard to the Service of Juvenile Summonses" Committee on **CRIMINAL JUSTICE** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-193)**

(S.P. 789) (L.D. 2201) Resolve, to Establish the John H. Reed-Kenneth M. Curtis Peace Fellowship Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-195)**

(H.P. 779) (L.D. 1102) Bill "An Act to Remove the Limitation on Nonprofit Organizations Holding Games of Chance" Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-468)**

(H.P. 1003) (L.D. 1401) Bill "An Act to Amend the Maine Health Data Organization Statutes" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-483)**

(H.P. 1061) (L.D. 1492) Bill "An Act to Propose Changes to the Maine Election Laws" Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-469)**

(H.P. 1073) (L.D. 1520) Bill "An Act Requiring Maine to Adopt the Federal Rules Regarding Universal Waste" Committee on **NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-482)**

(H.P. 1052) Joint Order Relative to establishing a Commission to Examine the Adequacy of Services at the Veterans Administration Medical Center Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-466)**

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

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

Bill "An Act Concerning the Regulation of Certain Commercial Contracts of Insurance"

(H.P. 1068) (L.D. 1499)

(C. "A" H-401)

Which was **TABLED** by Representative O'NEIL of Saco pending **ADOPTION** of **Committee Amendment "A" (H-401)**.

The same Representative **PRESENTED** **House Amendment "A" (H-486)** to **Committee Amendment "A" (H-401)**, which was **READ** by the Clerk.

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

Representative **O'NEIL**: Mr. Speaker, Men and Women of the House. I hesitate to grab something off the consent calendar, but I had to do it with this one. This amendment clarifies three little flaws that we found in the bill after we reported it out. As you know, we lost our committee analyst, Colleen McCarthy Reed. She had a baby last night. We had a stand in, but the stand in Jane Orbeton actually found one of the technicalities. The first one makes clearer the difference between premium and premium payments. The second one corrects an error in the reference section. The third one corrects the provision that dictates that the superintendent of insurance has the job of reporting back to the committee of jurisdiction by a certain date. He or she will report about the effects of the legislation and that is it. Thank you.

House Amendment "A" (H-486) to **Committee Amendment "A" (H-401)** was **ADOPTED**.

Committee Amendment "A" (H-401) as **Amended by House Amendment "A" (H-486)** thereto was **ADOPTED**.

The Bill was assigned for **SECOND READING** Friday, May 7, 1999.

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

UNFINISHED BUSINESS

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

HOUSE DIVIDED REPORT - Majority (7) **Ought Not to Pass** - Minority (6) **Ought to Pass** - Committee on **STATE AND**

LOCAL GOVERNMENT on Bill "An Act to Allow the Direct Submission to Voters of Municipal Charter Revisions"

(H.P. 1489) (L.D. 2127)

TABLED - May 3, 1999 (Till Later Today) by Representative AHEARNE of Madawaska.

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

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

Representative **BUMPS**: Mr. Speaker, Men and Women of the House. Before you cast your vote this afternoon on LD 2127, I would like for you to take this opportunity to understand exactly what this bill does. Current law requires that whenever municipal charter revisions are made that a charter commission be formed each time modifications are to be made in that municipalities charter. This bill before you would remove that provision. It would allow for the direct petition of municipal charter changes. I would ask that before you vote on this bill this afternoon and before you consider voting on the Minority Ought to Pass Report, that instead, you consider the Majority Ought Not to Pass Report and consider the implications of your actions.

I think most of you understand that a municipal charter is very similar to a constitution. A constitution is something that is not easily altered. That is not a mistake. It is by design. A municipal charter contains things of a higher order than things that are regulated by ordinance or by day-to-day routine and practice. A municipal charter, again, is very similar to a constitution. As you relate it to the state constitution there is obviously a very advanced process for modifying or bending that state constitution. Those matters go through a great deal of deliberation. They receive a great deal of thought and attention. If you go on today to accept the Minority Ought to Pass Report, you will have removed the protections that are currently in place for municipal charters. Municipal charter commissions will not need to be formed in order to make revisions to those charters, they will simply allow for the direct petition and the vote and the charter will be changed.

I would ask you to carefully consider what it is you are about to do. Mr. Speaker, when the vote is taken, I would request a roll call and I would also request the Clerk to read the Committee Report.

Representative **BUMPS** of China **REQUESTED** a roll call on the motion to **ACCEPT** the Minority **Ought to Pass** Report.

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

The same Representative **REQUESTED** that the Clerk **READ** the Committee Report.

The Clerk **READ** the Committee Report in its entirety.

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

Representative **TUTTLE**: Mr. Speaker, Men and Women of the House. This is one of my bills. It was a bill that had been requested by a number of constituents in my hometown and I talked to people from different areas of the state on this issue. I think it has been mentioned the bill, essentially, allows the submission of a petition for a municipal charter revision directly to the voters in that municipality without having to create a charter commission. If specifically requested by the petitioners, a petition submitted in this manner still must meet certain requirements such as the determination of sufficiency and a public hearing.

At the public hearing the proponents, which was myself, I removed the necessity for forming a charter commission each time a citizen wants to make a modification to the charter. It is my feeling and the feeling of many people that I talked to that it increases the flexibility of petitioners to submit a single issue to that charter without having to open up the entire charter. Having been involved with the process myself in my own community forming the original charter and having observed the necessity of changes from time to time, it is very similar to what we debated yesterday in allowing our citizens to petition their state government and essentially what we are trying to do is allow citizens from a municipal perspective to have that same right. Most states presently have this provision in their law. It has worked very well in those states. It only applies to municipalities for charters. It is my understanding that there are only 75 municipalities in the state that presently do have charters. Right now it takes up to two years to conduct the charter commission process. I think that for specific issues, if those citizens wish to petition their municipality on a single issue, I think in most cases this would be most beneficial in the states where it has been adopted, it has worked very well.

At the public hearing there was no testimony against it. It is my understanding that Maine Municipal Association spoke neither for nor against, but they have expressed some concerns. It is my hope that we would adopt this bill. Essentially it eliminates the necessity of a cumbersome charter commission process for the citizen initiated changes unless it is requested by the petitioners. It still requires a referendum vote. A petition for each charter revision will still have to meet certain criteria as determined of the sufficiency which requires signatures of 20 percent of the voters of the municipality. This is something that really generates process and I think it would also create greater flexibility. This bill increases the flexibility of petitioners to submit a single issue to the revised charters and it limits the scope of charter changes. As I mentioned before, it only impacts communities with charters, 75 municipalities in Maine have charters. This bill would only impact those communities.

It is for that reason, Mr. Speaker, that I would encourage you to support a bill that I think is going to help the petition process and charters in the State of Maine. Thank you Mr. Speaker.

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

Representative **TWOMEY**: Mr. Speaker, Men and Women of the House. This week you heard me speak passionately about petitions and the right for people to petition their government. This really is not the same issue. We are comparing apples and oranges. This is a very important issue. Our city charter, when we meet, we have to elect the members who will serve on that charter. Those names are placed out to the voters. Anyone who wants to run has the ability to run. People in our town get to vote on who will serve on the city charter committee. There then is a series of public hearings where everyone in the town is notified on what they will be discussing and asking for input on the city charter. It is the most democratic way to proceed. Having this ability to just change the charter willy nilly would not be inclusive of everyone in the community. I really believe this is dangerous. I totally respect Representative Tuttle, but his community is a town form of government. They do not have a mayor. That community has been struggling for a very, very long time. People want that form of government and every time they go to those voters, they refuse to have that as their form of government. It has been an ongoing battle in Sanford. I really

believe this is another way to attempt to circumvent what the people of that town wants. I respect Representative Tuttle for putting it in, but I think town charters and the way we go about town charters should be protected. Thank you very much.

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

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

The SPEAKER: The Representative may pose his question.

Representative CROSS: Mr. Speaker, Men and Women of the House. For whoever can answer the question, it would be much appreciated. How many municipalities testified in support of this bill?

The SPEAKER: The Representative from Dover-Foxcroft, Representative Cross has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Madawaska, Representative Ahearne.

Representative AHEARNE: Mr. Speaker, Men and Women of the House. There were none who testified.

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

Representative MCDONOUGH: Mr. Speaker, Men and Women of the House. I rise in support of my good friend Representative Tuttle's bill. You have heard both sides of the argument. I have had a somewhat amount of experience with the charter process. I think by tweaking this a little bit it opens up the public's input so it isn't so cumbersome. I know in our experience a lot of scare tactics were used where they talked about if you had a charter commission they open everything up, it is going to eliminate the school board and all of those things, which is entirely erroneous. I think that this gives the public, the citizens of a community, the opportunity to get something on the ballot so that the citizens or the voters of any chartered community can take an issue and make changes to their community that they think are appropriate. I would ask the men and women of the House, Mr. Speaker, to support the bill. Thank you very much.

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

Representative CHICK: Mr. Speaker, Ladies and Gentlemen of the House. My comments here will be my concern based on bills that I have taken before committees this year and also following charter commission problems in the State of Maine. I won't name any towns. It is something that you need to consider because what I have seen during this session at hearings, there seems to be a reluctance by municipalities, municipal officers, the organizations that you all know show up at these hearings who wish to adhere to a set of rules. When you mention any penalties for not following the rules, they hit the roof. I am concerned that what I have seen over my time involved in municipal affairs, lack of notices. It always winds up in some big discussion, when it was posted and who didn't know. To me, anything involving where some group can push something through without too much problem, I would say you best beware. Thank you.

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

Representative PERKINS: Mr. Speaker, Ladies and Gentlemen of the House. I am a little confused here and that is not too unusual. Back in the Town of Penobscot several years ago, I asked the selectman to have something put on the warrant for the town meeting. I was refused. What the issue was is we

would have a town meeting with maybe 300 people there to make a decision. A certain fraction of the people didn't like the decision and they would call a special town meeting and there would be maybe 30 people there, 10 percent of the number, and they would overturn what was decided. I didn't think that was right. The selectmen wouldn't put it on the warrant. I started a petition drive to amend the charter so that if you were going to overturn the decision of a town meeting by a special town meeting, it would take, I think, four-fifths super majority. It passed at the town meeting. My petition passed two to one at the town meeting. To tell you the truth, I never went back and checked to see if they actually changed the charter. If I could ask a question through the chair to anybody who might know. Could this possibly be that the Town of Penobscot or any other town might have a special provision whereby the charter could be changed in this manner by petition or is this statewide, which we are trying to change through this?

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

Representative AHEARNE: Mr. Speaker, Men and Women of the House. To answer my good friend's question, I believe it would be applied statewide.

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

ROLL CALL NO. 125

YEA - Ahearne, Bagley, Baker, Bolduc, Brennan, Brooks, Bryant, Chizmar, Clark, Cote, Davis, Desmond, Dudley, Dugay, Duplessie, Gagne, Gerry, Glynn, Goodwin, Hatch, Jacobs, Mack, Mailhot, McDonough, Mendros, O'Neal, Perkins, Pieh, Pinkham, Povich, Powers, Richardson J, Rines, Samson, Sanborn, Saxl JW, Saxl MV, Sherman, Shiah, Sirois, Skoglund, Sullivan, Tessier, Townsend, Tuttle, Usher, Volenik, Wheeler GJ, Mr. Speaker.

NAY - Andrews, Belanger, Berry DP, Berry RL, Bowles, Bragdon, Bruno, Buck, Bull, Bumps, Cameron, Campbell, Carr, Chick, Cianchette, Clough, Collins, Colwell, Cowger, Cross, Daigle, Davidson, Duncan, Dunlap, Etnier, Fisher, Foster, Fuller, Gagnon, Gillis, Gooley, Green, Heidrich, Honey, Jabar, Jodrey, Jones, Joy, Kane, Kasprzak, Kneeland, Labrecque, LaVerdiere, Lemoine, Lindahl, Lovett, MacDougall, Madore, Martin, Marvin, Matthews, Mayo, McGlocklin, McKee, McKenney, McNeil, Mitchell, Murphy E, Murphy T, Muse, Nass, Norbert, Nutting, O'Brien JA, O'Brien LL, O'Neil, Peavey, Plowman, Quint, Richard, Richardson E, Rosen, Savage C, Savage W, Schneider, Shields, Snowe-Mello, Stanley, Stanwood, Stedman, Stevens, Tobin D, Tobin J, Tracy, Trahan, Treadwell, Tripp, True, Twomey, Waterhouse, Watson, Weston, Winsor.

ABSENT - Bouffard, Frechette, Lemont, McAlevey, Perry, Shorey, Thompson, Wheeler EM, Williams.

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

49 having voted in the affirmative and 93 voted in the negative, with 9 being absent, the **Minority Ought to Pass Report was NOT ACCEPTED.**

Subsequently, the **Majority Ought Not to Pass Report was ACCEPTED** and sent for concurrence.

Expression of Legislative Sentiment recognizing the Gardiner Regional Middle School, sole recipient of the Margaret Chase Smith Quality Award

(SLS 96)

- In Senate, **READ** and **PASSED**.

TABLED - May 3, 1999 (Till Later Today) by Representative COLWELL of Gardiner

PENDING - **PASSAGE** in **CONCURRENCE**.

Subsequently, the Sentiment was **PASSED** in concurrence.

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

HOUSE REPORT - **Ought to Pass as Amended by Committee Amendment "A" (H-285)** - Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Decrease the Time by Which Rent Is Considered Late"

(H.P. 635) (L.D. 885)

TABLED - May 3, 1999 (Till Later Today) by Representative TUTTLE of Sanford.

PENDING - **ACCEPTANCE OF COMMITTEE REPORT**.

On motion of Representative TUTTLE of Sanford, the Bill and all accompanying papers were **COMMITTED** to the Committee on **LEGAL AND VETERANS AFFAIRS** and sent for concurrence.

HOUSE DIVIDED REPORT - Majority (10) **Ought Not to Pass** - Minority (3) **Ought to Pass as Amended by Committee Amendment "A" (H-282)** - Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act to Prohibit Rewards to Fish and Wildlife Informants"

(H.P. 134) (L.D. 196)

TABLED - May 3, 1999 (Till Later Today) by Representative DUNLAP of Old Town.

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

Subsequently, 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-284)** - Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act to Allow Hunters to Carry and Use a Standard-size Flashlight"

(H.P. 559) (L.D. 780)

TABLED - May 3, 1999 (Till Later Today) by Representative DUNLAP of Old Town.

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

The **SPEAKER**: The Chair recognizes the Representative from Rome, Representative Tracy.

Representative **TRACY**: Mr. Speaker, Ladies and Gentlemen of the House. The bill purports to clarify that a hunter may carry and use a flashlight without being guilty of night hunting. I will give you a scenario: The hunter who is in possession of hunting equipment is walking through the woods on his way to his stand using a flashlight to light his way prior to the time when it is lawful to shoot a deer. Question, can the

average layman hunter determine by reading the statutes what the law really is? Is he/she hunting? Is he/she night hunting? Is he/she using a prohibited implement? Can he/she feel certain they are in compliance with the law in the legitimate use of a flashlight while possessing firearms in the forests?

At the hearing on February 23, 1999, Commissioner Lee Perry testified that LD 780 is unnecessary legislation. He further stated that current law does not prevent a person who is in possession of hunting implements from using a flashlight in the fields and forests during the nighttime. Furthermore, he stated that LD 780 would be more restrictive than what current law provides.

I respectfully disagree with the Commissioner's testimony for a number of reasons. Please allow me to present a rather complex legal argument for the passage of LD 780. First of all, current law (exceptions paragraph of 12 MRSA, Section 7406), does provide for the "possession" of flashlights. However, it does not provide for the "use" of the flashlight. If the Commissioner feels that current law allows the "use" of a flashlight under the conditions described, then why would he object to the insertion of the word "use" or "legitimate use" in the exception statute?

There is a distinct legal difference in the meaning of "possession" and "use" of an implement Black's Law Dictionary, the bible of the courthouse, provides us with a clear and concise legal definition of the two words. The following is taken from Black's Law Dictionary. "Use, verb. To make use of, convert to one's service; to employ; to avail oneself of, to utilize; to carry out a purpose or action by means of, to put into action or service, especially to attain an end.

Possession. Having control over a thing with the intent to have and to exercise such control. The detention and control, or the manual or ideal custody, of anything which may be the subject of property, for one's use and enjoyment, either as owner or as the proprietor of a qualified right in it, and either held personally or by another who exercises it in one's place and name. Act or state of possessing. That condition of facts under which one can exercise his power over a corporeal thing at his pleasure to the exclusion of all other persons."

Secondly, the Commissioner feels that we should put our complete trust in the law enforcement officer rather than the law. He suggests that under the conditions previously described, one should not be concerned about being arrested for a crime (specifically, night hunting) he/she did not commit. Subjectiveness by the law enforcement officer and unclear law coupled with subjective circumstances lends itself to a dangerous situation. The ease of prosecution of a night hunting charge adds to this possible dilemma. Consider also the penalty of night hunting. It is one of the few fish and game violations that provide for a mandatory jail sentence and that sentence cannot be suspended.

At the work session on LD 780, we heard from our former Commissioner of Inland Fisheries & Wildlife, Norman Trask. He too saw a problem if one looked at the issue strictly from a legal standpoint. Being a former warden himself, he offered an amendment to LD 780 that would have made it clear for a person possessing hunting implements in the woods during the nighttime to "use" an artificial light for legitimate purposes. He stated that he personally felt comfortable while tending his traps using an artificial light when in the possession of firearms, but he failed to state that his firearm was a .22 caliber handgun, rather than a larger caliber rifle normally using for the taking of deer. He

also failed to mention that the handgun could only be loaded while dispatching the animal.

Unlike Maine Criminal Code violations, fish and game crimes are some of the easiest cases to prosecute because there is no mens rea attached to the violation. This means that the State does not have to prove any criminal intent. The crime of night hunting, in particular, is one of the easiest cases to prosecute because of Maine Supreme Court case law dealing with night hunting. The Court has spoken loud and clear as to what constitutes night hunting. Simply stated, the Court has said in numerous cases that mere possession of hunting implements by the hunter, the time of day being the nighttime, and hunter being present in an area frequented by wild animals and wild birds is all that is necessary for conviction. The State is not even required to prove the accused was hunting. In actual prosecutions by the Maine Warden Service, it is quite common for wardens to arrest people for night hunting when the wardens know that the person or persons were not proactively engaged in hunting. We all know of cases when convictions were easily had when the hunter had done nothing more than shine a light on a deer or a decoy on his way to or from a hunting trip. What this all means is that only the "four corners of the law" are relevant. Let us for the moment consider the crime of night hunting bearing in mind the definition of hunt.

"12 § 7001. Definitions, 15. Hunt. To "hunt" means to hunt for, pursue, molest, shoot, catch, take, kill, wound or destroy wild animals and wild birds. 5. Night hunting A person is guilty of night hunting if that person: A. Hunts wild birds from sunset to 1/2 hour before sunrise of the following day; or [1979, c. 420 §1 (new).] B. Hunts wild animals except raccoons and coyotes as provided in chapters 701 to 721, from 1/2 hour after sunset until 1/2 hour before sunrise the following day. [1991, c. 443, §23 (amd).]

The definition of hunt, 12 MRSA, Section 7001(15) is so overbroad and vague that it lends itself to any definition one chooses. Certainly, one could argue that the hunter is in the pursuit of wild animals and wild birds when walking through the woods on his way to his/her stand.

In *State vs. Dube*, a recent case that was tried in Portland Superior Court in July 1998, the issue was whether or not Dube was hunting. The Court records show that Dube was sitting in his motor vehicle on a railroad right-of-way reading a newspaper and his hunting implement (a bow) was in the rear of his utility vehicle. The statutes regarding the definition of hunting and the possession of hunting implements in the fields and forest were apparently unclear to the defendant the warden, and the prosecutor. After vigorous prosecution by the Maine Warden Service, the case terminated in a dismissal of charges against Dube midway through the trial. The judge's legal analysis of "actual" possession of hunting implements combined with the definition of hunting was the basis of his decision.

There is little or no disagreement within the criminal justice system of the ease in which the prosecution and conviction of a night hunting offense can be obtained. The Maine Supreme Court has issued numerous decisions regarding night hunting and most of the pertinent statements within these decisions can be found in 12 MRSA, Section 7406. You will see reference in 12 MRSA, Section 7406 to *State vs. Rowell* (1951), *State vs. Allen* (1956), *State vs. Pike* (1973), *State vs. Cowperthwaite* (1976), and *State vs. Linscott* (1977). However, one case is worth reading in its entirety. *State vs. Pike* (1973) 306 A.2d 342, addresses all the elements necessary for conviction of a night

hunting offense and it is an excellent summation of what night hunting is all about

This following is the precise language from *State v. Pike* (1973). "Significantly closer to the facts here, indeed sufficiently similar to be authoritative, are the cases of *State vs. Allen* (1956) and *State vs. Vicniere* (1957). In *Allen* and *Vicniere* the "elements" warranting conclusions of guilt in night hunting cases were "catalogued" as., presence of the defendant in time and place relative to the commission of the offense as charged, "night" time as defined by statute, ready availability to defendant of specific instrumentality uniquely useful for the accomplishment of the offense and a purpose to search, find and possess game."

Here, as in *Allen* and *Vicniere*, there was evidence of all of these "elements" adequate to support a jury conclusion beyond a reasonable doubt that defendants were guilty of night hunting. That the evidence tends to indicate that defendants might not have committed all of the acts significant in the proof of the offense (such as the shining of the flashlight across the open field) is immaterial. The evidence was sufficient to warrant a conclusion beyond a reasonable doubt that defendants were participants as to some of the "elements" - for example, that defendant knowingly exerted control of the rifle and the shells. Since night hunting is a misdemeanor, anyone who commits an act constituting any part of the ultimate "essentials" of night hunting - notwithstanding that he might not have committed all of the acts necessary to constitute the offense and even though proof is lacking to indicate prior planning, or combination, to commit the offense - is nevertheless guilty as the principal.

Especially interesting in night hunting cases, is the fact that it is not necessary for the State to prove that you were actually hunting. The elements as previously stated in *Pike* are the only requisites.

Another factor that may be overlooked by this body is what actually happens in a Court of Law when the presiding justice advises the jury as to the law. Most Superior Court justices have no previous experience in dealing with night hunting cases and probably few justices, if any, have any actual hunting experience. They only know what the law says and they have an obligation under their canons to follow the law as written. In addition to this, juries are reasonable people without expertise in law. I ask you to consider what goes through a layman's mind when someone is charged with night hunting. I think you would agree that the words gun, light and deer are consistently associated with night hunting. It would be reasonable for a jury to believe that one was actually night hunting if the "legitimate use" of a flashlight was not spelled out clearly in the statute. The reality of a hunter using a light coupled with the possession of a rifle type firearm at nighttime during deer season seals the deal with the jury. In fact, the prosecutor will argue that the use of a flashlight while hunting is only permissible under the statutory exceptions allowed in the hunting of raccoons and coyotes.

In view of the current statutes as written and existing case law, it should be apparent to this body that any hunter who is in the fields and forests prior to or subsequent to legal hunting time, and who is in possession of a firearm, and who is on his way to or from a deer stand, and who is using a flashlight to light his way faces a very real and potential legal problem. The Commissioner will argue that a loaded or unloaded firearm is the determining factor. This argument is purely subjective and nowhere in the statute is a loaded or unloaded firearm issue addressed in the context of a hunter going to or coming from a stand during the hours of illegal deer hunting time. This

legislative body lacks the power to control the actions of people, but it does not lack the power to write clear and concise law. In all fairness to the hunter, it seems this body has an obligation to clearly define by statute when a hunter who is actually hunting by strict definition of law, but who is not proactively hunting can use a flashlight. This unclear issue has been a long-standing one of debate, dialogue and misunderstanding by the hunter, the enforcer and the courts. The statutes, as collectively written, create a monumental comprehension task for the average layperson. An affirmative vote for the passage of LD 780 is in order. The insertion of the word "use" in the exiting statute does not in any way usurp or diminish the ability of the Warden Service to effectively investigate and prosecute night hunters. It is the intent of this bill to provide some assurance to the well-intentioned sportsman that he or she will not be prosecuted and convicted of a crime he or she did not commit.

Another statute that the hunter has to concern himself with is 12 MRSA, Section 7943, Possession of hunting equipment without a license and 12 MRSA, Section 7001(15-A), the definition of hunting equipment. Again, the hunter does not necessarily have to be hunting to result in a conviction. Possession of hunting equipment in the fields, forests, waters or ice is all that is necessary. It is also unclear to the hunter as to when he is actually in the field, forests, or waters as well. Does this mean that he has to be afoot? Does it mean when his vehicle is in the fields, forests, waters, or ice?

"12 § 7943. Possession of hunting equipment without license. The possession of any hunting equipment in the fields, forests or on the waters or ice within the territorial limits of the State by any person who does not possess the required hunting license duly issued to that person, covering the period of time within which the hunting equipment is found in that person's possession, is prima facie evidence of hunting in violation of law, unless the person furnishes satisfactory evidence of the issuance of a hunting license. [1997, c. 432, §58 (amd).]"

"12 § 7001. Definitions. 15-A Hunting equipment. "Hunting equipment" means the following: A. Firearms of any type that are permitted under the laws governing hunting, including muzzle-loading firearms; or [1997, c. 432, 12 (new).] B. Archery equipment that is permitted under the hunting laws governing archery including, but not limited to, recurved bows and compound bows. [1997, c. 432, §2 (new).]"

Finally, the hunter has to deal with 12 MRSA, Section 7406(17), Use or Possession of prohibited implements or aids and the exceptions in Section 20. While the State will argue that a hunter can use a flashlight to light his way to a stand without fear of prosecution, the law does not provide for use of a flashlight. It merely allows possession of it 12 MRSA., Section 7406(17)(K), clearly prohibits the "use of any artificial light to hunt deer, day or night. Once again, this broad definition of hunting becomes a problem for the hunter. The hunter also has to look at 12 MRSA, Section 7001; the definition of jacklight, which defines it as any artificial light except that permitted while hunting raccoons. Even the raccoon hunter has restrictions on the "use" of a light. The use of a light while raccoon hunting has other legal considerations spelled out in the rules and regulations.

Raccoons may be hunted at night during the open season only when the hunter(i) is accompanied by a dog, (ii) uses an electric flashlight to locate raccoons that are treed or hold at bay, by a dog or dogs, and (iii) is in possession of, and uses a rifle, pistol or revolver of no greater power or caliber than one which

uses .22 caliber long ammunition; said rifle to be loaded only when being used to dispatch a raccoon that is treed or hold at bay by a dog or dogs.

Further, the Commissioner may argue that the use of an artificial light is permitted without restriction while hunting coyotes. Please note that the statute does not address the use of lights one way or the other. Please also note that the season for hunting coyotes in the nighttime does not occur during the season when it is lawful to hunt deer.

"12 § 7108. Coyote hunting permit. 1. Eligibility. Any person who possesses a valid hunting license is eligible to obtain a permit from the commissioner to hunt coyotes at night, except that a permit may not be issued to any person who has been convicted of a violation of section 7406, subsection 5, within 5 years of the date of application for the permit [1995, c. 667, Pt A, §22 (amd).] 2. Issuance. The commissioner shall issue a permit to hunt coyotes at night to eligible persons at a fee of \$2. [1985, c. 819, pt. B, 5 (reen).] 3 Open season. Notwithstanding section 7406, subsection 5, an open season for hunting coyotes at night in all counties of the State from January 1st to April 30th is established. The commissioner may terminate this open season at any time in any area if, in the commissioner's opinion, an immediate emergency action is necessary due to adverse weather conditions or illegal hunting activity. [1989, c. 676 (amd).] 4. Restrictions. The following restrictions apply during the open season for hunting coyotes at night. A. All hunting shall be limited to the hours between 1/2 hour after sunset and 1/2 hour before a sunrise and shall cease at midnight each Saturday and may resume at 12:01 a.m. each Monday. [1987, c. 684, §3 (amd).] B. (1985, c. 369, §6 (rp).] C. [1985, c. 369, 16 (rp).] D. [1985, c. 369, §6 (rp).] E. Any person hunting coyotes at night shall be in possession of an electronic, hand-held or mouth-operated predator calling device. [1995, c. 819, Pt 8, §5 (reen).] [1987, c. 684 §3 (amd).] 5. Revocation. Any hunting license of a person convicted of a violation of this section shall be revoked and he shall not be eligible to obtain gun hunting license for a period of one year from the date of conviction."

In conclusion, I submit that the prohibited act statute is necessary to amend.

"12 § 7406. Prohibited acts. 17. Use or possession of prohibited implements or aids. A person is guilty, except as provided in subsection 20, paragraph B, of use or possession of a prohibited implement or aid if he: K. Uses an artificial light, snare, trap, swivel, pivot or set gun to hunt deer or moose, [1979, c. 420, §1 (new).] L. Uses artificial lights between 1/2 hour after sunset and 1/2 hour before sunrise the next day to illuminate, jack, locate, attempt to locate or show up wild animals or wild birds from September 1st to December 15th of each calendar year, or [1979, c. 420, §1(new).] 20. Exceptions. B. The following are exceptions concerning subsection 17. (3) Paragraph K does not affect or restrict the legitimate possession and sale of flashlights. (3) Paragraph K does not affect or restrict the legitimate possession, use and sale of flashlights with a maximum power equivalent to 2 D-cell batteries. (4) Paragraph L does not affect chapter 709, subchapter IV, or any rule issued in accordance with section 7035, subsection 1. (4) Paragraph L does not affect chapter 709, subchapter IV, any rule issued in accordance with section 7035, subsection 1 or the legitimate possession and use of flashlights with a maximum power equivalent to 2 D-cell batteries."

The passage of LD 780 or as amended, would simply clarify the use of flashlights by adding the word "use" to current law that

only permits possession. After reading this legal presentation, it should be clear to this body that this slight amendment if nothing else, is necessary for clarity of law for those who come and go from a deer stand in the darkness of night.

Representative TRACY of Rome **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought Not to Pass**.

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 Old Town, Representative Dunlap.

Representative **DUNLAP**: Mr. Speaker, Ladies and Gentlemen of the House. Let me try to shed a little light on this situation. Very briefly, the only problem with this legislation is that it would actually make a law on carrying a light in the woods more restrictive. Right now you can carry any size light and this would actually restrict it to a standard size flashlight. In terms of the issue of night hunting, all the elements of night hunting have been outlined in supreme court rulings centering around an overact, which basically means shining wildlife. There are some court cases to illustrate that, but I think you understand what I am saying. I hope you will support the Majority Ought Not to Pass Report. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Rome, Representative Tracy.

Representative **TRACY**: Mr. Speaker, Ladies and Gentlemen of the House. I wholeheartedly disagree with my good colleague Representative Dunlap. This does not make it more restrictive. The amendment clarifies the restrictiveness. This says any illuminating instrument. There is no restrictiveness to it at all. I urge you to follow my light. Thank you.

The SPEAKER: The Chair recognizes the Representative from Lincoln, Representative Carr.

Representative **CARR**: Mr. Speaker, Men and Women of the House. If the interpretation of what I hear is that it is presently okay to carry a flashlight while you are also carrying a firearm and ammunition in the woods after dark is right, well, as a registered Maine guide, I would feel very uncomfortable doing that because I would have several things to lose, as I see it. First of all, I think I could be arrested and incarcerated, pay a significant fine and also lose my guide's license. If there is somebody here that can correct me from my understanding of night hunting, the elements of that crime would be, in the nighttime, you are in the woods and in your possession you have with you a gun, ammunition and a flashlight and it is after hours, it is my understanding that that would be night hunting if you were using the flashlight. It is also my understanding that if you were walking out of the woods and you were just carrying that flashlight, that might be okay. Once you begin to use that flashlight to find your way, it is my interpretation now that that is illegal. If I am wrong in that, would somebody please correct me. Thank you.

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

Representative **DUNLAP**: Mr. Speaker, Men and Women of the House. I will try to clarify that. One of the court cases I was referring to was the Cowperthwaite case in 1954, which outlined a situation. I will try to give you the situation and you can judge for yourself. A former game warden with a couple of friends of his in a pickup truck riding through a blueberry barren at 2:30 in the morning. A warden spots them shining the tree line with a high-powered light. He attempts to stop them, then speeds

away. He has to run their truck off the road. He finds a firearm in the front seat between the first two fellows. He goes back to where he first spotted them and tries to stop them and finds ammunition on the ground with a clip for their rifle. Those are the elements described in the law. The flashlight, the firearm and the ammunition, but what was the final determination of night hunting was the fact that they had shined the tree line looking for deer at 2:30 in the morning. If you are trying to find your way through the woods with your flashlight to your tree stand at 5:30 in the morning, or whenever it is in those illegal hours, you are fine. It is when you are trying to spot wildlife with any size light that you are in violation of the statute. I hope that clarifies the issue for everyone.

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

Representative **TRACY**: Mr. Speaker, Ladies and Gentlemen of the House. There is a very clear and distinct bottom line to this. If you go into the woods, you can have the instrument on you, you can have possession, but when you turn that light on to find your way to the tree stand or out from your tree stand in the evening after sunset, the courts have very clearly stated there are four elements. Instrument, which is a flashlight, firearm, ammunition and where wildlife are known to be. That is the fields and the forests of the State of Maine. I cannot get any clearer that you would be in violation of the law. Yes, you could be subject to night hunting.

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. 126

YEA - Andrews, Bagley, Baker, Belanger, Berry DP, Berry RL, Bowles, Bragdon, Brennan, Brooks, Bruno, Bryant, Buck, Bull, Bumps, Cameron, Campbell, Chick, Chizmar, Cianchette, Collins, Colwell, Cote, Cowger, Cross, Daigle, Davidson, Davis, Dudley, Duncan, Dunlap, Etnier, Fisher, Foster, Fuller, Gagne, Gagnon, Glynn, Gooley, Green, Heidrich, Honey, Jabar, Jodrey, Jones, Joy, Kane, Kasprzak, Kneeland, Labrecque, LaVerdiere, Lemoine, Lindahl, Lovett, MacDougall, Madore, Mailhot, Marvin, Mayo, McDonough, McKenney, McNeil, Mitchell, Murphy E, Murphy T, Muse, Nass, Norbert, Nutting, O'Brien JA, O'Brien LL, O'Neil, Peavey, Pieh, Powers, Quint, Richard, Richardson E, Richardson J, Rines, Samson, Sanborn, Savage C, Savage W, Saxl JW, Saxl MV, Schneider, Shiah, Shields, Shorey, Snowe-Mello, Stanley, Stanwood, Stedman, Stevens, Sullivan, Tessier, Tobin D, Townsend, Treadwell, Tripp, True, Tuttle, Twomey, Usher, Volenik, Waterhouse, Watson, Weston, Wheeler GJ, Winsor, Mr. Speaker.

NAY - Ahearne, Bolduc, Carr, Clark, Clough, Desmond, Dugay, Duplessie, Gerry, Gillis, Hatch, Jacobs, Mack, Matthews, McGlocklin, McKee, Mendros, O'Neal, Perkins, Pinkham, Plowman, Povich, Rosen, Sherman, Sirois, Skoglund, Tobin J, Tracy, Trahan, Wheeler EM.

ABSENT - Bouffard, Frechette, Goodwin, Lemont, Martin, McAvey, Perry, Thompson, Williams.

Yes, 112; No, 30; Absent, 9; Excused, 0.

112 having voted in the affirmative and 30 voted in the negative, with 9 being absent, the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

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 - May 3, 1999 (Till Later Today) by Representative JABAR of Waterville.

PENDING - ACCEPTANCE OF COMMITTEE REPORT.

Subsequently, the Committee Report was ACCEPTED.

The Bill was READ ONCE. Committee Amendment "A" (H-134) was READ by the Clerk.

Representative JABAR of Waterville PRESENTED House Amendment "A" (H-345) to Committee Amendment "A" (H-134), which was READ by the Clerk.

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

Representative JABAR: Mr. Speaker, Men and Women of the House. I would like to explain to you a little bit about the amendment and then about the bill itself. This open container bill, which is before you, is before you for several reasons. One of them has to do with federal funding and federal mandates. Presently, 29 states have open container laws and part of the reason is the state and federal law which requires states to pass such a law or lose some federal money, as much as \$3 million over a biennium. This law is an attempt, again, follow up on our tough OUI law in the State of Maine. The Department of Public Safety and the Maine State Police support this open container law because they feel it would help them in the cutting down of drunk driving. They feel it is a natural progression of strengthening Maine's OUI law. The bill may create some problems for those of you who like what is commonly referred to as rodies, having a drink on the road. This is an attempt to make enforcement of OUI laws that much easier to stop and discourage people from drinking in automobiles and as I indicated in the very beginning, to comply with the federal highway administration act regarding federal funds in this area. The amendment that was added today had to do with caterers who would be an exception. They could carry open liquor bottles in their vehicles between jobs. Obviously they would need this in order to carry out their work. There was some discussion about trying to cover the law with amounts in the bottom of a container with people who are collecting disposables. We could not come up with any workable definition for any usable amounts. A word that is often used in the area of marijuana and hope that enforcement would not result in prosecuting people who end up picking up bottles on the side of the road. We believe that this bill will help cut down drinking in automobiles and, therefore, cut down OUIs and deaths on the highway. I ask you to support the Ought to Pass open container bill. Thank you.

The SPEAKER: The Chair recognizes the Representative from Rome, Representative Tracy.

Representative TRACY: Mr. Speaker, Men and Women of the House. I urge you not to accept the pending motion. Mr. Speaker, I would move the Indefinite Postponement of this bill and all its accompanying papers.

The SPEAKER: The motion is out of order.

The Chair recognizes the Representative from Bridgton, Representative Waterhouse.

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

The SPEAKER: The Representative may pose his question.

Representative WATERHOUSE: Mr. Speaker, Men and Women of the House. Does this amendment in any way affect a bill that we passed in the 118th allowing people when they go to a fancy restaurant or restaurant to buy a very expensive bottle of wine to transport that bottle of wine in the car if it is properly sealed?

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

Representative JABAR: Mr. Speaker, Men and Women of the House. The answer to that question is, it does take that into consideration. The bottle of wine that has been opened and secured for transportation, that bottle has to be transported as any other half filled bottle that you are transporting. That is, it has to be in the trunk or has to be behind the last seat in the vehicle if it is a van.

House Amendment "A" (H-345) to Committee Amendment "A" (H-134) was ADOPTED.

Committee Amendment "A" (H-134) as Amended by House Amendment "A" (H-345) thereto was ADOPTED.

On motion of Representative MENDROS of Lewiston, the House RECONSIDERED its action whereby Committee Amendment "A" (H-134) as Amended by House Amendment "A" (H-345) thereto was ADOPTED.

On further motion of the same Representative, the House RECONSIDERED its action whereby House Amendment "A" (H-345) to Committee Amendment "A" (H-134) was ADOPTED.

On further motion of the same Representative, the House RECONSIDERED its action whereby the Committee Report was ACCEPTED.

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

Representative MENDROS: Mr. Speaker, Men and Women of the House. I urge you to vote against this bill. We have tough OUI laws in this state to keep people who are drinking and driving from drinking and driving and hurting people. What this bill does is, if somebody has an open liquor bottle in their car with the seal broken and they put it in the back seat of their car and go somewhere, they can be in violation of carrying an open container. We heard this stops other people who may be drinking in a car, but aren't driving. There is no danger of someone sitting in the back seat of my car with an alcohol container. It is not going to make me any worse of a driver, if I am following the rules of the road and below the legal limit. That is what we are trying to prevent drunk people from being on the road and risking other people's lives and killing other people. I think we should have tough OUI laws, but we should not assume that everybody is a criminal just because they are having a drink or just because they have a bottle in their car that has had the seal broken. We are not a police state. We cannot just assume everybody is a criminal and just because one person is in the car is having a drink, the driver must be drunk. I don't even see how we make that leap of faith. I urge you to defeat this motion.

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

Representative O'NEIL: Mr. Speaker, Men and Women of the House. I am the sponsor of this bill. The Representative from Bath sponsored a similar bill and we brought it through a

couple of committees. The bill underwent several transformations from its initial presentation. Among the amendments that went through, the Representative from Lewiston should be pleased to note that we took into account his objection. He should be satisfied by the amendment. It does not create a police state at all. The policy that the unanimous report looks to put forth is a policy that an automobile on the road is no place for drunk people to be.

The SPEAKER: The Chair recognizes the Representative from Rome, Representative Tracy.

Representative TRACY: Mr. Speaker, Ladies and Gentlemen of the House. The way I understand what this bill does is in the bill itself it says that any amount. If anybody in this chamber can tell me what any amount means? I have a problem with any amount. I know that I talked to Representative Lindahl and he says it is hard to define any amount and then you will have to depend on the law enforcement official. There again, we will have to depend on the law enforcement official. It is very clear and says, any amount. Where I come from, the people that I represent, up in the timberland, which I call it, where we have all kinds of trees and leaves, bark, birds and the deer and everything else. I have elderly constituents who pick up recyclable containers along side the road.

There is one particular incident that I will always remember and they probably still do it. There is an old cream colored Chevy with an elderly lady that drives this vehicle. The gentleman is on the roadside picking up cans. He picks them up and he shakes some of the content out and throws it in the back window or the back seat or wherever. I don't know if their trunk is full. It is none of my business. What we are doing here, ladies and gentlemen, we are putting a law on the books that technically, I say, would prohibit these people from doing this because it says any amount. If anything should happen and somebody researches this bill and it goes to the court and it says any amount, ladies and gentlemen, what does any amount mean? We have to think of the Boy Scouts, the Girl Scouts, the baseball team, the basketball team and all of these individuals that come knocking on the door that pick up containers that still have any amount in them, which are put in not always in the trunk or the back of the seat. We are creating a monster here ladies and gentlemen. This bill was before this body years back when I served here with the good Representative Dan Warren from Scarborough. We had the same concerns with this bill then as we do now. I am urging you. Please do not vote for this bill. Thank you.

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

Representative MENDROS: Mr. Speaker, Ladies and Gentlemen of the House. I would like to respond to a couple points that I have heard. First of all, the road is no place for drunk people or in a car. Behind the wheel is no place for a drunk person. In a car, where are they going to get where they are going? They are not driving. The other thing that I want to bring up is this can be used if somebody is having a drink, they can hand it off to the passenger and therefore get around the law as a loophole. If you are drinking while you are driving and the police officer pulls you over, he is going to take you in and you are going to fail a breathalyzer test. Pure and simple, you are guilty and you are going to fail a breathalyzer test. You have to go to jail or whatever happens to them. As the good Representative from Rome, Representative Tracy pointed out, the any amount option. Any amount of alcohol. People can get

in trouble just for bringing empties around. You can make the argument, they finished it. They threw it and that is why it is empty. If the person is over the legal limit, they will fail a breathalyzer test and they will go to jail for drunk driving. You don't have to assume they are guilty just because someone else is drinking. This goes against due process. We assume everybody is guilty just because there is a container with any amount of alcohol in the car or a liquor bottle that has had the seal broken, but is in the back and not in the trunk. Thank you.

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

Representative COTE: Mr. Speaker, Men and Women of the House. I rise in favor of this bill. As we understand the law as it states now, it is against the law to have an open container no matter which vehicle you are in. I know from past experience, I have had friends of mine killed in automobile accidents who have been drinking with open containers. As for somebody who has a 13 year old who is inside my car at all times, that is just like if I am going down 95 with my son in my car and somebody behind me is driving with an open container, zig zags between the lanes and bam, hits me. What would I do? I would wind up either in a guardrail or in a ditch or buried six feet under with my son. It is against the law to have the open container and I urge you to vote for Ought to Pass and make this law. Thank you.

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

House Amendment "A" (H-345) to Committee Amendment "A" (H-134) was ADOPTED.

Committee Amendment "A" (H-134) as Amended by House Amendment "A" (H-345) thereto was ADOPTED.

The Bill was assigned for **SECOND READING** Friday, May 7, 1999.

HOUSE DIVIDED REPORT - Majority (11) **Ought Not to Pass** - Minority (2) **Ought to Pass as Amended by Committee Amendment "A" (H-353)** - Committee on **LABOR** on Bill "An Act to Change the Child Labor Laws"

(H.P. 1239) (L.D. 1768)

TABLED - May 4, 1999 (Till Later Today) by Representative DAVIS of Falmouth.

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

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

Representative DAVIS: Mr. Speaker, Men and Women of the House. This bill proposes to allow 14 or 15 year olds to work eight hours on a school closure day and allow additional hours for a week when a closure occurs if the school week is less than three days. This mirrors the language covering 16 and 17 year olds. This change will allow more work of the youngest of our working minors. Many students in this age group are just beginning high school. They face increased scholastic expectations and will develop study and school activity habits that will shape their high school careers. This is a very vulnerable age. I urge you to support the majority view and vote it down.

Subsequently, the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

COMMUNICATIONS

The Following Communication: (H.C. 172)

STATE OF MAINE
HOUSE OF REPRESENTATIVES
SPEAKER'S OFFICE
AUGUSTA, MAINE 04333-0002

May 6, 1999

Honorable Joseph W. Mayo
Clerk of the House
2 State House Station
Augusta, ME 04333

Dear Clerk Mayo:

Pursuant to my authority, I have appointed the following members to serve on the Joint Select Committee on the Year 2000 Computer Problem pursuant to Joint Order, S.P. 190.

Representative Charles C. LaVerdiere of Wilton
Representative Mabel J. Desmond of Mapleton
Representative Thomas Bull of Freeport
Representative Rosita Gagne of Buckfield
Representative Benjamin F. Dudley of Portland
Representative Jean Ginn Marvin of Cape Elizabeth
Representative Richard A. Nass of Acton
Representative Donald P. Berry, Sr., of Belmont
Representative Tarren R. Bragdon of Bangor
Representative Jay MacDougall of North Berwick

Should you have any questions regarding these appointments, please contact me.

Sincerely,

S/G. Steven Rowe
Speaker of the House

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 173)

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

March 2, 1999

Honorable Joseph W. Mayo
Clerk of the House
2 State House Station
Augusta, Maine 04333

Dear Clerk Mayo:

Pursuant to my authority under S. P. 190, I have appointed the following Senators to the Joint Select Committee on the Year 2000 Computer Problem:

Senator Marge Kilkelly of Lincoln (Senate Chair),
Senator Anne Rand of Cumberland, and
Senator Philip Harriman of Cumberland

Please let me know if you have any questions regarding these appointments.

Sincerely,

S/Mark W. Lawrence
President of the Senate

READ and ORDERED PLACED ON FILE.

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

UNFINISHED BUSINESS

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

HOUSE DIVIDED REPORT - Majority (9) **Ought to Pass as Amended by Committee Amendment "A" (H-322)** - Minority (4) **Ought to Pass as Amended by Committee Amendment "B" (H-323)** - Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Require that the State Planning Office Report to the Committee on State and Local Government"

(H.P. 619) (L.D. 859)

TABLED - May 4, 1999 (Till Later Today) by Representative AHEARNE of Madawaska.

PENDING - Motion of same Representative to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-322)** Report.

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

The Bill was **READ ONCE**. **Committee Amendment "A" (H-322)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Friday, May 7, 1999.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH** with the exception of matters being held.

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

Representative **MACK**: Mr. Speaker, Men and Women of the House. Had I been here for item (6-5), I would have voted nay.

On motion of Representative MITCHELL of Vassalboro, the House adjourned at 6:10 p.m., until 9:00 a.m., Friday, May 7, 1999.