

MAINE STATE LEGISLATURE

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

Volume I

First Regular Session

December 2, 1998 – May 12, 1999

ONE HUNDRED AND NINETEENTH LEGISLATURE
FIRST REGULAR SESSION
48th Legislative Day
Tuesday, May 11, 1999

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

Prayer by Pastor David Rinas, Prince of Peace Lutheran Church, Augusta.

National Anthem by Monmouth Middle School Chorus.

Pledge of Allegiance.

The Journal of yesterday was read and approved.

SENATE PAPERS
Non-Concurrent Matter

Bill "An Act to Amend the Illegal Transportation of Liquor Law"

(H.P. 706) (L.D. 973)

Minority (6) **OUGHT TO PASS AS AMENDED** Report of the Committee on **LEGAL AND VETERANS AFFAIRS READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-383)** in the House on May 7, 1999.

Came from the Senate with the Majority (7) **OUGHT NOT TO PASS** Report of the Committee on **LEGAL AND VETERANS AFFAIRS READ and ACCEPTED in NON-CONCURRENCE.**

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

Non-Concurrent Matter

Bill "An Act to Increase Load Weight on Farm Vehicles"

(H.P. 1443) (L.D. 2064)

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-380) in the House on May 5, 1999.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-380) AS AMENDED BY SENATE AMENDMENT "A" (S-257)** thereto in **NON-CONCURRENCE.**

On motion of Representative JABAR of Waterville, the House voted to **RECEDE.**

The same Representative presented **House Amendment "A" (H-506)** to **Committee Amendment "A" (H-380)**, which was **READ** by the Clerk and **ADOPTED.**

Committee Amendment "A" (H-380) as Amended by House Amendment "A" (H-506) and Senate Amendment "A" (S-257) thereto was **ADOPTED.**

The Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-380) as Amended by House Amendment "A" (H-506) and Senate Amendment "A" (S-257)** thereto in **NON-CONCURRENCE** and sent for concurrence.

Non-Concurrent Matter

Bill "An Act to Establish Municipal Cost Components for Unorganized Territory Services to be Rendered in Fiscal Year 1999-00" (EMERGENCY)

(H.P. 1311) (L.D. 1872)

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-386) in the House on May 6, 1999.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-386) AS AMENDED BY SENATE AMENDMENT "A" (S-255)** thereto in **NON-CONCURRENCE.**

On motion of Representative GAGNON of Waterville, **TABLED** pending **FURTHER CONSIDERATION** and later today assigned.

Non-Concurrent Matter

Bill "An Act to Establish the Commission to Propose an Alternative Process for the Payment of Forensic Examinations for Sexual Assault Victims"

(H.P. 1414) (L.D. 2021)

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-455) in the House on May 7, 1999.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-455) AS AMENDED BY SENATE AMENDMENT "A" (S-232)** thereto in **NON-CONCURRENCE.**

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

PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

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

LEGAL AND VETERANS AFFAIRS

Bill "An Act to Clarify the Definitions of 'Contribution' and 'Expenditure' under the Campaign Finance Laws"

(H.P. 1577) (L.D. 2224)

Presented by Speaker ROWE of Portland.

Cosponsored by President LAWRENCE of York and Representatives: CAMPBELL of Holden, MURPHY of Kennebunk, SAXL of Portland, SHIAH of Bowdoinham, Senators: AMERO of Cumberland, PINGREE of Knox, RAND of Cumberland.

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

SPECIAL SENTIMENT CALENDAR

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

Recognizing:

the Portland Camera Club on the occasion of its 100th Birthday. The club is the fourth oldest camera club in the United States. It was organized on May 24, 1899, for the purpose of promoting "friendly relations between persons interested in photography ... and for the advancement of knowledge in the science and art of photography." The club will celebrate its centennial with an exhibit at the Portland Museum of Art entitled "Journey of Light," which is intended to reflect the immense changes in the art of photography that the club has been witness

to. We send our congratulations and best wishes to the members of the Portland Camera Club as they celebrate this special anniversary year;

(HLS 370)

Presented by Representative USHER of Westbrook.
Cosponsored by Representative BRENNAN of Portland, Senator RAND of Cumberland, Representative DUPLESSIE of Westbrook.

On **OBJECTION** of Representative USHER of Westbrook, was **REMOVED** from the Special Sentiment Calendar.

READ.

The **SPEAKER**: The Chair recognizes the Representative from Westbrook, Representative Usher.

Representative **USHER**: Mr. Speaker, Men and Women of the House. The Portland Camera Club will celebrate their Centennial at the Portland Museum of Art from May 15, which is next week, all the way to July 5. They have an interesting picture there of a Charles Lindbergh landing on Scarborough Beach before he began his journey in 1927. You might want to attend this function. Thank you.

PASSED and sent for concurrence.

**REPORTS OF COMMITTEE
Ought to Pass As Amended**

Report of the Committee on **TAXATION** on Bill "An Act to Exempt from Use Tax Merchandise that is Donated to a Nonprofit Organization"

(S.P. 743) (L.D. 2102)

Reporting **Ought to Pass As Amended by Committee Amendment "A" (S-236).**

Came from the Senate with the Report **READ** and **ACCEPTED**. The Bill **READ ONCE**. Bill and all accompanying papers **RECOMMITTED** to the Committee on **TAXATION**.

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

Divided Report

Majority Report of the Committee on **LABOR** reporting **Ought Not to Pass** on Bill "An Act to Require Legislators to Contribute to Health and Dental Premiums"

(S.P. 484) (L.D. 1444)

Signed:

Senator:

LaFOUNTAIN of York

Representatives:

HATCH of Skowhegan

GOODWIN of Pembroke

FRECHETTE of Biddeford

MATTHEWS of Winslow

SAMSON of Jay

DAVIS of Falmouth

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (S-245)** on same Bill.

Signed:

Senators:

DOUGLASS of Androscoggin

MILLS of Somerset

Representatives:

MacDOUGALL of North Berwick

MACK of Standish

TREADWELL of Carmel

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

READ.

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

Representative MACK of Standish **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 Standish, Representative Mack.

Representative **MACK**: Mr. Speaker, Right Honorable Men and Women of the House. The question to ask yourself on this bill is, are we here to serve the public or are we here to serve ourselves? What this bill would do is require us to contribute to parts of our health and dental package. Right now, if you're single you get a free health package and a free dental package. This would require us to contribute and pay part of our costs. To be here we should be serving the public. We're not suggesting to eliminate the health plan entirely or the dental plan entirely. We are asking, like other employees around the State of Maine and taxpayers who are paying for this plan for us, that we should contribute part of it. We should pay our piece and not be taking at all off the taxpayer. Thank you.

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

Representative **TRACY**: Mr. Speaker, Men and Women of the House. I believe in public service. I didn't come down here for any of the perks or benefits. That is why when they sent the package for the dental and the health insurance, I wrote refused on it. I am not about to stand here today for the people who did not stand here and did not refuse it and want it, to take it away. Thank you very much.

The **SPEAKER**: The Chair recognizes the Representative from Waldoboro, Representative Trahan.

Representative **TRAHAN**: Mr. Speaker, Men and Women of the House. Each and every day we make decisions that impact the lives of our constituents. We ask them to pay more taxes to provide more services to the people. The least we can do is except that same responsibility. 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. 151

YEA - Ahearne, Bagley, Baker, Berry DP, Berry RL, Bolduc, Bouffard, Brennan, Brooks, Bryant, Bull, Cameron, Chick, Chizmar, Clark, Colwell, Cote, Cowger, Cross, Davidson, Davis, Desmond, Dudley, Dugay, Dunlap, Duplessie, Etnier, Fisher, Frechette, Fuller, Gagne, Goodwin, Green, Hatch, Jabar, Jacobs, Kane, LaVerdiere, Lemoine, Lemont, Lindahl, Mailhot, Martin, Marvin, McAlevey, McDonough, McGlocklin, McKee, Mitchell, Murphy E, Muse, Norbert, O'Brien LL, O'Neal, O'Neil, Peavey, Perry, Pieh, Povich, Powers, Quint, Richard, Richardson J, Rines, Samson, Sanborn, Savage W, Saxl JW, Saxl MV, Shiah, Sirois, Skoglund, Stanley, Stevens, Sullivan, Tessier, Thompson, Townsend, Tracy, Tripp, True, Tuttle, Twomey, Usher, Volenik, Wheeler EM, Wheeler GJ, Williams, Winsor, Mr. Speaker.

NAY - Andrews, Belanger, Bowles, Bragdon, Bruno, Buck, Bumps, Campbell, Carr, Cianchette, Clough, Collins, Daigle, Duncan, Foster, Gerry, Gillis, Glynn, Gooley, Heidrich, Honey, Jodrey, Jones, Joy, Kasprzak, Lovett, MacDougall, Mack, Madore, Mayo, McKenney, McNeil, Mendros, Murphy T, Nass, Nutting, O'Brien JA, Perkins, Pinkham, Plowman, Rosen, Schneider, Sherman, Shields, Shorey, Snowe-Mello, Stanwood, Stedman, Tobin D, Tobin J, Trahan, Treadwell, Waterhouse, Weston.

ABSENT - Gagnon, Kneeland, Labrecque, Matthews, Richardson E, Savage C, Watson.

Yes, 90; No, 54; Absent, 7; Excused, 0.

90 having voted in the affirmative and 54 voted in the negative, with 7 being absent, the Majority **Ought Not to Pass** Report was **ACCEPTED** in concurrence.

Majority Report of the Committee on **LABOR** reporting **Ought Not to Pass** on Bill "An Act to Eliminate Health Insurance Benefits for Retired Legislators Elected in or After 1992"

(S.P. 485) (L.D. 1445)

Signed:

Senators:

DOUGLASS of Androscoggin

LaFOUNTAIN of York

Representatives:

HATCH of Skowhegan

GOODWIN of Pembroke

FRECHETTE of Biddeford

MATTHEWS of Winslow

DAVIS of Falmouth

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (S-244)** on same Bill.

Signed:

Senator:

MILLS of Somerset

Representatives:

MacDOUGALL of North Berwick

MACK of Standish

TREADWELL of Carmel

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

READ.

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

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

Representative HATCH: Mr. Speaker, Ladies and Gentlemen of the House. This is the second in the course of three bills. This one would do away with state paid health insurance benefits for retired legislators who were first elected in 1992. I have no idea what brought this legislation on, other than singling out someone who might be on Social Security and has no health benefits and is down here. I think it is a very hate filled two bills. I would asked that you follow my light. Thank you.

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

Representative MACK: Mr. Speaker, Right Honorable Men and Women of the House. Like the last bill, you must ask yourself, are we here to serve the public or to serve ourselves? From the last bill, we have determined that while we're serving

as legislators, we think it is important that we have health and dental packages. The legislators, we are in good shape while we are serving. It is quite another question what will happen to us after we retire. What this bill would do to its legislators who are elected in 1996 or after, it would say that the state will no longer pick up the cost for our retirement health insurance. This is not hate filled at all. This is trying to get a break to the taxpayers, trying to tell them that we are no different than they are. How many other people do you know that are in your district who could get a health plan 100 percent paid for throughout retirement on a \$9,000 a year job? I don't know if anyone in my district gets such a benefit. The health plan could end up costing taxpayers more than our salaries.

For someone like myself, I'm 24 years old. I was first elected when I was 21. When I retire, I could have my health insurance completely paid for by the taxpayers. That is not right. I urge to vote with me and to end the health insurance plan for legislators that are elected in 1996 or after. If any of you have any concerns or were first elected in 1994 or before, this will not affect you.

Representative MACK of Standish **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 Falmouth, Representative Davis.

Representative DAVIS: Mr. Speaker, Men and Women of the House. I don't know where the date 1992 came from, I think it is rather arbitrary. I don't think it is ever a good idea to do without health insurance. It is one of the things that really, we all need. I would urge you to follow my light. Thank you.

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

Representative MACDOUGALL: Mr. Speaker, Ladies and Gentlemen of the House. I would just ask you to look at the amendment. The amendment changes the year of the bill from 1992 to 1996. I will leave you with the thought that we pride ourselves in Maine about this being a citizen's Legislature. I was an assistant before I was elected. I had a job and still have one. I will make up several hours once we have adjourned to make up some lost time and so forth to make that work. I am still a neighbor and citizen of North Berwick, as I always was, except I serve up here and do the best for my people back home. They did not expect me, nor do I think they would support beginning health and benefits when I retire as a legislator. I am a citizen first. I serve up here as an elected official. Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative TUTTLE: Mr. Speaker, Men and Women of the House. For anybody on the Labor Committee, if somebody would retire as a legislator, wouldn't they have an option not to except the health benefits upon retirement?

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

Representative HATCH: Mr. Speaker, Ladies and Gentlemen of the House. In regards to that, I believe that you can choose not to have the health insurance after retirement.

You have to realize that should you choose to retire at your normal retirement age, which could be 60 to 62 in the legislative plan, you would only receive health benefits until you turn 65 and immediately you would go on Medicaid, which you pay. You would have to be vested in this system first.

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

Representative O'NEIL: Mr. Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose her question.

Representative O'NEIL: Mr. Speaker, Men and Women of the House. Could you tell me how long you have to serve as a legislator in order to receive these benefits?

The SPEAKER: The Representative from Rockland, Representative O'Neil has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Skowhegan, Representative Hatch.

Representative HATCH: Mr. Speaker, Ladies and Gentlemen of the House. Under the current system, you could draw benefits if you are vested. You have to serve at least 10 years to be vested. You could get job benefits, but you could not get your health insurance if you're not vested.

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

Representative MACK: Mr. Speaker, Right Honorable Men and Women of the House. To get full benefits you need to serve 10 years. To get 100 percent of your health plan paid, you have to serve 10 or more years. At five years of service, you can get 50 percent of your benefits paid and goes up until you hit 10 years. After five years of service, you can get half of the health insurance paid for.

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

Representative WATERHOUSE: Mr. Speaker, Ladies and Gentlemen of the House. I felt compelled to stand up and speak of this issue. We are a citizen's Legislature. I heard somebody ask the question earlier whether someone could refuse to except these benefits or not. That is not the question. If one or two people for conscious reasons decides not to accept it when they retire after their vested, what if 90 percent of us decide to accept it. It is the principle behind the thing. We come up here and spend 10 years maybe, we are time limited to eight years and there is legislation to vest us at five years. Go back into your communities and asked the rank and file people, the people out there working real hard who sent us up here, whether they think it's right that we come up here and spend eight or ten years and get 100 percent health-care coverage when we retire. To me, it is absurd. If I try to sell that to my people back home, they would skin me alive.

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. It has always been my understanding and maybe incorrectly, that in order to qualify not only did you have to serve 10 years, but you had to be here when you turn either 60 or 65. Can somebody answer whether or not that is correct? That has always been my understanding.

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 Skowhegan, Representative Hatch.

Representative HATCH: To answer that question from the good Representative from Rumford, we changed the law a couple years ago. If you did not retire immediately and take health benefits, you lost those health benefits. If you retired at your normal retirement age, which you could have got as a legislator at 55 and waited until 62 until you retired, you would not receive any health benefits. We changed the law two years ago to specify that you could get done at 55 for all state workers and not take those health benefits at that time. There was a real mix up in the law. It saves the system a lot of money on health benefits for those that retire early and don't want to take it because they're still working. We actually changed the law, so now you could get done here and stay out, we changed that for the state workers, but it is consistent within the law. Someone from the warden service that retire at 55 could not get the health benefits until the normal retirement age of 60, but they could retire at 55 and at 60 pickup those health benefits. We did redo the law. Yes. I believe that it also includes us. We tried to make the law totally consistent.

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. 152

YEA - Ahearne, Bagley, Baker, Berry DP, Berry RL, Bolduc, Bouffard, Brennan, Brooks, Bryant, Bull, Cameron, Carr, Chick, Chizmar, Cianchette, Collins, Colwell, Cote, Cowger, Cross, Daigle, Davidson, Davis, Dudley, Dugay, Dunlap, Duplessie, Etnier, Fisher, Frechette, Fuller, Gagne, Gagnon, Goodwin, Green, Hatch, Jacobs, Kane, LaVerdiere, Lemoine, Lemont, Lindahl, Lovett, Madore, Mailhot, Martin, Marvin, Mayo, McAlevey, McDonough, McGlocklin, McKee, McNeil, Mitchell, Murphy E, Muse, Norbert, O'Brien LL, O'Neal, O'Neil, Peavey, Perkins, Perry, Pieh, Plowman, Povich, Powers, Quint, Richard, Richardson J, Rines, Samson, Sanborn, Savage W, Saxl JW, Saxl MV, Shiah, Shorey, Sirois, Skoglund, Stanley, Stevens, Sullivan, Tessier, Thompson, Townsend, Tracy, Tripp, True, Tuttle, Twomey, Usher, Volenik, Wheeler EM, Wheeler GJ, Williams, Winsor, Mr. Speaker.

NAY - Andrews, Belanger, Bowles, Bragdon, Bruno, Buck, Bumps, Campbell, Clough, Desmond, Duncan, Foster, Gerry, Gillis, Glynn, Gooley, Heidrich, Honey, Jodrey, Jones, Joy, Kasprzak, MacDougall, Mack, McKenney, Mendros, Murphy T, Nass, Nutting, O'Brien JA, Pinkham, Rosen, Schneider, Sherman, Shields, Snowe-Mello, Stanwood, Stedman, Tobin D, Tobin J, Trahan, Treadwell, Waterhouse, Weston.

ABSENT - Clark, Jabar, Kneeland, Labrecque, Matthews, Richardson E, Savage C, Watson.

Yes, 99; No, 44; Absent, 8; Excused, 0.

99 having voted in the affirmative and 44 voted in the negative, with 8 being absent, the Majority Ought Not to Pass Report was **ACCEPTED** in concurrence.

Majority Report of the Committee on **LABOR** reporting **Ought Not to Pass** on Bill "An Act to Eliminate the Legislative Retirement System"

(S.P. 488) (L.D. 1448)

Signed:

Senators:

DOUGLASS of Androscoggin
LaFOUNTAIN of York

Representatives:

HATCH of Skowhegan
GOODWIN of Pembroke
FRECHETTE of Biddeford
MATTHEWS of Winslow
SAMSON of Jay
DAVIS of Falmouth

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (S-243)** on same Bill.

Signed:

Senator:

MILLS of Somerset

Representatives:

MacDOUGALL of North Berwick
MACK of Standish
TREADWELL of Carmel

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

READ.

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

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

Representative **TREADWELL**: Mr. Speaker, Ladies and Gentlemen of the House. This bill will limit continued membership in the Legislative Retirement System to those people who are either in drawing their retirement or vested as of December 31st of this year. The federal law requires that everybody be under either Social Security or a retirement system. Because of federal law, the employees that are no longer eligible for the state retirement system will be required to have a 401 K. or a 457 K. that they would be required to be enrolled in. Another beneficial thing in this retirement plan is that a person who has a wife is working or is eligible and has been contributing to the IRA or another retirement plan, under current law, if they come in serve in the Legislature, they cannot make any further contributions to that plan. It is a penalty for some people who have been making contributions to another retirement plan when they come and serve in the Legislature. I think it is a good piece of legislation. I would encourage you to vote in opposition to the vote that is on the floor. Mr. Speaker, I request roll call.

Representative TREADWELL of Carmel **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

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

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

ROLL CALL NO. 153

YEA - Ahearne, Bagley, Baker, Berry DP, Berry RL, Bolduc, Bouffard, Brennan, Brooks, Bryant, Bull, Cameron, Carr, Chick, Chizmar, Collins, Colwell, Cote, Cowger, Cross, Daigle, Davidson, Davis, Dudley, Dugay, Dunlap, Duplessie, Etnier, Fisher, Frechette, Fuller, Gagne, Gagnon, Gerry, Goodwin, Green, Hatch, Jabar, Jacobs, Kane, LaVerdiere, Lemoine, Lemont, Mailhot, Martin, Mayo, McAlevy, McDonough,

McGlocklin, McKee, McNeil, Mitchell, Murphy E, Muse, Norbert, O'Brien LL, O'Neal, O'Neil, Perkins, Perry, Pieh, Povich, Powers, Quint, Richard, Richardson J, Rines, Rosen, Samson, Sanborn, Savage W, Saxl JW, Saxl MV, Sherman, Shiah, Sirois, Skoglund, Stanley, Stevens, Sullivan, Tessier, Thompson, Townsend, Tracy, Tripp, True, Tuttle, Twomey, Usher, Volenik, Wheeler GJ, Williams, Mr. Speaker.

NAY - Andrews, Belanger, Bowles, Bragdon, Bruno, Buck, Bumps, Campbell, Cianchette, Clough, Desmond, Duncan, Foster, Gillis, Glynn, Gooley, Heidrich, Honey, Jodrey, Jones, Joy, Kasprzak, Lindahl, Lovett, MacDougall, Mack, Madore, Marvin, McKenney, Mendros, Murphy T, Nass, Nutting, O'Brien JA, Peavey, Pinkham, Plowman, Schneider, Shields, Shorey, Snowe-Mello, Stanwood, Stedman, Tobin D, Tobin J, Trahan, Treadwell, Waterhouse, Weston, Wheeler EM, Winsor.

ABSENT - Clark, Kneeland, Labrecque, Matthews, Richardson E, Savage C, Watson.

Yes, 93; No, 51; Absent, 7; Excused, 0.

93 having voted in the affirmative and 51 voted in the negative, with 7 being absent, the Majority **Ought Not to Pass** Report was **ACCEPTED** in concurrence.

Majority Report of the Committee on **LABOR** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-217)** on Bill "An Act to Amend Maine's Family and Medical Leave Law"

(S.P. 511) (L.D. 1512)

Signed:

Senators:

LaFOUNTAIN of York
DOUGLASS of Androscoggin

Representatives:

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

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

Signed:

Senator:

MILLS of Somerset

Representatives:

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

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

READ.

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

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

Majority Report of the Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass** on Bill "An Act to Improve the Maine Clean Election Act"

(S.P. 300) (L.D. 872)

Signed:

Senators:

CAREY of Kennebec
FERGUSON of Oxford

Representatives:

FISHER of Brewer
GAGNE of Buckfield
LABRECQUE of Gorham
MAYO of Bath
HEIDRICH of Oxford
McKENNEY of Cumberland

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

Signed:

Senator:

DAGGETT of Kennebec

Representatives:

TUTTLE of Sanford
CHIZMAR of Lisbon
PERKINS of Penobscot
SHIAH of Bowdoinham

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

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

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

Six Members of the Committee on **LEGAL AND VETERANS AFFAIRS** reporting in Report "A" **Ought Not to Pass** on Bill "An Act to Apportion State Lottery Funds to Pay for Quality Early Care and Education"

(S.P. 347) (L.D. 1051)

Signed:

Senators:

DAGGETT of Kennebec
CAREY of Kennebec

Representatives:

TUTTLE of Sanford
GAGNE of Buckfield
FISHER of Brewer
LABRECQUE of Gorham

Four Members of the same Committee reporting in Report "B" **Ought to Pass as Amended by Committee Amendment "A" (S-233)** on same Bill.

Signed:

Senator:

FERGUSON of Oxford

Representatives:

MAYO of Bath
HEIDRICH of Oxford
McKENNEY of Cumberland

Two Members of the same Committee reporting in Report "C" **Ought to Pass as Amended by Committee Amendment "B" (S-234)** on same Bill.

Signed:

Representatives:

CHIZMAR of Lisbon

PERKINS of Penobscot

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

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

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

Majority Report of the Committee on **TAXATION** reporting **Ought Not to Pass** on Bill "An Act to Tax Docking Fees for Pleasure Boats Greater than 19 Feet in Length"

(S.P. 410) (L.D. 1199)

Signed:

Senator:

RUHLIN of Penobscot

Representatives:

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

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (S-143)** on same Bill.

Signed:

Senators:

DAGGETT of Kennebec
MILLS of Somerset

Representative:

GREEN of Monmouth

Came from the Senate **RULED NOT PROPERLY BEFORE THE BODY**.
READ.

Representative THOMPSON of Naples, pursuant to Article IV, Part Third, Section 9 of the Constitution, asked the chair to **RULE** if the Bill was properly before the body.

The SPEAKER: Article 4, Part 3, Section 9 of the Maine Constitution requires that "all bills for raising a revenue shall originate in the House of Representatives."

LD 1199 would impose a sales tax on certain docking fees. According to the fiscal note in the Committee Amendment, the bill would raise revenue of over a quarter million dollars for the biennium. As such, LD 1199 originated in the Senate in contravention of the Maine Constitution. The Chair finds that the House may not consider LD 1199, as it is not

Subsequently, the Chair **RULED** the Bill was not properly before the body pursuant to Article IV, Part Third, Section 9 of the Constitution.

Six Members of the Committee on **LABOR** reporting in Report "A" **Ought to Pass** on Bill "An Act to Amend the Maine Workers' Compensation Act of 1992 as it Relates to Compensation for Amputation of a Body Part"

(H.P. 163) (L.D. 225)

Signed:

Representatives:

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

Five Members of the same Committee reporting in Report "B"
Ought Not to Pass on same Bill.

Signed:

Senator:

MILLS of Somerset

Representatives:

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

One Member of the same Committee reporting in Report "C"
Ought to Pass as Amended by Committee Amendment "A"
(H-500) on same Bill.

Signed:

Senator:

LaFOUNTAIN of York

READ.

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

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

Ten Members of the Committee on **LABOR** reporting in
Report "A" **Ought to Pass as Amended by Committee**
Amendment "A" (H-502) on Bill "An Act to Clarify Free-lance
Labor in an Employer/Employee Relationship"
(H.P. 875) (L.D. 1232)

Signed:

Senator:

DOUGLASS of Androscoggin

Representatives:

HATCH of Skowhegan
MUSE of South Portland
FRECHETTE of Biddeford
MATTHEWS of Winslow
SAMSON of Jay
DAVIS of Falmouth
MacDOUGALL of North Berwick
MACK of Standish
TREADWELL of Carmel

Two Members of the same Committee reporting in Report "B"
Ought to Pass as Amended by Committee Amendment "B"
(H-503) on same Bill.

Signed:

Senators:

LaFOUNTAIN of York

MILLS of Somerset

One Member of the same Committee reporting in Report "C"
Ought to Pass as Amended by Committee Amendment "C"
(H-504) on same Bill.

Representative:

GOODWIN of Pembroke

READ.

On motion of Representative HATCH of Skowhegan, Report
"A" **Ought to Pass as Amended** was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-502)** was **READ** by the Clerk and **ADOPTED**. The Bill was
assigned for **SECOND READING** Wednesday, May 12, 1999.

Majority Report of the Committee on **LABOR** reporting **Ought**
Not to Pass on Bill "An Act to Protect the Right of Employees to
Freely Decide Whether to Support Labor Organizations"
(H.P. 880) (L.D. 1237)

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

Minority Report of the same Committee reporting **Ought to**
Pass as Amended by Committee Amendment "A" (H-501) on
same Bill.

Signed:

Representatives:

MacDOUGALL of North Berwick

MACK of Standish

TREADWELL of Carmel

READ.

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

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

Representative **MACK**: This bill is a freedom issue. This bill
will give the employees of Maine the right of choice. Currently,
under Maine law, if you work in a Maine shop, you're forced to
either join the union and pay 85 percent of the union dues, or get
fired. We have a lot of families out there that are struggling to
make ends meet. They are working families trying to feed their
families. They work hard and make a living. We are telling them
that just because they decide not to join the union, they should
be fired. Should someone join the union? That is entirely up to
them. I definitely believe they should have the right to join in
that. They should not be forced to do it. The government should
not get in using force, coercion or compulsion to get people to
join the union. There are many other organizations out there.
There is the Audubon Society, there is the National Rifle
Association, there is the Sierra Club, the abortion rights groups
and the pro-life groups. All these other groups have to lobby for
membership. They have to try to raise money. They have to try
to tell people that we have a great group and you should join.
The union should have to do the same thing. If they have a
great product, then it should be easy to sell to the workers. Join
the union. We will give you brotherhood and more benefits. If
someone feels that's a good idea, well, they should sign right up.
If there was someone who doesn't want to join a union, we
shouldn't force them to do it or lose their job.

Mr. Speaker, this is about freedom. This is about freedom of choice and the right to decide for yourself how to live your life with your own associations. It is set against the pending motion. I ask that when the vote be taken, it be taken by the yeas and nays.

Representative MACK of Standish **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 Carmel, Representative Treadwell.

Representative **TREADWELL**: Mr. Speaker, Ladies and Gentlemen of the House. I do know why we're continually pitting the workforce that is currently not under the union organization against those toward organized labor. It seems to me that in the State of Maine, that is what we do most of the time. I would like to remind you that 15 percent of the workforce in the State of Maine belong to organized labor. Of that 15 percent, about 10 percent belong to the Maine State Employees and AFSME. That leaves another 4 or 5 percent belonging to the other labor unions. For the organized labor force to have that much clout in the same name, it is not one man or one-woman vote situation. I don't think that we should be forcing those people who do not belong to the labor unions to contribute their hard earned money to support causes that they do not believe in. I would urge that we vote against the pending motion.

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

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

The SPEAKER: The Representative may pose his question.

Representative **PERKINS**: Mr. Speaker, Men and Women of the House. In the handout from the Maine AFL-CIO about in the middle, it says there's no such thing as compulsory unionism. Could somebody please explain that? I am a member of four labor unions, as I recall, the first person I met even before the foreman was the union boss. As I recall, I had to sign up to keep the job. Thank you.

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 Standish, Representative Mack.

Representative **MACK**: Mr. Speaker, Right Honorable Men and Women of the House. To answer the Representative's question, no, you do not have to join the union, but if you do not join the union, you have to pay 85 percent or 90 percent of the union dues without getting the benefits of union membership. If you do not want to join, you still have to pay the dues like you have joined. It is the same cost out of your pocket. We are simply asking that you get to choose whether or not to join and whether or not to pay. It is not compulsory to join, but it is compulsory to pay.

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

Representative **BERRY**: Mr. Speaker, Men and Women of the House. I had not planned on speaking on this. The previous speaker tried to answer your question. It is true that you don't have to join the union. I want to tell you something about the unions and labor law in this country. Whether or not you are a member of that union, an executive on an executive board on the union or on a negotiating committee, by law, I have to represent those employees. We had a strike at IP in Jay, the International

Paper Company in 1987. We were replaced. As soon as we were replaced, we had no position to even bargain for our members. We had to bargain for the replacement workers. I hesitate to use the term, but oh well. With this bill, it says you don't have to join the union, it doesn't say you're going to have the same benefits as the rest of the union members. They negotiate for you. A strike is unlikely to happen nowadays. You have seen what has happened there. We are down here representing people you work for. It is different in the workplace. The union is negotiating your wages and benefits. By law, there are things they can negotiate, and things they can't. The company doesn't have to recognize them. There have been some good things that happened out there.

The company that I work for, the company that owned it previously, we had a cooperative agreement and always worked through a committee. It was unusual come negotiation time or come contract time for problems. Everything was worked out on an ongoing basis. That can happen, but the fact is that we are required by law to represent them, they should pay the costs of running that union the same as everyone else. They shouldn't get a free ride. Thank you.

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

Representative **HATCH**: Mr. Speaker, Ladies and Gentlemen of the House. Very seldom do I rise in anger, but I heard a couple statements and wanted to clarify them. In any shop, if they're organized, you don't have to join the union. You do pay some dues, but you get all the benefits that a union member does. You get the same pay, health insurance and if there is a grievance, your employer didn't call you in on time or if they didn't call you for overtime day and he should have, guess what? The union goes to bat for you. Don't say there are no benefits and you're paying for something you are not getting. I resent the fact the statement was made about organized labor not talking for the men and women of the state. I can tell you honestly that they are the only ones who talk for the working people of the state on a regular basis. It is not the Chamber of Commerce or the Maine Merchants Association or anyone else. It is organized labor. Why they do that? Average working people don't have a lobbyist down here. They don't have anyone for them except these legislators who sit in this chamber and refuse to hear their voices. I thank you for your time. I ask that you vote Ought Not to Pass. Thank you.

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

Representative **SAMSON**: Mr. Speaker, Men and Women of the House. I really wasn't going to speak on this. I didn't think it was worth speaking about. Since a few of my colleagues have, I think I will join in. What this bill does is eliminate in the contract a clause called a security clause. What that is, is management represents a company and the union that represents the workers can enter into a security clause, which means that all the workers that work for that company, must belong to the union within 30 days. There are exceptions to that. If you have religious beliefs that say you cannot belong to union or an organization, the provisions pay for people's dues to go to charity. In fact, I ran across that last week. In fact, the union I work for had such a contract with Madison Paper. There is no security clause in the contract. Everyone there is free to belong to the union or not. Last I heard, all but two belong to the union. Keep in mind that this is under federal law as well. We are talking about the private sector. We're not talking about the

public sector. Just like the public sector, the private sector when you have a union in place in your shop, you must represent all the workers, whether they are union members or not.

As my colleague from Livermore, Representative Berry stated, I, along with him, went on strike 12 years ago. We were immediately and permanently replaced by 1,200 workers, most of which came from out-of-state at the time. Representative Berry and others had to represent those workers and had to try to go save their jobs when they were going to be fired. The very people who replaced him, we have to fight for those folks. Under federal law if the don't do that, we are negligent and can be sued. Unions have to protect all workers at work and we feel that if the company and the union enter into an agreement and have a security clause, then I think it is good for the workplace. It is a good thing for all workers. I urge you to support the Ought Not to Pass.

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

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

The SPEAKER: The Representative may pose his question.

Representative **PERKINS**: Mr. Speaker, Men and Women of the House. Did I understand the Representative that in the mill he works for that he can choose to or not to join the union? I am confused that this sounds like what this bill is trying to do. On the other hand, this is actually going on. Could you clear this up please?

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 Jay, Representative Samson.

Representative **SAMSON**: Mr. Speaker, Men and Women of the House. In answer to your question, this bill eliminates a company and a union from entering into a union that says that everyone should belong to union. That is negotiated at the bargaining table. The company can flatly refuse and say no, they do not want that. If they have religious beliefs that do not allow them to join a union, they have provisions to allow them to do something else with the money. Thank you.

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

Representative **MATTHEWS**: Mr. Speaker, Men and Women of the House. I can tell you what, this bill is clear and consistent. It is the time to make unions pure and simple. The nice thing about living in America is that the Maine Legislature and in the State of Maine that we have to deal with these periodically. The democratic process, we defend it. It reminds me, thank God, that living in America because living in another country, the government had decided to break that union, a communist dictatorship. This is an attempt through legal means to do the same thing. When this bill came up in the Labor Committee and public hearing, I asked the sponsor, does he dispute the fact that it is because of the labor unions and labor movement today that we had safety in the workplace for child protections against child labor, 40 hour work week, protections for workers dealing with chemical substances and hazardous materials in the workplace? That gentleman that sponsored this bill, I respect for our differences of opinion, said that he didn't dispute that.

The good things that have happened to Maine workers, American workers and workers all over the world have come through the labors of unions, collective bargaining. Once you do away with the right to collectively bargain, even an employee

against the employer, we say, here is the fair scale of justice. One employer against one employee. The fact does not work. As a Mainer, I know common sense tells me that does not work. You collectively bargain to make America better. It has worked very well for Americans in this country. Thank you.

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

Representative **WINSOR**: Mr. Speaker, Men and Women of the House. It is kind of interesting listening to this debate. I was going to jump up earlier, but I am glad I didn't. First of all, there are a number of issues that I think we ought to deal with. This is right to work legislation. Frankly, I think it's a good bill. The issue is not about collective bargaining and not about union rights, it is about basic freedoms. It is the freedom to associate with whom you wish. It is the freedom to take a paycheck and spend it as you would like to. I hope you will pass this bill, frankly, because it is a good bill. It is clearly written and of simple nature. It was guaranteed forever that no Maine person will be forced to pay one penny of personal wages to a union as a requirement to maintain a job.

First, we had some letters from the AFL-CIO and I want to thank the AFL-CIO president for her recent letter. Contrary to her view, the National Right to Work Committee is dedicated to destroy unions. I don't want, nor does that organization want to reduce wages, benefits or working conditions. The National Right to Work Committee is an association of individuals, supported by people, who voluntarily give money to advocates for the principles and ideals that made our country great and our people free. No one has ever been forced to give this association money, time or anything else. The case for right to work in Maine and in the nation is, I think, compelling three perspectives, moral, political and economic.

We have talked about labor laws and a lot of other things. Samuel Garbers was the founding president of American Federation of Labor. He stated these principles well during his last national convention when he urged the members assembled to maintain "the devotion to the fundamentals of human liberty and of principles of volunteerism." He said that no lasting gain, labor, has ever come from compulsion. He went on further to say that if we seek to force, we tear apart that which together united, is invincible. In his wisdom he was saying, to be assembled union officials that good unions don't need forced membership and corrupt unions don't deserve it. In fact, if you look at the State of Maine and look at security clauses, you have a good understanding of what that is now, which union here in Maine, strikes you as the most successful. I would suggest to you that it is the Maine Teachers Association. They signed approximately 95 percent of all the elementary and secondary teachers in the State of Maine. They have, from what I am aware of, a free rider obligation. I suspect that they are successful because they represent the interest of their workers. Those people come together freely and associate with one another. It is true that in Maine no one has to join a union to keep a job. However, there are some that have security causes in their contracts. In a union security clause, it is simply a contract between an employee and a union. That contract takes away basic human rights, the right to earn your money and spend it as you wish. Frankly, I think it is immoral to tax an individual's wages against the worker's wishes.

Does the lack of the union security clause infringe on the union's ability to collectively bargain on behalf of the employees they represent? I don't understand why, Mr. Speaker. The only

limit on union officials bargaining power is a union's only ability to serve their members interest. In his autobiography, *Preserving the Constitution*, the late Senator Sam Irving wrote, right to work laws remove the motives of the union to subordinate the interest of the employees to its wishes and thus it, the union, free to conduct negotiations for the sole purpose of obtaining an employment contract that is advantageous to the employees. There's no real evidence that enforced membership is more effective than voluntary association. President Kennedy's Secretary of Labor, Arthur Boberk, informed the union lawyer and told the audience in 1962, that very often the union has one union shop who will frankly admit that the people who come in through that route, the forced route, do not always participate in the same knowing way as people who come into the method of education and volunteerism. He was saying the same thing as Sam Garbers.

The late Supreme Court Justice probably summarized this principle best when he said a union attains success when it reaches the ideal condition. The ideal condition for union is to be strong, stable and yet have in the trade outside of its ranks an appreciable number of men who are non-union. Such a nucleus of unorganized labor will check the oppression by the union as the union checks the oppression by the employer. Simply stated, there is no evidence in the right to work laws that we cannot destroy unions. A right to work law may mean a union boss has to spend more time working and enforcing the contract in the workplace. If they do that, they will be meeting the needs of the members. This concept of forced membership in any club or organization is against the very principles that we enjoy in this United States. We know that the union represents workers and they will not be forced to pay, that they will gladly join. Some say that wages will fall, benefits will go away and sweatshops and abusive labor will return. That is just not true. The facts say otherwise.

As an example, between 1991 and 1996, right to work states gained 283,000 to high paying manufacturing jobs. The union states lost almost an equivalent number. We lost a 20 percent decline of our manufacturing workforce. When you compare Maine with right to work states and other forced union states in the nation and in a number of economic areas, you will see that a history shows that by almost any measurement economic growth in right to work states is the greatest. Wages paid in right to work states are lower than in forced union states as an average. You have to look at where they started in an equivalent period of time. You will discover the end of the day that the cost of services in those states that the average worker has over \$2,800 more to spend in right to work states. Twenty-eight hundred dollars a year, that is real money folks.

Idaho is the 21st state to become a right to work state in 1985. By 1984, it is listed as having the fastest-growing employment in the country. It is hard to ignore the evidence. The conclusion to me is clear. The case for right to work in Maine is compelling for moral, political and economic reasons. I say to you that union officials who want to keep coercing union dues from unwilling workers will say anything. They will use every emotional argument possible to keep the money rolling into their coffers. By fighting right to work, officials are telling me by what I hear them say, that is the only way they can stay in business by forcing their members to pay dues. I think that is outrageous. We know that when workers see a union as truly representing them, they won't need to be compelled to pay. They will gladly join and they will be paying dues voluntarily.

For those reasons, the individual right of freedom and the job creating power of right to work, an overwhelming amount of citizens in Maine support this concept. No American should be required to join a labor union to keep a job. Those Maine citizens should not be compelled to pay dues to an organization they do not believe in. It is in the interest of the rights of working men and women of Maine for sound public policy and basic fairness. I urge you to support this bill and defeat the present motion. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Dixfield, Representative Bryant.

Representative BRYANT: Mr. Speaker, Ladies and Gentlemen of the House. It can't really be said any better than the good Representative Matthews has stated. I won't go on with that. I will just say this, it is a bad bill when it was in committee and it is a bad bill now. I will urge you to support the pending motion. Thank you.

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

Representative SHIAH: Mr. Speaker, Colleagues of the House. I just want to say that I have a few comments. This is indeed a bad bill. I am a former member of the OCAW, which is now the Pace Union. I learned a lot by being a member of the union years ago. I think the Representative from Winslow spelled it out very well. The labor movement in this nation and in this state has led to so many positive gains for all workers across this state and nation. This bill is purely another attempt by the so-called National Right to Work for Less Committee. It is a bill that we do not need in Maine. I think that many of the arguments have already been laid out. A couple of points that were brought up is someone mentioned there were many families struggling in Maine with employment and pay levels. I suggest to you that if we had more people that were organized with unions in this state, there would be less members of our state struggling. Again, I think it is a bill that we do not need in this state. The arguments have already been brought out. It is simply an attempt to maximize employer's control over worker's lives and to minimize labor costs. It is a bill that we certainly do not need in this state. It is another attempt to weaken the union's democratic processes. I strongly urge everyone to vote against this bill. Thank you.

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

Representative MACDOUGALL: Mr. Speaker, Men and Women of the House. I think another way to look at the worthiness of this particular bill is in a couple of arenas. The United States Bureau of Labor Statistics, according to their data, there are 21 right to work states. The contrast between those states that have right to work legislation and those that do not have stark differences when you come to the, let's say, the arena of manufacturing. Between 1990 and 1995, the right to work states gained nearly 164,000 manufacturing jobs. The other states have lost 800,000. We, here in the State of Maine, are very cognizant of the loss of manufacturing jobs. Some of my fellow colleagues that live in areas that have been decimated by the loss of these high paying jobs. Over the long term, right to work states have gained a million and a half of these manufacturing jobs since 1970. Non-right to work states have lost more than 2.3 million such jobs. When we talk about national right to less, it is kind of the value of this legislation. It means that it is going to take wages away or lower wages for the worker. I disagree respectfully. The right to work states have

proven over time that businesses flourish there, which, in turn, raise the wages, benefits and opportunities for all. I might add that it was said earlier or eluded to that there is no representation of workers other than the unions.

I would submit that where I work, which is a non-union shop, century level workers and long-term workers like myself, who have been there for many years, have enjoyed an economy in a marketplace that has been my best friend. The marketplace has driven my wages and benefits up in order to compete. Century level workers where I live have enjoyed an increase in wage and benefits over the past several years, because we have to compete that way whether we wanted to or not. We have to do it in order to get the worker to come in and stay. What is good about that is freedom of association. They like working for us. They stay and are rewarded. If we, on the other hand, as a company, management, say we are going to lower the wage or take away a benefit, we do so with great repercussions, because down the street they can go elsewhere and have that replenished. I say and submit to you that this particular legislation is a great bridge to join the other 21 states that have adopted it so that we make that first step and tell the business community that you can grow here and start businesses here and that lets the ship up for all.

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

Representative TUTTLE: Mr. Speaker, Men and Women of the House. I will be brief. In response to comments about former labor leaders and politicians, I would like to inform this body that I talked with Samuel Gompers the other night and he told me that he was totally against this bill. He looked pretty good for a dead man. Mr. Speaker, I would encourage you to support the Majority Ought Not to Pass Report and follow my light. Thank you.

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

Representative TREADWELL: Mr. Speaker, Ladies and Gentlemen of the House. When I spoke before there was something that I thought about mentioning and I didn't think it was germane to the bill, but since the good Representative from Winslow brought it up, I guess then it is all right to mention it. He brought up safety in the workplace. The unions are responsible for safety in the workplace. I believe that our workers' compensation history will prove that safety in the workplace is something in the State of Maine that has occurred since the reforms of 1992. I think to give the unions credit for safety in the workplace is a little bit of an overstatement. As a matter of fact, I think Bath Iron Works is probably the epitome of a union shop in the State of Maine. BIW came to the attention of OSHA last year because of their very high incidence of mishaps, the safety problems that they were having. It prompted a safety audit from OSHA. I don't think you can equate safety and unions to be synonymous. Thank you very much Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Caribou, Representative Sirosis.

Representative SIROIS: Mr. Speaker, Ladies and Gentlemen of the House. I worked 41 years on a railroad and I highly believed in unions. I go way back to John L. Lewis when he formed the Coal Miners Union. The coal miners were dying at the age of 45 or 50 years in those days. He set up the union for safety or health. At that time, the people who owned the coal mine were making the money. The laborers were working for almost nothing. I am 100 percent behind unions. I will vote to

defeat this bill. This bill is definitely a bad bill for the State of Maine workers. Thank you.

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

Representative MATTHEWS: Mr. Speaker, Men and Women of the House. Just to correct the record and the comments by the good Representative Treadwell. At a recent get together, which I know the entire membership of this House took part in thanking the former president of the AFL-CIO, Charlie O'Leary. At a get together for Charlie in his honor, a former president of Bath Iron Works in the tribute, a lot of members of the business community as well as many, many good members of the labor community there to thank Charlie, said and will stay with me that if it wasn't for Charlie O'Leary and the AFL-CIO no one would be doing the good things to promote safety in the workplace, better wages for workers and hours and conditions, if it wasn't for labor and organized labor, those things wouldn't happen. I am just a country boy from Vassalboro. I have read the Constitution and I have read a little bit of American history, which I enjoy and am proud of. My empirical evidence tells me from observation that it is due all the good things that workers have and the battles that lie ahead will come because of the AFL-CIO and organized labor. Let's not break the back of the union movement in America.

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

Representative O'BRIEN: Mr. Speaker, Men and Women of the House. I rise today to speak about this bill and to hope that people would consider not to pass it. I think we all have to remember that just reading these words should certainly alert people as to the misuse of the language. The rights of employees to freely decide. Does anyone truly believe that the employers are not going to decide on the rights of the workers? Of course they are. If anyone believes as a man or woman in this House that to be able to discuss with the employer one on one what you are going to receive as far as wages, benefits or safety issues where you are putting out your daily effort is not going to result in the employer knowing exactly how much he is going to pay you one on one would certainly be a lack of mental ability on your part. The benefits that we have received so far as people working in the State of Maine are because there are some unions. If we had no unions in the State of Maine, believe me, the wages that are paid and the monies that come in would be a lot less. I would remind people that to say that it is going to be up to the employee to freely decide, again, is a big, big fog coming in over the workforce. Remember, we have what we have today because of the people who have preceded us, who have worked long and hard for those benefits. I would certainly remind people that in the area of Jay, Maine, the employers knew exactly what they were going to do to break that union before the day ever came when those out of state workers came in. They had strategy. They had the whole thing planned out and if we want to think that a singular employee at IP Mill could have done anything by themselves, then I have a beautiful bridge to sell any and all of you. Thank you.

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

Representative WATERHOUSE: Mr. Speaker, Ladies and Gentlemen of the House. I think we are getting things mixed up here, at least from my perspective as a person who, I think, worked for a union outfit one week. I won't go into the story of why I didn't go back. Most of the people in this state do not work

for unions. The last speaker mentioned about an employee and an employer negotiating for their benefits. I did it all the time. I am in business for myself now. I do it in the marketplace with customers, but before that, I worked for a couple of people in several different jobs. When I wanted to negotiate my wages or my benefits, I went up to them and asked them. Basically, I negotiated myself. Most people in the state do that. I am talking about safety situations. I worked for these two fellas in carpentry and we had a one man veto when it came to safety issues. If I thought the staging that we were working on wasn't up to par, I could tell them that and we would correct it to satisfy my needs for safety. When we are talking about issues of safety negotiating wages, I will agree when you become a large outfit, it becomes harder for somebody to negotiate personally, one on one, with their employer. That is not the case with most employees in this state and I would dare say in most states when you look at the percentage of people who work for unions.

Personally, I would never want to see the unions go away. I think they serve a very good useful purpose. They have done some good things in the past. Like all organizations, sometimes they go beyond the pale and create some problems. This, to me, has nothing to do with unions. It has nothing to do with non-unions. I has to do with choice. The choice to decide you want to give your money to an organization to work for you. I have made this argument with people who are pro-union. For the life of me, I can't figure out why they consider this such a threat. If you are doing such a good job for the people you are representing, certainly you are going to get one, two or three people who don't want to pay their fair share. I dare say that most people, 90 percent or higher, if you are doing good job for them in representing them and getting them what they want in their employment, they are going to gladly contribute money to the organization that is doing that for them. I understand where the people are coming from on the other side of this issue. They have been in that arena with unions representing them. They have come up through those ranks with that kind of representation. It is a foreign concept for me. I can't envision somebody negotiating my worth with somebody else. Maybe it is because I have never been in that arena. I have great respect for people who believe that. To me, the bottom line with this is, personal choice and freedom. Thank you.

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

Representative **MACK**: Mr. Speaker, Right Honorable Men and Women of the House. No one has suggested that the unions have not done some great things. No one has suggested that the unions are still to this day doing great things. Because of that, if people are given the freedom to choose, many will join the union. They will freely choose to join the union because of the good things they are doing. It has been talked about, about America and about freedom. What does America mean to you? What does freedom mean to you? When my ancestors fled here from Russia and the Ukraine, they came here for freedom. When my stepfather and his family came here from Jamaica, they came here for freedom. They did not come here for the government to force them, coerce them, into joining an organization. If the question is going to be, is America about freedom to choose your associations or is America about the government using forced collectivism? I will stand for freedom any day. I urge you to vote against the pending motion.

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

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

Representative **TWOMEY**: Mr. Speaker, Colleagues of the House. What America means to me is that my grandmother came over from Canada in the 1800s and was the first woman to help organize to bring a union to the mills. She went to Washington. She marched on Washington. I have her union pin. I would be remiss to sit here and not go on the record. In the 1800s, my grandmother fought for people who came from Canada who could only speak French, who had to work long hours. She worked and helped to organize that union. That is what America means to me. My grandmother was right in 1800 and her granddaughter is going to be right today when she votes Ought Not to Pass.

The SPEAKER: The Chair recognizes the Representative from Poland, Representative Snowe-Mello.

Representative **SNOWE-MELLO**: Mr. Speaker, Ladies and Gentlemen of the House. I really hadn't planned on speaking on this issue. I have a little experience in my life with unions. Many years ago I lived in New Jersey and I worked the Morris County Welfare Board. We did not have good pay. We did not have good benefits. A lot of us got together and decided to bring a union in. We put it to a vote and we voted that union in. The union helped us. They were wonderful. They increased our salary. They increased our benefits. The one thing that was really nice is people could choose to join that union. They didn't have to join that union if they didn't want to. I was a shop steward. I worked very hard for that union and very hard for the people. I really don't see why people are so anxious and so worried that this is doing anything against the union. I just believe we are Americans. We are here. We have choice and we have freedoms. Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative **MENDROS**: Mr. Speaker, Men and Women of the House. Many fellow legislators have said they have belonged to unions at some point in their life. Is there anyone who would not have joined the union if this law had been in effect when you joined? Would this have made you not decide to join?

The SPEAKER: The Representative from Lewiston, Representative Mendros has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Livermore, Representative Berry.

Representative **BERRY**: Mr. Speaker, Men and Women of the House. I guess I would rise today and tell you that probably from my background, growing up in the apple orchards and a Republican family for as long as they have been in Livermore, I probably would not have been a member of the union. I remember bad mouthing them before I worked in the mill. My mind has changed because of some of the people that I have worked for and some of the favoritism that would go on. Discrimination, discrimination that has happened in this country for hundreds of years, but through the seniority and through work rules, it has done a lot for fairness in the workplace. I am not saying there isn't some work to do there. Thank you very much.

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. 154

YEA - Ahearne, Bagley, Baker, Berry RL, Bolduc, Bouffard, Bowles, Brennan, Brooks, Bryant, Bull, Cameron, Carr, Chick, Chizmar, Colwell, Cote, Cowger, Daigle, Davidson, Davis, Desmond, Dudley, Dugay, Dunlap, Duplessie, Etnier, Fisher, Frechette, Gagne, Gagnon, Goodwin, Green, Hatch, Honey, Jabar, Jacobs, Kane, Kasprzak, LaVerdiere, Lemoine, Lemont, Mailhot, Martin, Matthews, McAlevey, McDonough, McGlocklin, McKee, Mitchell, Muse, Norbert, O'Brien LL, O'Neal, O'Neil, Peavey, Perkins, Perry, Pieh, Povich, Powers, Quint, Richard, Richardson J, Rines, Rosen, Samson, Savage W, Saxl JW, Saxl MV, Sherman, Shiah, Sirois, Skoglund, Stanley, Stevens, Sullivan, Tessier, Thompson, Townsend, Tracy, Tripp, Tuttle, Twomey, Usher, Volenik, Williams, Mr. Speaker.

NAY - Andrews, Belanger, Berry DP, Bragdon, Bruno, Buck, Bumps, Campbell, Cianchette, Clough, Collins, Cross, Duncan, Foster, Gerry, Gillis, Glynn, Gooley, Heidrich, Jodrey, Jones, Joy, Lovett, MacDougall, Mack, Madore, Marvin, McKenney, McNeil, Mendros, Murphy E, Murphy T, Nass, Nutting, O'Brien JA, Pinkham, Plowman, Schneider, Shields, Shorey, Snowe-Mello, Stanwood, Stedman, Tobin D, Tobin J, Trahan, Treadwell, True, Waterhouse, Weston, Wheeler EM, Winsor.

ABSENT - Clark, Fuller, Kneeland, Labrecque, Lindahl, Mayo, Richardson E, Sanborn, Savage C, Watson, Wheeler GJ.

Yes, 88; No, 52; Absent, 11; Excused, 0.

88 having voted in the affirmative and 52 voted in the negative, with 11 being absent, the Majority Ought Not to Pass Report was **ACCEPTED** and sent for concurrence.

Majority Report of the Committee on **LABOR** reporting **Ought Not to Pass** on Resolve, to Modify the Retirement Laws for a Certain School Principal (EMERGENCY)

(H.P. 1100) (L.D. 1547)

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
MacDOUGALL of North Berwick
MACK of Standish
TREADWELL of Carmel

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-499)** on same Resolve.

Signed:

Representative:

DAVIS of Falmouth

READ.

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

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

Representative **USHER**: Mr. Speaker, Men and Women of the House. I oppose the pending motion. This issue is from a person who accommodated our school system for many years. He is at the point of retirement after 31 years of service in our school system. With the many changes in our school systems throughout the state, some people have been receiving better offers to go to the State of Massachusetts for signing of a bonus. After they serve there for five years, they get a chance to get another bonus. This person has been dedicated to our school system here in the State of Maine. He served as an athletic director when the athletic director's position became open because of a death of a teacher. He helped out the system and was half way through the school year when he did that. There was an opening as assistant principal's position. He assumed that position. He served as assistant principal for two years. There was an opening in the principal's position and he moved to principal. He has to retire this June. When it came time to check his retirement, it is based on four years. He has only served in the management part for three years. Therefore, the earned compensation is not adjusted from his three years. It is based on the four years and he is going to take a big cut. The purpose of the bill is that it be modified to adjust to the three years that he has served in the management position.

My proposal would amend the retirement compensation to adjust this earned compensation to a three year period. I talked to a couple of people and they said it has been done in one or two cases before. I don't have any information to find out if it has. The law was changed and the present law went into effect in 1993. I would hope you would oppose the pending motion so we can move to the Ought to Pass motion that is the Minority Report.

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

Representative **HATCH**: Mr. Speaker, Men and Women of the House. I hope that I don't take too long. I will try not to. We are getting close to the noon hour. I have been on the Retirement Committee for the seven years that I have served. I was here when they did the changes in 1993. No, they were not pretty. There have been a couple of attempts to amend the system. To my knowledge, unless it can be corrected and I think there are a couple of members here who might know that. We have always turned it down as a committee and as a Legislature. The rules were changed because there was a lot of what they called, ballooning that was happening. It was causing the system to have a great unfunded liability. Taking an extra job title or putting all of your benefits into the system instead of getting health care was a favorite thing to do to bolster up your retirement benefits. We stopped that process in 1993. As far as I know, we have not amended the system at any time since 1993. Even though we have had people who have come in and asked for a special privilege. We didn't give it to him. I think it is bad policy when we start doing this for one individual. I think next year we would have 67 bills in for other people. I would ask that you stick with the Majority Ought Not to Pass Report. Thank you.

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

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

The SPEAKER: A division 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.

A vote of the House was taken. 92 voted in favor of the same and 22 against, the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

Nine Members of the Committee on **LEGAL AND VETERANS AFFAIRS** reporting in Report "A" **Ought Not to Pass** on Bill "An Act to Eliminate Voter Registration on Election Day"

(H.P. 376) (L.D. 501)

Signed:

Senators:

DAGGETT of Kennebec
CAREY of Kennebec
FERGUSON of Oxford

Representatives:

CHIZMAR of Lisbon
MAYO of Bath
TUTTLE of Sanford
HEIDRICH of Oxford
GAGNE of Buckfield
FISHER of Brewer

Two Members of the same Committee reporting in Report "B" **Ought to Pass** on same Bill.

Signed:

Representatives:

LABRECQUE of Gorham
McKENNEY of Cumberland

One Member of the same Committee reporting in Report "C" **Ought to Pass as Amended by Committee Amendment "A" (H-497)** on same Bill.

Signed:

Representative:

PERKINS of Penobscot

READ.

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

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

Majority Report of the Committee on **TAXATION** reporting **Ought Not to Pass** on Bill "An Act to Establish Medical Savings Accounts"

(H.P. 937) (L.D. 1314)

Signed:

Senators:

RUHLIN of Penobscot
DAGGETT of Kennebec
MILLS of Somerset

Representatives:

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

MURPHY of Berwick

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-494)** on same Bill.

Signed:

Representatives:

BUCK of Yarmouth
CIANCHETTE of South Portland
LEMONT of Kittery

READ.

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

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

Majority Report of the Committee on **TAXATION** reporting **Ought Not to Pass** on Bill "An Act Regarding the Interest and Penalties on Unpaid Taxes when the Taxpayer Files for Bankruptcy"

(H.P. 1216) (L.D. 1745)

Signed:

Senators:

RUHLIN of Penobscot
DAGGETT of Kennebec

Representatives:

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

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-495)** on same Bill.

Signed:

Senator:

MILLS of Somerset

Representatives:

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

READ.

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

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

CONSENT CALENDAR

Second Day

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

(S.P. 282) (L.D. 800) Bill "An Act to Create a Tax Credit for Licensing Fees Paid for the Use of University Patents on Wood Fiber Reinforced Products" (C. "A" S-238)

(S.P. 320) (L.D. 954) Bill "An Act to Improve Alcohol Server Education Courses" (C. "A" S-228)

(S.P. 359) (L.D. 1063) Bill "An Act to Create Quality Child Care Investment Incentives" (C. "A" S-237)

(S.P. 380) (L.D. 1081) Bill "An Act to Enact the Uniform Foreign Money-judgments Recognition Act" (C. "A" S-226)

(S.P. 438) (L.D. 1275) Bill "An Act to Implement the Recommendations of the Wage Fairness Task Force" (C. "A" S-229)

(S.P. 679) (L.D. 1929) Bill "An Act Concerning Damage to Lands and Natural Resources Caused by Natural Gas Pipelines" (C. "A" S-224)

(H.P. 546) (L.D. 767) Resolve, Regarding Legislative Review of Chapter 311: Renewable Resource Portfolio Requirement, a Major Substantive Rule of the Public Utilities Commission (EMERGENCY)

(H.P. 554) (L.D. 775) Bill "An Act to Revise Hunting and Fishing License Revocation Laws"

(H.P. 1086) (L.D. 1533) Bill "An Act to Preserve the Medicaid Home Health Benefit"

(H.P. 16) (L.D. 26) Bill "An Act to Clarify the Responsibility of a Municipality in Enforcing Personal Watercraft Regulations" (C. "A" H-510)

(H.P. 97) (L.D. 110) Bill "An Act to Allow the Use of All-terrain Vehicles on the Extreme Right of a Public Way" (EMERGENCY) (C. "A" H-511)

(H.P. 181) (L.D. 259) Bill "An Act to Secure Wounded Deer" (C. "A" H-512)

(H.P. 530) (L.D. 737) Bill "An Act to Extend the Open Water Fishing Season" (C. "A" H-513)

(H.P. 561) (L.D. 782) Bill "An Act to Amend the Laws Governing Commercial Shooting Area Hunting Licenses" (C. "A" H-514)

(H.P. 931) (L.D. 1308) Bill "An Act to Clarify Roles and Responsibilities in the Child Development Services System" (EMERGENCY) (C. "A" H-525)

(H.P. 1000) (L.D. 1398) Bill "An Act to Secure Environmental and Economic Benefits from Electric Utility Restructuring" (C. "A" H-522)

(H.P. 1140) (L.D. 1625) Bill "An Act to Clarify Certain Laws Administered by the Department of Environmental Protection, Bureau of Remediation and Waste Management" (C. "A" H-519)

(H.P. 1152) (L.D. 1649) Bill "An Act to Strengthen Maine's Research and Development Capacity in Renewable Energy Resources" (C. "A" H-523)

(H.P. 1415) (L.D. 2022) Bill "An Act to Improve the Marketability of Real Estate Titles" (C. "A" H-507)

(H.P. 1445) (L.D. 2066) Bill "An Act to Amend the Laws Relating to Slash Disposal along Highways and Railroad and Utility Corridors" (C. "A" H-524)

(H.P. 1544) (L.D. 2198) Bill "An Act to Fund the Costs Associated with Determining Eligibility for Certain Marine Resources Licenses" (C. "A" H-517)

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

(H.P. 749) (L.D. 1039) Bill "An Act to Allow Horse Racing Commencing at Noon on Sundays" (C. "A" H-526)

On motion of Representative TUTTLE of Sanford, was **REMOVED** from the Second Day Consent Calendar.

The Committee Report was **READ** and **ACCEPTED**. The Bill was **READ ONCE**. **Committee Amendment "A" (H-526)** was **READ** by the Clerk.

On further motion of the same Representative, **TABLED** pending **ADOPTION** of **Committee Amendment "A" (H-526)** and later today assigned.

BILLS IN THE SECOND READING

Senate As Amended

Bill "An Act to Amend Motor Vehicle Laws"

(S.P. 587) (L.D. 1667)

(C. "A" S-219; S. "A" S-230)

House As Amended

Bill "An Act to Revise the Fact-finding Process under the Public Employees Labor Relations Laws"

(H.P. 495) (L.D. 702)

(C. "A" H-352)

Bill "An Act to Amend the Workers' Compensation Law as It Pertains to Employer-selected Health Care Providers"

(H.P. 555) (L.D. 776)

(C. "A" H-359)

Bill "An Act to Restore State Funding for Mediation Services Provided by the Maine Labor Relations Board"

(H.P. 564) (L.D. 785)

(C. "A" H-357)

Bill "An Act to Provide a Paralegal Assistant to Each Workers' Compensation Advocate"

(H.P. 598) (L.D. 838)

(C. "A" H-350)

Bill "An Act to Provide Binding Arbitration for Police Departments, Sheriff Departments and Professional Fire Departments"

(H.P. 600) (L.D. 840)

(C. "A" H-351)

Bill "An Act to Require the State to Pay Medicare Costs for Retired State Employees and Retired Teachers"

(H.P. 663) (L.D. 919)

(C. "A" H-358)

Bill "An Act to Amend the Laws Pertaining to the Maine HIV Advisory Committee"

(H.P. 806) (L.D. 1129)

(C. "A" H-371)

Bill "An Act to Establish Procedures for the Awarding of Loans and Grants to Municipalities and Other Entities"

(H.P. 885) (L.D. 1242)

(C. "A" H-374)

Bill "An Act to Create the Bicycle Safety Act"

(H.P. 1096) (L.D. 1543)

(C. "A" H-378)

Bill "An Act to Control the Sale and Display of Tobacco Products"

(H.P. 1123) (L.D. 1582)

(C. "A" H-370)

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

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

Representative **MAYO**: Mr. Speaker, Men and Women of the House. I would like it noted that had I been present at the vote on LD 1237, I would have voted **yea**.

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

ENACTORS

Emergency Measure

An Act to Promote the Recycling of Fish Scales as Agricultural Fertilizer

(S.P. 204) (L.D. 593)

(C. "A" S-183)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 124 voted in favor of the same and 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 Conform the Maine Tax Laws for 1998 With the United States Internal Revenue Code

(H.P. 1053) (L.D. 1484)

(C. "A" H-387)

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

Emergency Measure

An Act to Consolidate Traffic Movement Permits within the Department of Transportation

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

(C. "A" S-167; S. "A" S-192)

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. 121 voted in favor of the same and 2 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Allow the Fort Kent Utility District to be Dissolved and Combined With the Town of Fort Kent

(H.P. 1538) (L.D. 2193)

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. 131 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

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

(H.P. 569) (L.D. 790)

(C. "A" H-400)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 129 voted in favor of the same and 3 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

Emergency Measure

Resolve, to Create the Business Advisory Commission on Quality Child Care Financing

(S.P. 486) (L.D. 1446)

(C. "A" S-179)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 120 voted in favor of the same and 7 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

Emergency Measure

Resolve, Regarding Legislative Review of Certain Sections of Chapter II, Section 67, Nursing Facility Services, of Chapter 101: Maine Medical Assistance Manual, a Major Substantive Rule of the Department of Human Services

(H.P. 1535) (L.D. 2188)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 134 voted in favor of the same and 0 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

Emergency Measure

Resolve, Regarding Legislative Review of Chapter 231: Rules Relating to Drinking Water, a Major Substantive Rule of the Department of Human Services

(H.P. 1536) (L.D. 2189)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 128 voted in favor of the same and 5 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

Emergency Measure

Resolve, to Establish the John H. Reed-Kenneth M. Curtis Peace Fellowship

(S.P. 789) (L.D. 2201)

(C. "A" S-195)

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 0 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

Emergency Mandate

Resolve, Authorizing the Knox County Commissioners to Borrow Not More than \$1,000,000 for Construction or Renovation of a District Court and Office Areas in Knox County
(H.P. 703) (L.D. 970)
(C. "A" H-407)

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

On motion of Representative AHEARNE of Madawaska, **TABLED** pending **FINALLY PASSAGE** and later today assigned.

Mandate

An Act Concerning Recreational Clam Harvesting Licenses
(S.P. 262) (L.D. 757)
(C. "A" S-164)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. In accordance with the provisions of Section 21 of Article IX of the Constitution, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 112 voted in favor of the same and 21 against, and accordingly the Mandate was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Mandate

An Act to Ensure Support Services for Teachers Serving Under a Certification Waiver
(S.P. 461) (L.D. 1348)
(C. "A" S-165)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. In accordance with the provisions of Section 21 of Article IX of the Constitution, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 117 voted in favor of the same and 8 against, and accordingly the Mandate was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Mandate

An Act to Modify the Juvenile Code with Regard to the Service of Juvenile Summonses
(S.P. 690) (L.D. 1936)
(C. "A" S-193)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. In accordance with the provisions of Section 21 of Article IX of the Constitution, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 121 voted in favor of the same and 6 against, and accordingly the Mandate was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Acts

An Act to Add to the List of Mandatory Reporters of Suspected Child Abuse Children's Summer Camp Administrators and Counselors

(H.P. 75) (L.D. 88)
(C. "A" H-441)

An Act to Provide State Funding for the Wells National Estuarine Research Reserve

(S.P. 68) (L.D. 171)
(C. "A" S-166)

An Act to Amend the Laws Relating to Long-term Care Insurance and to Require Disclosure to Insurance Consumers that Long-term Care Insurance Policies are Tax-qualified for Purposes of Federal and State Income Tax

(S.P. 140) (L.D. 376)
(C. "A" S-197)

An Act to Require that the State of Maine Comply with Federal Law Requiring Reasonable Efforts

(H.P. 297) (L.D. 405)
(C. "A" H-440)

An Act to Require Certain Disclosures by Providers of Funeral Services

(H.P. 525) (L.D. 732)
(C. "A" H-398)

An Act to Amend the Animal Welfare Laws

(H.P. 535) (L.D. 742)
(C. "A" H-444)

An Act to Require the State to Be Responsible for the Costs of School Employee Criminal History Records Checks and Fingerprinting

(H.P. 628) (L.D. 878)
(C. "A" H-405)

An Act to Amend the Tax Law Regarding Tax Liability of Innocent or Injured Spouses

(S.P. 308) (L.D. 910)
(C. "A" S-173)

An Act to Ensure Adequate Funding of Certain Public Safety Programs of Occupational or Professional Licensure Boards

(S.P. 398) (L.D. 1189)
(C. "A" S-178)

An Act Regarding the Effective Date of Guardian Ad Litem Training

(H.P. 856) (L.D. 1213)
(C. "A" H-439)

An Act to Make Courses that Teach English as a 2nd Language Reimbursable by the State

(H.P. 860) (L.D. 1217)
(C. "A" H-373)

An Act Relating to Automobile Rental Supplemental Liability Insurance

(H.P. 861) (L.D. 1218)
(C. "A" H-341)

An Act to Raise Penalties for Cases of Cruelty to Animals or Birds

(H.P. 903) (L.D. 1281)
(C. "A" H-419)

An Act to Allow Sharing of Information for Child Protective Investigations

(H.P. 1038) (L.D. 1460)
(C. "A" H-438)

An Act to Clarify the Definition of Terms Relating to Scheduled Drugs

LEGISLATIVE RECORD - HOUSE, May 11, 1999

(H.P. 1107) (L.D. 1566)
(C. "A" H-420)
An Act to Require the Holder or Servicer of a Mortgage to Record the Discharge Within 60 Days

(H.P. 1127) (L.D. 1586)
(C. "A" H-382)
An Act to Clarify the Sales Tax Exemption for Food Service in Educational Institutions

(S.P. 534) (L.D. 1596)
(C. "A" S-174)
An Act to Amend the Abandoned Property Laws

(H.P. 1162) (L.D. 1673)
(C. "A" H-436)
An Act to Extend Certain Survivor Benefits to the Spouses and Children of Emergency Medical Services Providers

(H.P. 1197) (L.D. 1707)
(C. "A" H-366)
An Act to Amend the Home-release Monitoring Program

(H.P. 1198) (L.D. 1708)
(C. "A" H-417)
An Act to Clarify the Law Governing Disbursements from the Groundwater Oil Clean-up Fund

(H.P. 1201) (L.D. 1711)
(C. "A" H-426)
An Act to Update the Laws Concerning Prearranged Funerals

(H.P. 1248) (L.D. 1777)
(C. "A" H-342)
An Act to Amend the Definition of Lender Under the Uncontrolled Hazardous Substance Sites Law

(H.P. 1254) (L.D. 1808)
(C. "A" H-423)
An Act to Limit the Imposition of Excise Taxes on Watercraft

(H.P. 1284) (L.D. 1845)
(C. "A" H-385)
An Act Allowing the Appointment of Temporary Guardians of Minors

(H.P. 1299) (L.D. 1860)
(C. "A" H-437)
An Act to Revise Procedures for Probation Revocation

(H.P. 1310) (L.D. 1871)
(C. "A" H-427)
An Act to Make More Uniform the Training of Firefighters

(S.P. 656) (L.D. 1878)
(C. "A" S-194)
An Act to Prevent Conflicts of Interest

(H.P. 1337) (L.D. 1920)
(C. "A" H-288)
An Act to Protect Beneficiaries of Structured Settlements

(S.P. 680) (L.D. 1930)
(C. "A" S-203)
An Act to Maintain Protection of Sand Dunes Under Existing Law

(H.P. 1442) (L.D. 2063)
(C. "A" H-424)
An Act to Protect Library Materials in Circulation

(H.P. 1449) (L.D. 2070)
(C. "A" H-416)
An Act to Update the Statutes and Provide for the Basic Needs of the Maine Conservation Corps

(S.P. 735) (L.D. 2085)
(C. "A" S-171)
An Act to Amend the Charter of the Richmond Utilities District

(H.P. 1459) (L.D. 2091)
(C. "A" H-399)
An Act to Require Legislative Approval to Lease Certain Land to the Federal Government

(H.P. 1460) (L.D. 2092)
(C. "A" H-363; S. "A" S-225)
An Act to Amend the Laws Concerning Life and Health Insurance

(S.P. 765) (L.D. 2157)
(C. "A" S-182)
An Act to Improve the Effectiveness of the Driver Education and Evaluation Programs

(H.P. 1546) (L.D. 2202)
(C. "A" H-403)
An Act to Amend the Calculation of Service Credits Under the Maine State Retirement System Pertaining to the Comprehensive Employment and Training Act of 1973 Employees

(S.P. 792) (L.D. 2204)
(C. "A" S-177)
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, Creating a Commission to Study the Multicultural Education Needs of Maine Teachers to Ensure Multicultural Awareness and Understanding for All Maine Students

(H.P. 1230) (L.D. 1759)
(C. "A" H-319)
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 Establish and Fund Conflict Resolution Education and Civil Rights Team Programs in the Public Schools

(H.P. 928) (L.D. 1305)
(C. "A" H-317)
Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed.
On motion of Representative KASPRZAK of Newport, was **SET ASIDE**.
The same Representative **REQUESTED** a roll call on **PASSAGE TO BE ENACTED**.
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 wanted everybody to be aware if they don't have the amendment in front of them, this piece of legislation carries a fiscal note \$150,000.
The **SPEAKER**: The Chair recognizes the Representative from Madison, Representative Richard.
Representative **RICHARD**: Mr. Speaker, Men and Women of the House. I hope you won't let that deter you in voting for this. This is one of the attempts that the Education Committee has made to prevent violence in our schools. This is something that we can do. I hope that you will vote in favor of this.

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

ROLL CALL NO. 155

YEA - Ahearne, Andrews, Bagley, Baker, Belanger, Berry DP, Berry RL, Bouffard, Bragdon, Brennan, Brooks, Bruno, Bryant, Bull, Bumps, Cameron, Carr, Chick, Chizmar, Cianchette, Clark, Clough, Colwell, Cote, Cowger, Cross, Davidson, Davis, Desmond, Dudley, Dugay, Duncan, Dunlap, Duplessie, Etnier, Fisher, Foster, Frechette, Fuller, Gagne, Gagnon, Gerry, Gillis, Gooley, Green, Heidrich, Honey, Jabar, Jacobs, Jodrey, Joy, Kane, Labrecque, LaVerdiere, Lemoine, Lemont, Lindahl, Lovett, Mailhot, Martin, Matthews, Mayo, McAlevey, McDonough, McGlocklin, McKee, McKenney, Mendros, Mitchell, Murphy E, Murphy T, Muse, Norbert, Nutting, O'Brien LL, O'Neal, O'Neil, Peavey, Perkins, Perry, Pieh, Povich, Powers, Quint, Richard, Richardson J, Rines, Rosen, Samson, Sanborn, Savage C, Savage W, Saxl JW, Saxl MV, Schneider, Shiah, Shields, Shorey, Sirois, Skoglund, Snowe-Mello, Stanley, Stanwood, Stedman, Stevens, Sullivan, Tessier, Thompson, Tobin D, Townsend, Tracy, Trahan, Tripp, True, Tuttle, Twomey, Usher, Volenik, Watson, Wheeler EM, Wheeler GJ, Mr. Speaker.

NAY - Bowles, Buck, Campbell, Collins, Glynn, Goodwin, Jones, Kasprzak, MacDougall, Mack, Marvin, McNeil, Nass, O'Brien JA, Pinkham, Sherman, Tobin J, Waterhouse, Weston, Winsor.

ABSENT - Bolduc, Daigle, Hatch, Kneeland, Madore, Plowman, Richardson E, Treadwell, Williams.

Yes, 122; No, 20; Absent, 9; Excused, 0.

122 having voted in the affirmative and 20 voted in the negative, with 9 being absent, the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

An Act to Establish the Birth Defects Program

(H.P. 1322) (L.D. 1905)
(C. "A" H-268)

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

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

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

Resolve, Regarding the Conveyance of a Right-of-way Across the Elizabeth Levinson Center in Bangor

(S.P. 620) (L.D. 1785)
(C. "A" S-160)

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

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

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

UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment 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 (10) **Ought Not to Pass** - Minority (3) **Ought to Pass as Amended by Committee Amendment "A" (H-377)** - Committee on **TRANSPORTATION** on Bill "An Act to Repeal the Mandatory Seat Belt Law if Approved at Referendum"

(H.P. 1397) (L.D. 2002)

TABLED - May 5, 1999 (Till Later Today) by Representative JABAR of Waterville.

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

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

Representative **MENDROS**: Mr. Speaker, Ladies and Gentlemen of the House. I urge you to defeat the pending motion and send this bill out to the people to vote. I would like to share some information with you. First of all, as we all know, we live in a great country. The reason we are a great country is because we have our freedom. I think that is our most important asset here in the United States. We are free to choose to wear a seat belt or not. It is true that seat belts save people's lives. I don't dispute that fact. Mandatory seat belts do not save lives. They only make criminals out of people who choose not to wear their seat belts. I want you to think about that. That is what we are talking about. In most cases, if you are wearing a seat belt when you get into a car accident your life will be saved probably 95 times out of 100. There are other cases. I can tell you a very personal one. My best friend back home was in a car accident in the summer of 1995. He was a passenger in a car. The car flipped over three times and smashed into a rock sideways and he was thrown into the drivers' seat. When the police came to the accident scene, the officer told my other friend who was driving that he could give him a ticket because I know your friend wasn't wearing a seat belt. If he had been, he would be dead. The whole side of the car was crushed. In most cases, that is not the case. If somebody chooses to now wear their seat belt and they get into an accident and they get killed, that is their choice. They understood the risks. If we force somebody to wear a seat belt and they get killed, we have murdered that person. There are no ifs, ands or buts about it. We caused their death. It wasn't a choice.

You might hear some statistics that in 1994, when this law went into affect, 50 percent of the people in Maine wore seat belts. Now it is up over 60 percent. Those figures are national figures. The people in California didn't start wearing their seat belts more just because we passed a law in Maine. People in New Hampshire didn't start wearing their seat belts more because we passed a law in Maine. They don't have the law in New Hampshire. The reason more people are wearing their seat belts now is because of education and because all the new cars have seat belts that automatically hook on. That is why the number of people wearing seat belts is up, not because of this law.

Finally, I want to remind you, all we are doing is sending this back out to referendum. I completely disagree with the law. I would not be so arrogant as to put in a bill to repeal it. It was decided by the people and it should go back out. We changed this law. It is no longer a secondary offense. It is a primary offense. People can get a ticket without having done anything else wrong for not wearing their seat belt. The law was changed. Let it go back out to the people. I want to clarify that this is not eliminating seat belts for everybody, only for adults. It gives the choice back to adults. Thank you.

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

Representative **BOUFFARD**: Mr. Speaker, Men and Women of the House. Seat belts do work. Seat belts save lives. I am here today because I was wearing my seat belt last Tuesday when I bounced off the two guardrails on both sides of the turnpike and my car going round and round. I walked away without a bump or a scratch because I was wearing my seat belt. I am here today for the two young gentlemen who lost their lives just recently in Lewiston. They are not here today because they were not wearing their seat belts. They were over 19. Thank you.

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

Representative **COTE**: Mr. Speaker, Men and Women of the House. I urge you today to vote Ought Not to Pass on the seat belt law. I too experienced a bad situation back in June. It was bright, early and rainy morning, approximately around 6:30 in the morning. I had taken my wife to work. I blame myself for the accident, but if it wasn't for my seat belt, I wouldn't be standing here today urging you to vote Ought Not to Pass. I was following the speed limit and I fell asleep behind the wheel. I swerved into the other lane without realizing it. The other party didn't signal me that I was going in her lane. Of course, I wound up ruining a 1988 Ford Escort LX. It was brand new. I had just bought it. It was a \$2,700 vehicle I had just bought myself. If it wasn't for my seat belt, I wouldn't be here. Even the paramedics and the police officers that attended to me told me I was lucky I had my seat belt. About a week after my accident, the same vehicle up north, a gentleman was driving, he was not wearing his seat belt. He died instantly on impact. He got hit in the same spot where I got hit. His engine was in his lap. Luckily for me, my engine wasn't in my lap. Luckily for me, I walked away. He didn't because of the seat belt. I urge you today to vote Ought Not to Pass on this law. Thank you.

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

Representative **PERKINS**: Mr. Speaker, Men and Women of the House. I don't think anybody here wants a protracted debate on whether or not seat belts save lives. We all know they do. If I could just say to the adults that advocate that the government tells them to wear a seat belt in their personal anecdotes of how the seat belts saved their lives, certainly they could have decided to have the belt on themselves. Everybody knows seat belts save lives. The question is, should it go back out to the people? It just barely passed by 1 percentage point or so. In the lands Down East and up north it failed. Since we have tinkered with it, this is an unprecedented law, there is no other law like it that I can tell where it failed to pass on the safety issue. It passed purely on economic grounds. I can think of no other imposition on adult decision based on purely economic grounds such as this. Anyway, I think it ought to go back out to the people and let them decide if they like it after we tinkered with it. Thank you.

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

Representative **MENDROS**: Mr. Speaker, Ladies and Gentlemen of the House. Before you vote, I want you to remember one thing. I am not trying to ban the use of seat belts. I am trying to make it a choice to choose to wear it or not. No way would I tell people you can't wear a seat belt, which is what this is portrayed as. It is very important. It saves lives. Let's not

force people to wear them and force somebody to be killed because they are wearing it.

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

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

The SPEAKER: The Representative may pose his question.

Representative **GOOLEY**: Mr. Speaker, Men and Women of the House. To anyone who has an answer about federal funds and the states which have mandatory seat belt laws and I believe that federal funds are attached to all states. It seems to me that in debates in earlier sessions that certain federal funds were taken away if you didn't have a seat belt law.

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

Representative **PERKINS**: Mr. Speaker, Men and Women of the House. To answer the question, I am not an expert in that, but I do believe we would be in jeopardy of losing some federal funds. I think this is one of those cases where the federal government takes our money and then dangles it back in front of us. They do it in all sorts of ways and we accept a lot of that. Usually it is couched in the constitutional commerce clause. They do that in all sorts of ways. Sometimes they get away with it and sometimes they don't. I think we ought to say no, this doesn't have to do with interstate commerce and we didn't hire you to tell us how to behave. That is what we ought to tell the federal government in this situation. Thank you.

The SPEAKER: The Chair recognizes the Representative from Scarborough, Representative Lovett.

Representative **LOVETT**: Mr. Speaker, Ladies and Gentlemen of the House. As former chair of the Maine Highway Safety Commission, I have to assure you that safety belts save lives. Not only for the driver, but for the other people on the road. If anyone of us hit a road hazard, like a soft shoulder or anything that is in the road and if we are wearing our safety belt, we are going to be able to drive that vehicle to safety. If we are not wearing a safety belt, we might just hit an innocent person and kill them. I would hope that you would vote with me for the Majority Report here. I think they do save lives. They have been proven. I would urge you to listen to the debate that you have heard.

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

Representative **WHEELER**: Mr. Speaker, Men and Women of the House. Like the old saying goes, if it isn't broken, don't fix it. Since this was voted in at referendum, the law has worked. We don't need to send it back out. There is no reason. Let's vote for the Majority Ought Not to Pass Report. Thank you.

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

The SPEAKER: A division 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.

A vote of the House was taken. 103 voted in favor of the same and 23 against, the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

Representative THOMPSON of Naples assumed the Chair.

The House was called to order by the Speaker Pro Tem.

HOUSE DIVIDED REPORT - Majority (11) **Ought to Pass as Amended by Committee Amendment "A" (H-379)** - Minority (2) **Ought Not to Pass** - Committee on **TRANSPORTATION** on Bill "An Act to Amend Motor Vehicle Title Laws"

(H.P. 1506) (L.D. 2149)

TABLED - May 5, 1999 (Till Later Today) by Representative JABAR of Waterville.

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

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

Bill "An Act to Implement the Recommendations of the Task Force to Study Telecommunications Taxation"

(H.P. 807) (L.D. 1130)

TABLED - May 5, 1999 (Till Later Today) by Representative GAGNON of Waterville.

PENDING - **ADOPTION OF COMMITTEE AMENDMENT "A" (H-391)**.

On motion of Representative GAGNON of Waterville, **TABLED** pending **ADOPTION** of **Committee Amendment "A" (H-391)** and later today assigned.

Bill "An Act to Amend the Victims' Compensation Fund Law"

(H.P. 1229) (L.D. 1758)

TABLED - May 5, 1999 (Till Later Today) by Representative SAXL of Portland.

PENDING - **ADOPTION OF COMMITTEE AMENDMENT "A" (H-421)**.

Representative POVICH of Ellsworth **PRESENTED** House **Amendment "A" (H-465)** to **Committee Amendment "A" (H-421)**, which was **READ** by the Clerk.

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

Representative **POVICH**: Mr. Speaker, Men and Women of the House. The amendment (H-465) is of a technical nature. The bill is an important bill. The bill extends coverage of benefits to violent crime victims who suffer psychological injuries as a result of the threat of physical injury. I urge the House to support the amended version of LD 1758. Thank you very much.

House Amendment "A" (H-465) to **Committee Amendment "A" (H-421)** was **ADOPTED**.

Committee Amendment "A" (H-421) as Amended by **House Amendment "A" (H-465)** thereto was **ADOPTED**.

The Bill was assigned for **SECOND READING** Wednesday, May 12, 1999.

HOUSE DIVIDED REPORT - Majority (7) **Ought Not to Pass** - Minority (6) **Ought to Pass as Amended by Committee Amendment "A" (H-415)** - Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Prohibit Lobbying by Government Agencies"

(H.P. 1271) (L.D. 1832)

TABLED - May 6, 1999 (Till Later Today) by Representative TUTTLE of Sanford.

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

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

Representative **JOY**: Mr. Speaker, Ladies and Gentlemen of the House. As you can see, this was a very narrow division on this bill. I presented this bill because being an observer of what takes place in the Augusta arena, I found when term limits were imposed, people thought that the lobbyists were going to attain the power because of the lack of legislative memory. However, in seeing what has transpired throughout this governmental process, it is not the lobbyist, but it is the state agencies that are gaining control of the governmental process. The title of the bill is a little bit misleading. It was amended to do what I had hoped to do with the bill. The amendment prohibits people who are coming into a committee to represent the department from presenting testimony for or against. The department is there to carry out the will of this Legislature, not to set policy. As such, when they come in front of a committee to provide their input, they should be providing information as sought by the committee, not to come in and speak for or against a bill. I asked the committee when I made my presentation, how many bills had come in as department bills that actually benefited the populous, the residents of the State of Maine, as opposed to those that cemented the control of the bureaucracy. The answer to that question was none.

Ladies and gentlemen, I think this tells you exactly what is taking place in our governmental system. The bill does not prohibit any member of any state agency from testifying in their own behalf as a citizen of the state because that is what we do is have public hearings. Most of our hearings develop into either for or against from departments. Ladies and gentlemen, this body right here is the policy making body for the state, not the bureaucracy. I urge you to defeat the pending motion and go on and pass this bill and let's put the Legislature back in control of policy matter in this state. Thank you very much.

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

Representative **TUTTLE**: Mr. Speaker, Men and Women of the House. The good Representative from Crystal, Representative Joy, has told you that this bill would prohibit a state agency or independent employee from taking position or expressing a personal opinion in testimony before a committee of the Legislature. The amended version of the bill states, "Any person officially representing a state agency who testifies before a committee may not take a position or express a personal opinion during that person's testimony. A person officially representing a state agency may provide written information and respond to committee requests for information either orally or in writing."

Essentially, the opponents of this bill feel that individuals, whether they be state employees or executive individuals, have a right to testify presently under Title 5, Section 22. In all honesty, agency heads are often speaking for the administration. The Chief Executive represents the people just as legislators do. Given the Governor's veto powers, legislators, from my perspective, certainly need to know administrative views on bills. When an agency employee speaks to the legislative committees, they speak for their agencies and not for themselves. I can understand the concerns of the good gentleman from Crystal, Representative Joy. In my opinion, this bill goes way too far and what it is trying to do, I think, is going to make it almost

impossible to get the needed information that is needed for the working and the passage of legislation in this Legislature. For that reason, Mr. Speaker, I request a roll call.

Representative TUTTLE of Sanford **REQUESTED** a roll call on his 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 Crystal, Representative Joy.

Representative **JOY**: Mr. Speaker, Men and Women of the House. I hate to disagree with my former committee person, Representative Tuttle, but I think that for a change we would truly get information from the various committees without a bias. The only problem a person would have about expressing their personal opinion when they are representing a state agency is if they were, in effect, representing a state agency. At any time that they want to testify on their own, not representing that agency, they can state all the personal opinions that they would like to. I urge you to defeat the pending motion and let's go ahead and accept this bill. Thank you.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Waldoboro, Representative Trahan.

Representative **TRAHAN**: Mr. Speaker, Men and Women of the House. This issue has a bit of a personal note for me. When I came here, I had absolutely no experience in the political scene. I presented a bill. I went through the process and went to public hearing. When I went into the public hearing, I testified on my bill. I heard something from a legislator that floored me. He said, "When a department testifies against a bill, I go with the department over the legislator." That upset me so, to think that the department had influence over the people's voice. I think it has gone too far. We have to reign in some of these powers so that the people's voice is heard, not just departments. 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. 156

YEA - Ahearn, Bagley, Baker, Berry RL, Bolduc, Bouffard, Brennan, Brooks, Bryant, Bull, Bumps, Chick, Chizmar, Clark, Colwell, Cote, Cowger, Daigle, Davidson, Dudley, Dugay, Dunlap, Duplessie, Etnier, Fisher, Frechette, Fuller, Gagnon, Goodwin, Green, Hatch, Jabar, Jacobs, Kane, LaVerdiere, Lemoine, Lovett, Madore, Mailhot, Martin, Matthews, Mayo, McDonough, McGlocklin, McKee, Mitchell, Muse, Norbert, O'Brien LL, O'Neal, O'Neil, Perry, Pih, Povich, Powers, Quint, Richard, Richardson J, Rines, Samson, Sanborn, Savage W, Saxl JW, Saxl MV, Shiah, Snowe-Mello, Stanley, Stevens, Sullivan, Tessier, Thompson, Townsend, Tripp, Tuttle, Twomey, Usher, Volenik, Watson, Williams, Mr. Speaker.

NAY - Andrews, Belanger, Berry DP, Bowles, Bragdon, Bruno, Buck, Cameron, Campbell, Carr, Cianchette, Clough, Collins, Cross, Davis, Desmond, Duncan, Foster, Gagne, Gerry, Gillis, Glynn, Gooley, Heidrich, Honey, Jodrey, Jones, Joy, Kasprzak, Labrecque, Lemont, Lindahl, MacDougall, Mack, Marvin, McAlevey, McKenney, McNeil, Mendros, Murphy E, Murphy T, Nass, Nutting, O'Brien JA, Peavey, Perkins, Pinkham, Plowman, Rosen, Savage C, Schneider, Sherman, Shields, Shorey, Sirois, Skoglund, Stanwood, Stedman, Tobin D, Tobin J,

Tracy, Trahan, Treadwell, True, Waterhouse, Weston, Wheeler EM, Wheeler GJ, Winsor.

ABSENT - Kneeland, Richardson E.

Yes, 80; No, 69; Absent, 2; Excused, 0.

80 having voted in the affirmative and 69 voted in the negative, with 2 being absent, the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

HOUSE DIVIDED REPORT - Majority (7) Ought to Pass as Amended by Committee Amendment "A" (H-442) - Minority (6) Ought Not to Pass - Committee on STATE AND LOCAL GOVERNMENT on Bill "An Act to Prohibit Law Suits by Municipalities Against Firearm or Ammunition Manufacturers" (EMERGENCY)

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

TABLED - May 6, 1999 (Till Later Today) by Representative AHEARNE of Madawaska.

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

Representative MITCHELL of Vassalboro moved that the Bill and all accompanying papers be **INDEFINITELY POSTPONED**.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Vassalboro, Representative Mitchell.

Representative **MITCHELL**: Mr. Speaker, Men and Women of the House. To understand this bill, you really need to look beyond the title. You then need to look beyond, I know this is very difficult, the fact that the subject matter is firearms. This is actually a matter of whether the people of Maine have their interests better protected by the Judicial Department and their towns or by one special interest group. This legislation would carve out a special protection for one industry. Forget, if you can, what this industry is. There have been lawsuits in the past that we all might deem frivolous. Perhaps the most infamous one being the woman who spilled a hot coffee in her lap and was, at least initially, awarded a hefty sum. People may not have cared for that decision or even that her case was heard, but the idea of carving out a special protection for the fast food industry never entered into the debate. Yet, this special immunity is what we are considering today.

I maintain this is a matter for the judiciary. Even the editorial in the *Kennebec Journal* distributed today by the Representative from Penobscot miscasts this legislation as being about the merits of these lawsuits. I do not believe we are in the business of sitting as judges to decide the merits of court cases. While this is my contention, I am not naïve enough to believe that today's debate will focus on the actual issue. I am certain the proponents of this bill will lay out the case and ask you to be the judge. Even though that is not our role and this is not, as you may be told, an anti-gun bill. I will at least provide a counter point to their argument that these cases are meritless.

The lawsuit by the City of Chicago does base its claim on the idea that guns are a public nuisance and that gun manufacturers are flooding the cities unnecessarily. If we were judges, I would probably vote with many of you on that case and I would probably throw it out. While I want to reiterate the fact that we are judges, let me tell you about the claims in the New Orleans case. The New Orleans case alleges that inadequate safety warnings are included with guns. Does that seem like a wild assertion? We have to label coffee cups to say they contain hot liquids. We have to label plastic bags to warn you not to place your head or the head of a loved one inside. We label electrical

appliances to warn you not to use them in the water. Is it unreasonable to label a gun as being potentially dangerous when we must label a toaster? I don't think so, but then it is not really important because I am not a judge. The New Orleans suit also alleges that guns have been made unreasonably dangerous and that manufacturers have taken no precautions to prevent unauthorized use. At all times it was reasonably foreseeable to gun manufacturers that without the aide of some design feature lawfully purchased guns could wind up being used in harmful ways by unauthorized users.

This is the best time to bring up the argument made by proponents that allowing suits against gun and ammunition makers means we must allow suits against car makers. After all, cars don't kill people, people kill people. No one is assailing the right of law-abiding citizens to buy cars or guns. There is a difference. This lawsuit alleges that gun manufacturers have made no attempts to make guns less accessible to unauthorized users. Car manufacturers have. That ingenious little device is called a key. While it is not foolproof, it is much more difficult to use a stolen car without a key than it is to use a stolen gun without the lawful purchaser's permission. The comparison to automobiles goes no where. Does this lack of a safety device constitute a claim? I guess it is possible. I don't know, but, once again, I am not a judge. I have only listed the claims in that case to prove the point that we can't possibly anticipate every claim a municipality may bring. We really shouldn't be carving out immunity for an industry simply because we think some lawsuits are silly.

I have strayed from the main points. First, this is not an anti-gun bill. Second, we are not the Judiciary. Third, this is a matter of local control. I know that most bills supported by the NRA are cast as either pro-NRA or anti-gun. This bill avoids those confines. You don't have to be anti-gun to oppose this legislation. This is a vote either for the NRA, a single special interest group, or for the judicial system and the freedom of people to seek redress when they feel they have been wronged. I have talked with the managers of both my municipalities. One would probably be labeled as pro-gun. The other would probably be labeled as anti-gun. They both vehemently oppose this bill. Think about why you are here. It is probably not to strip your town of rights in order to placate on special interest group.

Please don't fall for the rhetoric of the proponents. A vote to Indefinitely Postpone this bill does not mean a verdict against these manufacturers. In fact, there isn't even a threat of a lawsuit anywhere in Maine. Your vote to kill this bill is a vote of faith in your municipalities and in our legal system. Please follow my light and vote for local control, industry accountability and the Judicial Department. Don't be taken in by the fear proponents will try to raise. Don't become the unwitting lap dog of one special interest group solving a problem that doesn't exist at the expense of access to the courts by the people in towns in Maine who we truly represent. Thank you.

Representative AHEARNE of Madawaska **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE** the Bill and all accompanying papers.

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

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

Representative **AHEARNE**: Mr. Speaker, Ladies and Gentlemen of the House. My good friend from Vassalboro laid out a very interesting case of which I will take issue at. There

are numerous cities that are, in fact, suing gun manufacturers. It is not based on what most of us would consider common sense. My good friend has indicated what some of these suits are based on. One, guns are a public nuisance. Gun manufacturers knowingly flood cities with more guns that they would expect to sell to law-abiding citizens, thus abating and abetting criminals in obtaining firearms. In the New Orleans suit that my good friend brought up, it states that guns are unreasonably dangerous in design, based on its unfounded supposition that gun makers have suppressed the introduction of safety devices, which would prevent unauthorized users from firing guns. Maine should not be part of what I considered to be these frivolous lawsuits. If these lawsuits would go into effect, it would affect well-established court law. Manufacturers are not responsible for the criminal misuse of their products. Should automobile makers be held responsible for vehicular homicide committed by drunk drivers for people in the grip of road rage? Criminals also use knives, prescription drugs and household products to commit crimes. Should courts hold manufacturers of these products at fault? What we are witnessing with these lawsuits against gun manufacturers is a circumventing of the legislative process. Frustration at the state legislatures to enact legislation to curb gun injuries is not an adequate reason to resort to the use of the judicial system to implement a broad policy change.

It was during the public hearing that we didn't hear one reason why a municipality should sue a gun manufacturer. There was no opposition, only MMA who brought up and could not answer the question of why and for what reason would a municipality sue a gun manufacturer?

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Wiscasset, Representative Rines.

Representative **RINES**: Mr. Speaker, Men and Women of the House. It is not very often I find myself on the opposite side of the issue with the good chairman of State and Local Government when it comes to the rights of municipalities, but we do disagree on this one. It is the premise of this bill that the citizens of the State of Maine are not capable of making responsible decisions at their local town meetings. Therefore, they should be denied access to the court. If we grant this special right to the gun manufacturers today, what manufacturer will be granted special rights tomorrow? Once we begin denying the townspeople the right to decide for themselves, where does it end? This bill is a direct attack on our town meeting form of government and an insult to the citizens of Maine who choose to attend town meetings and exercise their right of free speech. We need to protect our Second Amendment rights, but not at the expense of our First Amendment rights. I would encourage everyone to the pending motion.

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

Representative **TOWNSEND**: Mr. Speaker, Men and Women of the House. I do intend to support the pending motion. I would like to share with you why. I feel compelled as a Representative from Portland to share with you the fact that I am not anti-hunting or anti-gun. I was raised in a house full of guns. I was taught to shoot and to respect guns. One of my favorite activities, I have to admit as a child, was helping my father clean his ducks when he came home from duck hunting. We always cut open the gizzards together to see what they had been eating. I am not opposed to hunting, but I do oppose this bill. First of all, I want to reinforce what the Representative from Vassalboro has said, which is no Maine community is currently proposing to sue the

industry. Therefore, this bill is a bill in search of a problem. The problem does not yet exist.

I think we often play fast and use with the issue of local control. We argue it when it suits our purposes. We are the other side when it suits our purposes. This is a matter of local control. Let's leave that decision up to the communities. Let's trust that they are capable of making that decision. Furthermore, I think that it is a bad idea for us to give mixed messages to the young people of Maine. We debated the other day the issue of whether to employ children over the Labor Day weekend. I think that is a potential mixed message. We wring our hands sometimes talking about aspirations. Why doesn't anyone care about education? Let's make sure they are available to work on Labor Day weekend, because that is more important than getting them back into school. I think that if we want to give the youth of the state the message that violence is wrong, then the very last thing we ought to be doing is stepping forward and voting in support of a bill, which is, not brought by the NRA, but has the strong support of the NRA and is being proposed in states around the country.

Finally, I need to say that the timing here is very poor, coming only three weeks after the incident in Colorado. It is deeply unfortunate. I will be voting for Indefinite Postponement and I urge you to join me. Thank you.

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

Representative **PERKINS**: Mr. Speaker, Colleagues of the House. As far as the timing goes, this was an after deadline bills. It was long before Colorado. Some say it was poor timing, but on the other hand, you might look at it that it is timely in that I don't think we should react with panic of that tragedy over there. We should react with common sense and not rush into things.

As far as the local control, I will admit, as the last speaker said, that I am guilty of using it when I need it. If I saw a plague coming up through the states and it looks like some of our cities might follow along, with a push and a lot of money from trial lawyers that love this, I would probably say it is time that the Legislature doesn't allow for local control to stop this plague. It is happening all across the country. Several states have reacted to that and passed this very type of ban. The City of Atlanta filed suit against the manufacturers and the State of Georgia passed a law quickly to circumvent that to stop it. They could see that it was the wrong direction. Who could not see this coming? Who could not see the suits against gun manufacturers coming with the tobacco? We all know tobacco is poison. They lied to us and they jacked up the amount of nicotine. They lied. They deserve a lot of that, but some of the lawsuits that we have heard about on the tobacco recently, and these were brought by states, were so outrageous. It seems to me that there has been a warning on cigarettes for 25 years that they are harmful. The jury awards are atrocious. The trial lawyers just got their appetite wetted on the tobacco issue and you could almost see it coming. What is going to be the next thing? A lot of us could see it would be the gun manufacturers. If this was truly out to seek justice or redress wrongs that would be one thing. It is not. It is backdoor gun control, pure and simple. A lot of them are admitting that very thing.

As far as the NRA goes, the other day at the work session there was a fellow here in a nice suit. Somebody asked me afterward if he was from the NRA. Somebody asked me if that fellow had put me up to this? I had to point out that I had not heard from NRA prior to my filing this bill. In fact, I have been a

life member myself, probably for a lot longer than he has been alive. The fellow from the NRA. I became a life member when I was 17. I am not ashamed of the NRA. They get a lot of a bad rap there. They are a scape goat for a lot of people's frustrations. I think they do a lot of good. Basically what we are talking about here is lawsuits against manufacturers of a legitimate, useful product. This is a far cry from tobacco. Tobacco, even if you use it properly, is harmful. If you use firearms properly, they are a good tool and they are not harmful.

Of course, in the bill, there are exemptions for malfunctioning and defects in manufacturing. That is not the issue, of course. What we have to do is stop these suits, outrageous suits, against a legitimate manufacturing and useful product.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Arundel, Representative Daigle.

Representative **DAIGLE**: Mr. Speaker, Ladies and Gentlemen of the House. I guess I don't consider myself an unwitting lap dog. Perhaps I consider myself more of an alert guard dog. I am concerned about the proliferation of lawsuits against gun manufacturers being an attempt to legislate to the judiciary. If you feel it is unsuccessful getting a bill here in the House and therefore, you are taking a run at it through frivolous and numerous court challenges. For that reason, I will be voting against the motion to Indefinitely Postpone this bill, so that we can keep the constitutional actions occurring where it is supposed to.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Buxton, Representative Savage.

Representative **SAVAGE**: Mr. Speaker, Men and Women of the House. A lot has been said today about local control and preemption. This bill is perfectly consistent with the state's policy on preemption. I want to refer you to 25 MRSA, Section 2011, entitled "State Preemption. The state intends to occupy and preempt the entire field of legislation concerning the regulation of firearms." In Subsection 2, the statute says, "No political subdivision, including municipalities, may adopt any order concerning the sale or any other matter pertaining to firearms." Thank you.

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

Representative **DUNLAP**: Mr. Speaker, Ladies and Gentlemen of the House. I, too, rise in opposition to the pending motion. My good friend from Arundel is absolutely right. This is something of a judicial in around the legislative process. Today's *Bangor Daily News* has an editorial in which it concludes with the statement that the president deserves credit for his push on gun control. This is the moment to be brazen. He is wondering the White House halls looking for a legacy. How about a take no prisoners, give no quarter campaign against the NRA and a ban on handguns? These type of sentiments are not new. They have been around for years. Legislation has been introduced and it has not succeeded either in Congress, nor in this Legislature. Those who have these sentiments have found a new tool, as has been brought forward by my good friend from Penobscot. The example being of the tobacco settlement. The lesson there is to sue them to death. There have been some of these court rulings before against the safety of all firearms. They have been ruled to be basically frivolous. That is not really the point. The point is legal fees. Those legal fees can run into millions of dollars. Actually, most of this push across the country to have these suits filed has been made by those attorneys who made the money in the tobacco settlement. I am not trying to

bash attorneys here, but let's call it where it is happening. I don't believe that these types of suits are really appropriate. I think that my good friend from Buxton is absolutely right. We are perfectly within our rights to pass this kind of legislation. Just because we are not judiciary does not mean we are not a co-equal branch. I think we should give them guidance on this and stand up for the rights of our businesses in the State of Maine. Did I really just say that? Thank you very much.

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

Representative CLOUGH: Mr. Speaker, Ladies and Gentlemen of the House. I, too, speak in opposition to the pending motion. Firearm manufacturers, distributors and dealers who comply with all the applicable federal, state and local laws should not be held liable for injuries that occur merely because a properly operating product is criminally or negligently misused. Courts have held that manufacturers have no duty to anticipate the various unlawful acts that may be committed through misuse of non-defective product. Some defect must have existed in the product at the time it was sold and that a plaintiff's injury must have been the result of that defect. Yet, these third party and product liability lawsuits continue to go forward despite the fact that the courts have previously ruled this type of claim is unfounded.

LD 2192 is aimed at limiting these frivolous lawsuits and their consequences. It would not prohibit valid actions for breach on contract or warranted, nor would it protect actions for injuries suffered due to defects in the design or manufacture of a firearm. For these reasons, I ask you to defeat the pending motion. Thank you.

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

Representative BULL: Mr. Speaker, Men and Women of the House. I rise to urge your support of the pending motion. I am troubled by one statement that keeps getting repeated throughout in this chamber that we need to protect the firearm manufacturers from frivolous lawsuits. How are we, here in this chamber today, to make the determination that any potential lawsuit being brought forth is frivolous? We do not know that. That is why we need to oppose this bill and vote for the pending motion. If there are truly merit claims, they can be brought forth.

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

Representative PERKINS: Mr. Speaker, Men and Women of the House. I would like to answer that question from the good Representative from Freeport. If you read the bill carefully, I believe that any bill brought against manufacturing companies, with the exceptions that are written in here, are frivolous. If it is based on some actions of a third party of a non-defective and legally manufactured, then I would say that by definition it is frivolous. If I could just mention, there are companies in Maine that could be impacted by this. I don't know how many of you folks are familiar with it. I know you know some of them. This bill doesn't just pertain to Maine companies, of course. I would like to mention just a few in Maine. We have Smith and Weston Firearms up in Houlton. Saco Arms up in Saco produces mostly military weapons, but they do produce some of the Weatherby Rifles. Wood Tech is the name of a company over in Anson, Maine, that I understand produces the wood stock material for a majority of firearms made in the country. It is a large business. I hear there is also a gun manufacturing company down in Windham. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Medway, Representative Stanley.

Representative STANLEY: Mr. Speaker, Men and Women of the House. I rise in opposition to this pending motion. The reason why is because where I live within a 60 mile radius there is over 100 jobs that are affected by manufacturers of firearms. If we want to put another nail in the coffin of northern Maine, I say vote for this thing. 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. I rise in opposition to the pending motion. This is an anti-gun motion that is pending. What they are trying to do is anti-gun haters are going to stand behind this and try to get municipalities to just drain the gun dealers right down to where nobody will be able to sell any guns. This great tradition that we have in the State of Maine of hunting is going to go by the wayside. It has been here longer than you and I. Let's leave it alone. Let's leave the guns alone. Let's go after the people who are using the guns wrong. Vote against the pending motion.

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

Representative TRACY: Mr. Speaker, Ladies and Gentlemen of the House. I remember precisely during the debate on banning smoking in restaurants that I got up and said that I received the most amount of calls and comments on that one issue. This one is either a close second or it is surpassing it. Coming from the hinterland and the people that I support, I will be voting against the pending motion, because this puts my people in a heck of a dilemma. I hope you will vote against the pending motion.

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

Representative O'NEIL: Mr. Speaker, Men and Women of the House. Every once and a while I get into a bill on which I am truly undecided. I really have to listen to the debate. It is refreshing to do that. This is one of them. On the one hand, I have always been unequivocal in my defense of the second amendment. Upon reading the bill, I don't see it as a second amendment. It is not an issue having to deal with the second amendment. What I see that is problematic to me is removing the right to sue for any particular individual or for a class or an industry. With that, I am close to making up my mind, I think. I would like to pose a question through the chair to anybody who might be able to answer well. Is there precedent in Maine law, or elsewhere for that matter, for a statute taking away the right to sue for any particular product or industry class?

The SPEAKER PRO TEM: The Representative from Saco, Representative O'Neil 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, yes, there is an exemption. It is in Title 32, Subsection 15, 217, Skiers and Tramway Passenger's Responsibility. Basically, in the statute, people who go skiing cannot under law, because of what is called the inherent risk, sue the manufacturer of the ski industry.

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

Representative KASPRZAK: Mr. Speaker, Men and Women of the House. To answer the previous question, not only is there precedent, but this bill, if you have read it, says specifically that it

does not prohibit a municipality from bringing an action against a firearm, ammunition manufacturer or dealer for breach of contract or warranty for firearms or ammunition purchased by a municipality. The bill doesn't prevent logical, sensible lawsuits. It prevents silly, frivolous ones. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Wiscasset, Representative Rines.

Representative RINES: Mr. Speaker, Men and Women of the House. I will attempt to answer the previous question too. According to the Maine Municipal Association, if enacted, this will be the first such prohibition on municipal rights to seek judicial remedies ever enacted in the history of the state. Again, I would encourage everyone to vote for the pending motion and stick up for the people that I represent.

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

ROLL CALL NO. 157

YEA - Baker, Berry RL, Bouffard, Brennan, Brooks, Bull, Cote, Cowger, Davidson, Desmond, Lemoine, Mailhot, McKee, Gagnon, Green, Hatch, Jabar, Kane, Lemoine, Mailhot, McKee, Mitchell, Norbert, O'Brien LL, Pieh, Powers, Quint, Richardson J, Rines, Saxl JW, Shiah, Sirois, Stevens, Sullivan, Tessier, Townsend, Treadwell, Twomey, Volenik, Watson, Williams, Mr. Speaker.

NAY - Ahearn, Andrews, Bagley, Belanger, Berry DP, Bolduc, Bowles, Bragdon, Bruno, Bryant, Buck, Bumps, Cameron, Campbell, Carr, Chick, Chizmar, Cianchette, Clark, Clough, Collins, Colwell, Cross, Daigle, Davis, Dugay, Duncan, Dunlap, Duplessie, Fisher, Foster, Fuller, Gagne, Gerry, Gillis, Glynn, Goodwin, Gooley, Heidrich, Honey, Jacobs, Jodrey, Jones, Joy, Kasprzak, Labrecque, LaVerdiere, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, Martin, Marvin, Matthews, Mayo, McAlevey, McDonough, McGlocklin, McKenney, McNeil, Mendros, Murphy E, Murphy T, Muse, Nass, Nutting, O'Brien JA, O'Neal, O'Neil, Peavey, Perkins, Perry, Pinkham, Plowman, Povich, Richard, Rosen, Samson, Sanborn, Savage C, Savage W, Saxl MV, Schneider, Sherman, Shields, Shorey, Skoglund, Snowe-Mello, Stanley, Stanwood, Stedman, Thompson, Tobin D, Tobin J, Tracy, Trahan, Tripp, True, Tuttle, Usher, Waterhouse, Weston, Wheeler EM, Wheeler GJ, Winsor.

ABSENT - Kneeland, Richardson E.

Yes, 42; No, 107; Absent, 2; Excused, 0.

42 having voted in the affirmative and 107 voted in the negative, with 2 being absent, the motion to **INDEFINITELY POSTPONE** the Bill and all accompanying papers **FAILED**.

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

The Bill was **READ ONCE**. Committee Amendment "A" (H-442) was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Wednesday, May 12, 1999.

HOUSE DIVIDED REPORT - Majority (10) Ought to Pass as Amended by Committee Amendment "A" (H-434) - Minority (3) Ought Not to Pass - Committee on **TRANSPORTATION** on Bill "An Act to Ensure the Continued Operation of an Information Center in Fryeburg"

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

TABLED - May 6, 1999 (Till Later Today) by Representative WHEELER of Eliot.

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

Representative WHEELER of Eliot moved that the Bill and all accompany papers be **INDEFINITELY POSTPONED**.

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

Representative WHEELER: Mr. Speaker, Men and Women of the House. I rise today to Indefinitely Postpone this LD, because we did come to compromise. We have a letter of agreement that we were waiting for and the reason for the bill coming this far is that the two parties did not come to an agreement until after we had tabled this bill. I urge you to support the pending motion. Thank you.

Subsequently, the Bill and accompanying papers were **INDEFINITELY POSTPONED** and sent for concurrence.

An Act Regarding Continuing Education for Professional Land Surveyors (EMERGENCY)

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

TABLED - May 6, 1999 (Till Later Today) by Representative O'NEAL of Limestone.

PENDING - **PASSAGE TO BE ENACTED**.

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

Representative MENDROS: Mr. Speaker, Ladies and Gentlemen of the House. I urge you to vote against the pending enactment. Since this bill came out of my committee, I had some reservations about the passage of it. It came out as a 12 to 1 committee report. Since that has come out, I have been e-mailed and notified by many surveyors throughout the state and have a serious problem with this piece of legislation. There was a sheet of paper that was distributed yesterday by Representative MacDougall. A professor at the University of Maine, somebody who you would think would want this legislation, but most of the people that go get the mandated continuing education, that is where they go. They actually make money off this. They, too, oppose this legislation. It is written on the sheet mandatory continuing education mandates attendance, not learning, motivation, desire, need or attitude. All we are doing is mandating attendance. It goes on to say that studies have been done to prove not only does mandated education of adults, it is not effective in making the adults more capable, but in actuality, the studies have shown that there are more complaints filed and they are less capable. What we are doing is telling the public we are mandating education for this group so you will feel good that we are doing something good for you to protect you, when in reality and the figures show, it is worse for them. The results have shown, because of mental absenteeism, they are not paying attention. It is not working. This is driving up the cost.

I can quote from a letter, as much as \$500, plus the time I am taking off work to go to one of these mandatory education things. That cost is passed on directly to the people that need to use surveyors. Having served on an appeals board in Lewiston, I know a lot of people when they try to do little minor changes to their homes, they need a surveyor. They need to go to surveyors. There are people that can't afford to just be throwing money away on surveyors and can't afford to have their costs raised because we are putting a mandate on surveyors, which is passed on to the people that need to use those surveying

services. I urge you from myself, the surveyors and from the professionals who teach the surveyors. This person teaches over 50 classes a year to surveyors. I urge you to vote against the pending motion. Thank you.

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

Representative **O'NEAL**: Mr. Speaker, Ladies and Gentlemen of the House. I rise to urge you to support the majority vote of this committee. LD 1295 as supported not only by the Board of Land Surveyors, but also by the department. This is a department bill.

I would just like to share with you a brief history. The 116th selected an ad hoc committee and the Majority Report allowed the implementation of the continuing education program on a trial basis. It required that that committee would come back to the Legislature. The 117th Legislature enacted the mandatory continuing education with a review by the Legislature. In 1998, the committee designed in conjunction with the board, mailed a survey to all of the licensees. That January 1998, survey was sent to approximately 643 licensees who had experienced two years of renewals of the cycle of continuing education. Fifty-one percent responded and the majority, 64 percent found that the continuing education, which was mandatory, was acceptable. The survey also asked if the education enhanced professional development and 70 percent of the licensees agreed. Ninety-eight percent of the survey licensees responded that they felt continuing education was not burdensome.

I would like to share with you my reasons for voting on the majority side. A gentleman that shared testimony with us was a surveyor. I will just quote from some of his comments. "No one is against education, but the regulation thereof. I would prefer no rules in my life, but I cannot always be trusted to do the right thing. I seem to be too busy or too poor if I am not busy to attend workshops or seminars. There may be no proof that mandatory education is helpful, but I submit that communication skills are improved. I find this is the major problem with clients from my position as complaint officer for the Land Survey Board. Punitive education after a complaint seems to be closing the barn door a little too late. The perceptions of the public are that we do not favor education as an ongoing license requirement. Certainly that does not send a favorable message. We do need some refinement in our continuing education requirements. As in most states, it is a tool for proficiency that should not be discarded. Surveying is a profession that invokes with the law. Surveyors being independent to a fault still need to communicate with each other to keep abreast of current rules, laws and regulations. We do our clients and the public harm with ignorance. We, as surveyors, have no other justification to monitor our professions, such as the Bar Association. I urge you to support the Majority Report."

I sent out yesterday the current laws. There are 12 hours over a two-year cycle. At least six hours can be anywhere from general business administration, land use regulation, computer skills and people skills. This gentleman works with people all the time. As he said, the largest complaint that people have with land surveyors is communications. Please support the majority.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Biddeford, Representative Sullivan.

Representative **SULLIVAN**: Mr. Speaker, Men and Women of the House. Last Friday, across my desk as across yours, there came a flyer that said, "Reasons to vote against LD 1295, Mandatory Education for Professional Engineers." It didn't ring a

bell with me so when I went home over the weekend I called Mr. Ken Campbell. He is a professional engineer. He is a member of the legislative committee for his professional organization and a resident in my district with whom I have had many conversations about bills that affect the professional engineers. He said that that was totally misleading. This bill does not deal with professional engineers. He added, that if it did deal with professional engineers in their code of ethics they have a statement that not only encourages, but really recommends constant education to keep updated with laws to protect the people.

I am offended that across my desk came something that did not deal with the bill. I am concerned about that, as was Mr. Campbell, who is a professional engineer and takes great pride in that. Thank you.

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

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

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

Representative **MCDONOUGH**: Mr. Speaker, Men and Women of the House. To anyone who can answer it. Are existing surveyors grandfathered so they don't have to get involved in this? I know continuing education is a very important issue in all aspects of our lives. I would like to have that question answered by anybody who can answer it.

The **SPEAKER PRO TEM**: The Representative from Portland, Representative McDonough has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Limestone, Representative O'Neal.

Representative **O'NEAL**: Mr. Speaker, Men and Women of the House. To answer the question, in the text on continuing education, it states that an applicant for license renewal as a professional land surveyor shall present evidence of having completed 12 hours of professional development in the previous biennium. It applies to all. The only time it does not apply is to a person 65 years of age or older who practices less than 160 hours a year.

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

Representative **MCKENNEY**: Mr. Speaker, Men and Women of the House. I come from an industry that has been impacted by technology unlike most in modern industry. We require our people, our technicians, to attend ongoing training all the time. It is part of their job description. They have to do it. With that said, I would find it highly insulting if I was required and mandated to offer this training by some government edict. Professionals undergo training all the time to maintain their professionalism. There are professionals in this room that undergo extensive training to keep up with their profession. Those professionals can do that on their own. They do not need a government edict. How does the government know what kind of training they need anyway? I urge you to vote against this enactment. Thank you.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Arundel, Representative Daigle.

Representative **DAIGLE**: Mr. Speaker, Ladies and Gentlemen of the House. I am a registered professional engineer in the State of Maine. At one time, I made my living as a surveyor. It was a long time ago, but I did transits of the woods and got all the bee stings that come with it. I will be voting

against this pending motion, because I don't see the need to impose a continuing education requirement on this particular profession for a couple of reasons.

First of all, there is a tremendous difference between some surveyors. You have the crew, like I was, that worked for the railroad. We basically went out and did a narrow type of surveying. We did it all day long all the time and then you have the person who hangs a shingle out for doing residential surveying work. You have construction surveying when you are laying foundations and you want them to have level and straight foundations and so forth. That is another type of surveying and so forth. They are very different. I don't see how you can make one set of continuing education requirements for the broad based way surveyors make a living. If all you are doing is one simple type, the laws of trigonometry were written hundreds of years and they never change. Science, cosigns and tangents are just something you learn once and that is all you really have to do.

I also see a great difficulty for many of the people in the profession that live in more remote areas of the state. If you live in some of these districts, going to continuing education training is not something you can do in the afternoon while you work in the morning. It is a long overnight car trip somewhere at the certain time of the year. It can be a great deal of expense. Ultimately, we can see no significant gain in the field, none worthy of the investment. We will see an increase in the cost of surveying to all. We will see groups who put on seminars for a living having their livelihood greatly enhanced without reason. Thank you.

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

Representative **POVICH**: Thank you Mr. Speaker, Men, and Women of the House. I stand in opposition to LD 1295, although I am the prime sponsor of this bill. The bill in this current manifestation is a radical departure from what I was originally willing to support.

Let me tell you a little story about my attempt to be a regular "fella." The Real Estate Commission brought the LR to my attention. They asked me to put my name on this "slam dunk" bill. This was a no brainer bill.

I had worked with the Real Estate Commission in my first term in the Legislature on the Business and Economic Development Committee. Consequently, I came to rely on their word and trusted their work. That trust evidentially was misplaced.

What I heard from the commission was that the bill was not an awful mandate on professional land surveyors, costing them virtually nothing, which had a large majority of support from the profession. What I subsequently learned was that 98 percent of the land surveyors keep up on the laws without mandate, the large majority of professional land surveyors do not support passage of this law, in fact 100 percent of the surveyors in Ellsworth condemn passage of this bill. I ask a rhetorical question, have you queried your local surveyors about passage of this bill? Do you know how they are going to respond when this bill comes out in final enactment? The cost can be as great as \$1500 per licensee in the firm per year, the curriculum is suspect, whereby, just belonging to the professional association counts for continuing education credits. That is not at all relevant in my mind to the reason for CEUs.

With all this after deadline information coming forward, I would urge this body to commit this bill to committee and do an independent poll. Thank you very much.

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

Representative **BOWLES**: Mr. Speaker, Men and Women of the House. I would just like to clear up a couple of points that I heard that I think are somewhat misleading. The reason that this bill came out of our committee with a 12 to 1 report is, because it is very reasonable. The requirement is very modest and the bill itself was requested by the Board of Surveyors. This is what the vast majority of surveyors, themselves, wish to have happen. They have already been complying with these requirements. They have no problem with continuing to comply with them. The requirements are very modest. We heard some testimony from our chairman, Representative O'Neal from Limestone, indicating we are talking about 12 hours of education in a two-year period. That 12 hours can be fulfilled in a number of ways at very little expense with almost no travel required, which was one of the statements I heard a little while ago. The Board of Surveyors surveyed their members and their members indicated that, in general, costs to comply ranged from less than \$100 for members of the association to \$240 for non-members. They also asked whether or not there were any problems encountered by their membership in terms of finding places to take the courses and take the education and the answer was, due to the options available, it has been generally reported that courses are available in most areas of the state. The board has not received complaints about courses not being available. I would ask you to support this. It is a reasonable bill. It is a modest requirement. Many of you in here have to fulfill continuing education requirements in your profession. Most of you would wish to continue to do so. Many of you are mandated to do so now. Some of you perhaps are not. Most people understand that continuing education is the right and proper thing for professionals to do. I would request of the Chair that we have the Clerk read the committee report.

Representative **BOWLES** of Sanford **REQUESTED** that the Clerk **READ** the Committee Report.

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

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

Representative **O'NEAL**: Mr. Speaker, Men and Women of the House. I just want to make one thing clear. This is a continuing program. This isn't a new program. This has been going on since 1996. It is supported by the department and by the board and there are pockets of surveyors who do not like it. Some were very eloquent in their presentations, especially the group from Ellsworth. They did a very nice job being against it. I tried to bring out that the public has their right also. The gentleman that I quoted from feels there needs to be continuing education just because most of the problems they are having on complaints, because they don't have communication. I would ask you to support this motion. I would request a roll call.

Representative **O'NEAL** of Limestone **REQUESTED** a roll call on **PASSAGE TO BE ENACTED**.

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 Lewiston, Representative Mendros.

Representative **MENDROS**: Mr. Speaker, Colleagues of the House. I want to clarify a few points. First of all, this has been in

affect for a couple of years. It was sunset. There was no evidence that there has been any diminishing in the number of complaints or any evidence at all that this has had any positive affect on complaints.

As far as professional engineers, I apologize about that being on there. The letter I got was from the University of Maine, School of Engineering, which is where they train the professional engineers. I am still not sure if I am correct or not, that surveyors are engineers. Maybe that is where the letter came from. That is why I forwarded it that way.

Sixty-four percent, as you heard, of surveyors felt this was acceptable. That doesn't mean that we need to make a law. After this came out of committee, we all know you can word things in a survey to get the answers you want. I am not sure why this was a unanimous report, I heard from many, many surveyors on this issue. I know very clearly I voted against it. I can tell you in Lewiston where it isn't a problem for travel. Not a single surveyor in Lewiston supports this legislation. I know many of them because, as I said, I was on the appeals board. I worked with them.

As far as professional requirements go, attorneys in the State of Maine have no mandatory continuing education requirements, as we were told by the department. Other groups just like the surveyors are, they know what is best. I will use a quote from one surveyor that opposed this. It was, "The flavor of the year." There are certain areas where you need to get education for this. Certain areas the board thinks are important areas. It should be left up to the individual to study and find out what areas are best for them to study. Also, if you look at the paper that was sent out by the people supporting this legislation, you can get earned credit hours by being a member of the surveying organization and holding a leadership position in the surveying organization. How does being a member of that organization make you a better organization? It seems like they just want you to joint the surveying organization. Those words were used by some of the surveyors that e-mailed me. They have a problem because they are not part of the organization.

Finally, just because something is not burdensome, is that a reason to make it a public policy. I thought we made public policy because there was a problem, not because doing it won't cause a problem. As one of my esteemed colleagues, the House said, trigonometry does not change. A surveyor that knows how to do their work will know how to do their work. Thank you.

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

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.

ROLL CALL NO. 158

YEA - Ahearne, Bagley, Baker, Berry DP, Berry RL, Bolduc, Bouffard, Bowles, Brennan, Brooks, Bryant, Bull, Campbell, Chick, Chizmar, Clark, Clough, Collins, Colwell, Davidson, Desmond, Dudley, Dugay, Duplessie, Etnier, Fisher, Foster, Frechette, Fuller, Gagnon, Gooley, Green, Hatch, Jabar, Jones, Kane, Lemoine, Lemont, Mailhot, Martin, Matthews, McKee, McNeil, Mitchell, Murphy T, Muse, Nass, Norbert, O'Brien LL, O'Neal, O'Neil, Peavey, Pieh, Powers, Richard, Richardson J, Samson, Sanborn, Savage C, Savage W, Saxl JW, Shiah, Shorey, Sirois, Stevens, Sullivan, Tessier, Thompson,

Townsend, Treadwell, Tripp, True, Tuttle, Twomey, Usher, Volenik, Watson, Wheeler EM, Wheeler GJ, Williams, Mr. Speaker.

NAY - Andrews, Belanger, Bragdon, Bruno, Buck, Bumps, Cameron, Carr, Cianchette, Cowger, Cross, Daigle, Davis, Duncan, Dunlap, Gagne, Gerry, Gillis, Glynn, Heidrich, Honey, Jacobs, Jodrey, Joy, Kasprzak, Kneeland, Labrecque, LaVerdiere, Lindahl, Lovett, MacDougall, Mack, Madore, Marvin, Mayo, McAlevey, McDonough, McGlocklin, McKenney, Mendros, Murphy E, Nutting, O'Brien JA, Perkins, Perry, Pinkham, Plowman, Povich, Rines, Rosen, Saxl MV, Schneider, Sherman, Shields, Skoglund, Snowe-Mello, Stanley, Stanwood, Stedman, Tobin D, Tobin J, Tracy, Trahan, Waterhouse, Weston, Winsor.

ABSENT - Cote, Goodwin, Quint, Richardson E.

Yes, 81; No, 66; Absent, 4; Excused, 0.

81 having voted in the affirmative and 66 voted in the negative, with 4 being absent, the Bill **FAILED** of **PASSAGE TO BE ENACTED** and was sent for concurrence.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Millinocket, Representative Clark who wishes to address the House on the record.

Representative **CLARK**: Mr. Speaker, Ladies and Gentlemen of the House. If I was present on Roll Call 154, I would be recorded as yea.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Poland, Representative Snowe-Mello who wishes to address the House on the record.

Representative **SNOWE-MELLO**: Mr. Speaker, Men and Women of the House. I wish to set the record straight. My intentions to vote on LD 1832 was Ought to Pass. I intended to vote red, but accidentally the button was hit green. I didn't realize it. I would like to have that in the record, please.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Winterport, Representative Brooks who wishes to address the House on the record.

Representative **BROOKS**: Mr. Speaker, Ladies and Gentlemen of the House. Like my counterpart across the aisle on the Health and Human Services Committee, I stand today to apologize that on Item 6 on Unfinished Business, LD 2192, I voted in error. I would like the record to reflect that I intended to vote nay.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Falmouth, Representative Davis who wishes to address the House on the record.

Representative **DAVIS**: Mr. Speaker, Men and Women of the House. On LD 2192, I wish to be recorded as voting no. Thank you.

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

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

TABLED - May 6, 1999 (Till Later Today) by Representative SHIAH of Bowdoinham.

PENDING - **PASSAGE TO BE ENACTED.**

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

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

The same Representative **PRESENTED** House Amendment "A" (H-521) which was **READ** by the Clerk.

The **SPEAKER PRO TEM:** The Chair recognizes the Representative from Brunswick, Representative Davidson.

Representative **DAVIDSON:** Mr. Speaker, Men and Women of the House. This amendment removes the language from the charter of the Dover-Foxcroft Water District relating to actions arising from the responsibilities of the district and its operation of the fire department, since the bill transfers the fire department to the town, this language is no obsolete. Thank you.

House Amendment "A" (H-521) was ADOPTED.

The Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-242) and House Amendment "A" (H-521) in NON-CONCURRENCE** and sent for concurrence.

An Act to Improve Access to Dental Care for Children

(H.P. 1226) (L.D. 1755)

(C. "A" H-274)

TABLED - May 6, 1999 (Till Later Today) by Representative SHIAH of Bowdoinham.

PENDING - **PASSAGE TO BE ENACTED.**

On motion of Representative KANE of Saco, the rules were **SUSPENDED** for the purpose of **RECONSIDERATION.**

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

The same Representative **PRESENTED** House Amendment "A" (H-529) which was **READ** by the Clerk.

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

Representative **KANE:** Mr. Speaker, Men and Women of the House. This amendment changes the date by which the Department of Human Services is required to make its report regarding this legislation. Thank you Mr. Speaker.

House Amendment "A" (H-529) was ADOPTED.

The Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-274) and House Amendment "A" (H-529) in NON-CONCURRENCE** and sent for concurrence.

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

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

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

(C. "A" S-127)

TABLED - May 6, 1999 (Till Later Today) by Representative MARTIN of Eagle Lake.

PENDING - **PASSAGE TO BE ENACTED.**

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

Bill "An Act to Amend the Laws Governing the Maine State Pilotage Commission" (EMERGENCY)

(S.P. 572) (L.D. 1639)

(C. "A" S-168)

TABLED - May 6, 1999 (Till Later Today) by Representative JABAR of Waterville.

PENDING - **ADOPTION OF HOUSE AMENDMENT "A" (H-473).**

Representative JABAR of Waterville moved that **House Amendment "A" (H-473) be INDEFINITELY POSTPONED.**

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

Representative **JABAR:** Mr. Speaker, Ladies and Gentlemen of the House. I ask you to Indefinitely Postpone this amendment. LD 1639 was reported out unanimously by the Transportation Committee. The issue, which is contained in House Amendment "A," was explicitly discussed and rejected by the committee. It would lead to a practice that would compromise the safety and protection of Maine's coastal waters. The commission right now sets fees for all pilots and for any sort of arbitrary price-cutting and competition in that area, because it is a very important area. For this reason, the Transportation Committee felt unanimously that this particular issue should be rejected. It was not part of the bill. The bill was referred out of the Transportation Committee with a unanimous report. I would ask you to reject this amendment so that we can then go forward and pass LD 1639. Thank you.

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

Representative **SKOGLUND:** Mr. Speaker, Ladies and Gentlemen of the House. You will recall a few days ago that I tried, out of respect to the body, to slip this through without any discussion whatsoever. It is not my choice to address you on this this afternoon. The Maine Pilotage Commission sets the fees for pilots. The Pilotage Commission is composed chiefly of pilots. Besides setting their own fees, I understand they also have some sort of an old boy system, so if you are not one of the old boys in the "in" group, you don't get a job piloting vessels. One of my constituents on Matinicus first called this to my attention. I said, "How long have you been waiting to pilot a vessel?" He said, "I have been waiting quite a while." I said, "How long?" He says, "It has been 10 or 12 years. If you are waiting out on Matinicus for 10 or 12 years and you don't get that call and you are a certified, licensed and experienced pilot, you begin to suspect that there is something wrong.

He came and appeared before the Transportation Committee when this bill came up. He said, that they did not discuss allowing pilots to set their own fees in that committee. He was not asked about it. He did not have the opportunity to bring that up.

You received a printout on this matter. I would like to point out other things besides my constituents saying this was not discussed and rejected. This printout also says the purpose for fixed rates for piloting services is to ensure that harbor pilot groups compete by providing quality of service and not predatory priced services that are not safe. Who are they competing with? There doesn't seem to be any competition, because no one can charge a lower fee. There are no unsafe pilots. They have to be licensed and certified. We have to ensure that pilots are

receiving adequate compensation to cover overhead, the best advancements and safety equipment. A pilot does not go aboard a vessel with a bundle of charts under one hand, sexton and spy glass in the other. The pilot simply goes aboard and stands by the captain. As far as technological advancements, the purpose of the pilot is simply to serve the purpose of doing what technology cannot do. He has to guide from experience and knowledge of those waters. If it could be done by instruments and technology, they wouldn't need a pilot.

Lastly, it says this amendment is a result of a few pilots not getting business and wanting to be able to undercut the competition by pricing far below market supported prices. These are not market-supported prices, they are commission set prices. The only way that call is going to come to my constituent on Matinicus is by letting him set his own rate for piloting. I hope that you will give this your careful consideration. I think this is a free enterprise thing, rather than a safety issue. Thank you very much.

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

Representative JABAR: Mr. Speaker, Ladies and Gentlemen of the House. I want to tell you how much I hate debating with my good friend from St. George, especially when it deals with coastal matters and things coming from Matinicus Island and all these other harbor sounding places. All I can say in response to him is that I guess if he had snuck it by us, I wouldn't have to get up here and debate with him. I just want to repeat what I said earlier, if he had been the witness in front of the committee pressing for what the other person was trying to press at the committee hearing, he probably would have been a lot more successful. We did discuss it. The idea was discussed at length by the committee and was rejected. I just ask you to honor the unanimous decision of the committee in rejecting this, notwithstanding my good friend from St. George.

Representative SKOGLUND of St. George REQUESTED a roll call on the motion to INDEFINITELY POSTPONE House Amendment "A" (H-473).

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

The SPEAKER PRO TEM: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "A" (H-473). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 159

YEA - Ahearne, Andrews, Baker, Berry DP, Berry RL, Bouffard, Bowles, Bragdon, Brooks, Bruno, Bryant, Bull, Bumps, Cameron, Campbell, Chizmar, Cianchette, Clark, Clough, Collins, Colwell, Cowger, Daigle, Davidson, Davis, Dudley, Duncan, Dunlap, Duplessie, Etnier, Fisher, Frechette, Fuller, Gagnon, Hatch, Honey, Jabar, Jones, Joy, Kane, Kneeland, Labrecque, LaVerdiere, Lemoine, Lemont, Lindahl, Lovett, Madore, Mailhot, Marvin, Matthews, Mayo, McAlevey, McDonough, McGlocklin, McKee, McKenney, McNeil, Mitchell, Murphy E, Murphy T, Muse, Nass, Norbert, Nutting, O'Brien JA, O'Brien LL, Peavey, Perkins, Perry, Plowman, Povich, Powers, Richardson J, Rines, Rosen, Sanborn, Savage C, Savage W, Saxl JW, Saxl MV, Schneider, Shiah, Shields, Shorey, Stanwood, Stevens, Sullivan, Tessier, Thompson, Townsend, Tripp, True, Usher, Watson, Wheeler EM, Wheeler GJ, Williams.

NAY - Bagley, Belanger, Bolduc, Buck, Carr, Chick, Cross, Desmond, Dugay, Foster, Gagne, Gerry, Gillis, Glynn, Goodwin, Gooley, Green, Heidrich, Jacobs, Jodrey, Kasprzak, MacDougall,

Mack, Martin, Mendros, Pieh, Pinkham, Richard, Samson, Sherman, Sirois, Skoglund, Snowe-Mello, Stanley, Stedman, Tobin D, Tobin J, Tracy, Trahan, Treadwell, Tuttle, Twomey, Volenik, Waterhouse, Weston, Winsor.

ABSENT - Brennan, Cote, O'Neal, O'Neil, Quint, Richardson E, Mr. Speaker.

Yes, 98; No, 46; Absent, 7; Excused, 0.

98 having voted in the affirmative and 46 voted in the negative, with 7 being absent, **House Amendment "A" (H-473) was INDEFINITELY POSTPONED.**

The Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-168)** in concurrence.

Bill "An Act to Require that Members of the Workers' Compensation Board be Subject to Review by the Joint Standing Committee on Labor"

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

- In House, Bill and accompanying papers **COMMITTED** to the Committee on **STATE AND LOCAL GOVERNMENT** on April 15, 1999.

- In Senate, Majority (9) **OUGHT TO PASS** Report of the Committee on **LABOR READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED** in **NON-CONCURRENCE.**

TABLED - May 7, 1999 (Till Later Today) by Representative HATCH of Skowhegan.

PENDING - FURTHER CONSIDERATION.

Representative AHEARNE of Madawaska moved that the House **ADHERE.**

Representative HATCH of Skowhegan moved that the House **RECEDE AND CONCUR.**

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

Representative AHEARNE: Mr. Speaker, Ladies and Gentlemen of the House. This bill would be taken away from the Committee on State and Local Government and its ability to review the Executive's nominations to the Workers' Compensation Board. I believe that State and Local Government has done an admirable job in this area in the years that we have in confirming those people nominated to the Workers' Comp Board from the Executive. I believe it requires an outside committee to look into these matters. I don't see anything that is broken. I ask you to vote against the pending motion so that we can move to Adhere.

On motion of Representative TUTTLE of Sanford, **TABLED** pending the motion of Representative HATCH of Skowhegan to **RECEDE AND CONCUR** and later today assigned.

SENATE DIVIDED REPORT - Majority (8) Ought Not to Pass - Minority (2) Ought to Pass as Amended by Committee Amendment "A" (S-207) - Committee on CRIMINAL JUSTICE on Bill "An Act to Allow the State to Obtain a Defendant's Medical Records in Cases Involving OUI"

(S.P. 691) (L.D. 1937)

- In Senate, Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED.**

TABLED - May 7, 1999 (Till Later Today) by Representative POVICH of Ellsworth.

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

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

SENATE DIVIDED REPORT - Majority (9) **Ought to Pass** - Minority (4) **Ought to Pass as Amended by Committee Amendment "A" (S-152)** - Committee on **LABOR** on Bill "An Act to Validate Voluntary Collective Bargaining Provisions that May Affect Educational Policies"

(S.P. 333) (L.D. 987)

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

TABLED - May 7, 1999 (Till Later Today) by Representative **HATCH** of Skowhegan.

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

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

SENATE DIVIDED REPORT - Majority (11) **Ought to Pass as Amended by Committee Amendment "A" (S-181)** - Minority (2) **Ought Not to Pass** - Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Ensure that Agency Use of Collaborative Decision-making and Stakeholder Processes is Fair and Consistent with the Goals of the Maine Administrative Procedure Act"

(S.P. 755) (L.D. 2131)

- In Senate, Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-181)**.

TABLED - May 7, 1999 (Till Later Today) by Representative **AHEARNE** of Madawaska.

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

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

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

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

Representative **KASPRZAK**: Mr. Speaker, Men and Women of the House. I would appreciate an explanation of what this bill is about.

The **SPEAKER PRO TEM**: The Representative from Newport, Representative **Kasprzak** 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, Ladies and Gentlemen of the House. To answer my good friend from Newport's question, I will give a brief explanation of what this bill does. We did amend the bill and we made some significant changes. This was a collaborative effort, a compromise by the administration, Department of Transportation, Department of Labor, DEP, the AG's Office and we had other individuals who support it, which is the Maine Oil Dealer's Association, Maine Merchant's Association and Maine Petroleum Association. What

this bill does is requires that once an agency engages in a stakeholder's process that results in rulemaking, the agency will include a record of rulemaking that will require a list of all meetings held and the participants of each meeting and who they represent and a summary of the meetings, an analysis by the agency of the stakeholders process. Basically, what is coming about is there is a feeling that there wasn't enough notification, those interested parties were not coming together and were not known of these changes by all of these proposed rules. What this does is set up a process by which we try to include all those who have an interest in one piece of rule that has been coming before an agency. As I stated, it is a compromise effort and it's supported by many groups. I ask you to accept the Majority Ought to Pass Report.

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

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

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

Representative **TWOMEY**: Mr. Speaker, Men and Women of the House. This really is a very important bill. What happens sometimes in our communities is things get planned and people don't have a say like the pipeline coming through your property. Perhaps some agency or someone doesn't think you have the right to be there. You don't have a say in this matter. What this does is really go back to the drawing board and have the rules written out so that everyone is included. Believe me, in our committee we had natural resources, the oil industry, I don't want to repeat what the chairman said, but there was such a collage of different groups of people. At one point, I had to question myself because there was the Chamber of Commerce and groups that sometimes I don't always side with. They all came together so truly there was an interest in this bill and this legislation. There really is a need for this legislation. There have been groups where agencies do not include them in the decision making process. I really believe this is an important bill. Thank you.

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

Representative **JOY**: Mr. Speaker, Men and Women of the House. This amendment, I believe, replaces the bill. It is a far cry from what the bill was that I signed on as a cosponsor. It has changed a great deal. It no longer is the bill that many people may think it is. I urge you to take a look at the amendment and make sure you really want to vote for it. Thank you.

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

ROLL CALL NO. 160

YEA - Ahearne, Bagley, Baker, Belanger, Berry DP, Berry RL, Bolduc, Bouffard, Bragdon, Brennan, Brooks, Bruno, Bryant, Bull, Bumps, Cameron, Chick, Chizmar, Cianchette, Clark, Collins, Colwell, Cowger, Davidson, Davis, Desmond, Dudley, Dugay, Dunlap, Duplessie, Etnier, Fisher, Frechette, Fuller, Gagne, Gagnon, Gerry, Goodwin, Gooley, Hatch, Honey, Jabar, Jacobs, Jodrey, Kane, Kneeland, LaVerdiere, Lemoine, Lemont, Lovett, Madore, Mailhot, Martin, Marvin, Matthews, Mayo, McAlevey, McGlocklin, McKee, McNeil, Mitchell, Murphy E, Muse, Nass, Norbert, Nutting, O'Brien JA, O'Brien LL,

O'Neal, Peavey, Perkins, Perry, Pieh, Plowman, Povich, Powers, Richard, Richardson J, Rines, Samson, Sanborn, Savage C, Savage W, Saxl JW, Schneider, Shiah, Sirois, Skoglund, Stanley, Stevens, Sullivan, Tessier, Thompson, Townsend, Tracy, Tripp, True, Tuttle, Twomey, Usher, Volenik, Watson, Weston, Wheeler EM, Wheeler GJ, Williams.

NAY - Andrews, Bowles, Buck, Campbell, Carr, Clough, Cross, Daigle, Duncan, Foster, Gillis, Glynn, Heidrich, Jones, Joy, Kasprzak, Labrecque, Lindahl, MacDougall, Mack, McDonough, McKenney, Mendros, Murphy T, Pinkham, Rosen, Saxl MV, Sherman, Shields, Snowe-Mello, Stanwood, Stedman, Tobin D, Tobin J, Trahan, Treadwell, Waterhouse, Winsor.

ABSENT - Cote, Green, O'Neil, Quint, Richardson E, Shorey, Mr. Speaker.

Yes, 106; No, 38; Absent, 7; Excused, 0.

106 having voted in the affirmative and 38 voted in the negative, with 7 being absent, the Majority Ought to Pass as Amended Report was **ACCEPTED**.

The Bill was **READ ONCE**. Committee Amendment "A" (S-181) was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Wednesday, May 12, 1999.

HOUSE DIVIDED REPORT - Majority (9) Ought to Pass as Amended by Committee Amendment "A" (H-471) - Minority (4) Ought to Pass as Amended by Committee Amendment "B" (H-472) - Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Make Certain Provisions for Exceptional Students Consistent with Federal Laws and Regulations"

(H.P. 1419) (L.D. 2026)

TABLED - May 7, 1999 (Till Later Today) by Representative BRENNAN of Portland.

PENDING - Motion of same Representative to **ACCEPT** the Minority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-472)** Report.

On motion of Representative BRENNAN of Portland, the Bill and all accompanying papers were **COMMITTED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS** and sent for concurrence.

HOUSE DIVIDED REPORT - Majority (12) Ought Not to Pass - Minority (1) Ought to Pass as Amended by Committee Amendment "A" (H-470) - Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Establish a School Voucher Program"

(H.P. 1520) (L.D. 2170)

TABLED - May 7, 1999 (Till Later Today) by Representative BRENNAN of Portland.

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

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

Representative **GLYNN**: Mr. Speaker, Ladies and Gentlemen of the House. Before you is consideration of LD 2170, which is "An Act to Establish a School Voucher Program." The purpose of this bill is to provide parents and children the option and the ability to attend either a different public school or private school setting. I urge your consideration of the defeating of the pending motion of Ought Not to Pass.

School vouchers very much are something to be considered as a very sound alternative to some of the things we have educationally happening right now in Maine. I have a number of constituents I represent that would like to be able to have the ability to send their child to either a private school or a different public school for a host of reasons. Due to financial ability of the family, they are unable to offer their children this solution. I very much am an advocate of children and an advocate of their education. I have come to realize over the years that not everyone can learn in the public school setting that you have within your community. For some other children, a different setting is more appropriate. What really counts in my mind is what is best for the education of the child. I think that needs to be the foremost in the discussion.

I had a couple of constituents approach me specifically on this bill. I had one lady, her son, was very much interested in issues of band. Particularly, he had marveled at a drug program down in Biddeford. It had a wonderful drug program and the child was at the point where he was ready to drop out of high school. He felt that the only thing he really had to look forward to was, in fact, the playing of this musical instrument and making a career. Had that child been offered earlier an alternative for an academic program outside of the traditional school curriculum, I believe that child could have really gone forward to really become more interested in his studying. The parent tried unsuccessfully to get a transfer from one public school to another. The child really didn't have any options.

Another child that one of my constituents approached me on was a very sad case involving drug abuse in our school system. This child was very involved in drugs in the middle school. The parent felt that if the child could be taken out of the school setting and put into a different school setting with a different grouping of friends, that child hopefully could get back on the straight and narrow. Because no alternative was available for this child to be able to go into a private school setting or a different public school setting because the parent just simply couldn't afford to move to another school district and could not afford to send their child to private school. That child ended up dropping out of school. There are a lot of stories like that.

The last story I would like to share with you is a story of success. There was a girl that lives in my district. Her name is Jessica. Jessica had a reading problem and was finding it very difficult to learn in her educational setting in the public school. Her parents were able to afford to send them to a private school, which is located within the City of South Portland. Over the course of about a year, that reading deficiency was straightened out. It was a different setting for the child. Some different educational alternatives were available. Some different methodologies and a different school setting completely changed this girl.

Why I bring these stories to mind is because these are real people with real problems that a school voucher program could very much support. Right now we have a system, which essentially is if you are wealthy and if you are rich, you have the ability to send your child to the most appropriate school setting, public, private or a different public school. If you don't have the money, you have to settle for what you can afford, which is the public school setting. I am in no way trashing public schools. I am a product of the South Portland School System. I went through the school system the full way. I also went to the University of Maine System in greater Portland. I couldn't be a bigger booster of the South Portland School System. We have

turned out some very excellent, fine young men and women. They have gone on and become terrific assets to the community. Again, we are not talking about widgets. We are not talking about machine parts. We are talking about children and children are people. What is an appropriate setting for one person, again, is not for another. I urge your strong consideration of enabling parents alternatives. Thank you.

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

Representative **BRENNAN**: Mr. Speaker, Men and Women of the House. I hope that you will support the pending motion, the 12 to 1 Ought Not to Pass report. This bill is an overly broad bill that could have a significant negative impact on the education of our children and the State of Maine. According to the Department of Education, their estimates, the public payment of tuition of students already at private schools could shift more than \$17 million in state subsidy away from existing public schools. This bill could also add \$25 million of costs to local property tax if the state does not make up that \$25 million. Already if this bill were passed, millions of dollars would shift away from the public school system to private school systems.

Secondly, in order to fund this bill, it would have to either be made up of local property tax or an additional \$25 million appropriation of state money. The bill does not place any restrictions on the ability of a local unit to accept somebody who chooses to go to that school. There is no regard if the school district is over capacity. It doesn't have the teachers. It doesn't have the classroom space. They are still mandated to accept that child regardless of whether or not they have the capacity to teach that child. This bill and we have had a number of discussions in the committee about school vouchers and school choice. There are people in this Legislature and on the committee that have various thoughts about school choice. This bill is not the vehicle that we should move forward with discussing school choice. Not only did the department of education oppose the bill, but the Maine Education Association opposed the bill. Maine School Management opposed the bill. The Superintendent's Association opposed the bill and the Maine Civil Liberties Union opposed the bill. I urge you to support the Majority Ought Not to Pass Report.

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

Representative **FOSTER**: Mr. Speaker, Ladies and Gentlemen of the House. Three of my seven grandchildren go to private schools for one reason or another. Two of them happen to be in Vermont and one in this state. I find, number one, their education is excellent. Number two, the cost of sending those kids to school is far less than in the public school, if you look at the averages. A couple of other things that are important here. I sent a survey out to my constituents earlier this year. Overwhelmingly, they wanted the opportunity to send their kids to another school, even another public school, but private schools particularly. I think that is important. They are sending me a message. When you consider it is only an opportunity. I have a little trouble wondering why the public schools are so afraid that such a thing might happen, particularly when the cost to get the same education or better, is less expensive than in a public school.

The other thing that I think we ought to consider is that some of our public schools, as you may well know, are becoming dangerous places. Again, I think parents should have the opportunity to make that choice. Thank you very much.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Hartland, Representative Stedman.

Representative **STEDMAN**: Mr. Speaker, Men and Women of the House. As sympathetic as I am to the sponsor of this bill and to the facts that are involved in this matter as far as school choice is concerned, the bill, in my opinion, was not drafted in a way that was manageable. I had to vote against it in committee. The concept is fine, but the way the bill was presented, this language was not manageable in my opinion. I had to vote against it in committee. Thank you.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Brunswick, Representative Davidson.

Representative **DAVIDSON**: Mr. Speaker, Men and Women of the House. It is timely that this bill came up today. It was interesting. I was riding with the Representative from South Portland earlier on and we were having a discussion on what kind of people we basically wanted to be molding, building and educating in our schools. I thought it was timely that this came up today. I wasn't sure that we were going to debate it today. One of the things that we have been working on in the Utilities Committee and there is a bill that will be before you in the next week or so, a bipartisan 13 to 0 unanimous report. The whole idea of how technology is changing the traditional classroom setting, not the slight traditional teachers in here at all. I still think they are absolutely the most important component in the school and in the classroom. I feel so passionately about this that we are really on the verge of a revolution in our schools. I think there is the possibility that it is going to be a very positive step or a very negative step.

Technology in the classroom, and in many ways it affects this bill, investment in our public schools, which I think are the greatest things that have happened in the last 100 years in the entire history of the United States. It absolutely has the opportunity to revolutionize our urban schools, private schools or rural schools. The fact that in a couple of weeks what we have done already with building this network of schools and libraries, public schools and libraries across the state, ATM technology, T-1 lines and internet access. Now what we are going to do in addition to that, with this piece of legislation that you will see later, is all about taking the initiative at this point and investing in our public schools and not taking our money away.

What troubles me about this is not the drafting in this bill and I have read the bill and I do have problems with the drafting of it. It is the message that we are sending that now is the time that we need to be taking scarce resources away from public schools when I think on the verge of this century, it is absolutely the worst thing that we can do for the kids in the State of Maine. The absolute worst thing that we could possibly do. We can do radical things with our kids in schools. We can give them opportunities. We had a case in Brunswick a couple of months ago where we had students discussing on line over video screens with astronauts. I was just thinking to myself that even when I was in high school, which was not long ago, that was just absolutely unheard of that you would have to go down to somewhere in Houston or Cape Canaveral or some where to be able to do that. There are kids down in Barrows Drive in the middle of my district doing that. I think this is the most exciting time in education. There is no doubt in my mind we have problems with violence in our schools, we have problems with learning in our schools. We have problems with resources and resource disparity across the state and across the nation. What is so exciting about it is we are getting this new mechanism that

is being employed in classrooms all across the state, through using state dollars to education and property dollars to public education, that is allowing some of these barriers to be knocked down.

I encourage you when you look at any bill that is going to take away these valuable resources and allow these targeted areas outside of education, it is not only setting a precedent that I think is wrong, it is just devaluing the type of message that we want to send to our kids and the type of investment we want to continue to make. I am just so excited about the types of things that are going on in school. I encourage you all to get in your schools and look in your classrooms. If you were there four months ago, go back this week and see what is happening. I guarantee, it will be a different thing. I encourage you to keep these resources where they should be and support public education, which is the best thing that we can do with our kids. I encourage you to accept the 12 to 1 Ought Not to Pass report.

Representative MACK of Standish 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 Standish, Representative Mack.

Representative MACK: Mr. Speaker, Right Honorable Men and Women of the House. The question we must ask ourselves is, what will give the children of Maine the best education possible. I don't think there was anyone in this body who does not want the best education possible for every child in the State of Maine. I believe school vouchers are the way to do that. The question to ask yourself is, who determines what the best education for each child in the State of Maine is? Will it be the map maker or will it be that child's parents. Currently, the map maker decides where children get the best education. You draw a map of the towns and if you fit in one town, you go to one school. If you live a mile down the road in the next town over, you go to that town's schools. I think that the parents will do a better job than the map maker of determining which school their children should go to. No school does a perfect job for every student. The majority of the public schools in Maine do an excellent job for the majority of students. As you all know, for any business, one size cannot fit all. There are students with special needs, special abilities and special problems. For many of those students, a different public school or private school is what is best for them. The person best able to make that decision is that child's parents. They care about the child the most and they know about the child the most. They should be the ones making that decision.

If we look at who has the ability to make that decision now, is it rich families? Yes, of course. If you have enough money you can afford to send your child to any school you want to. Is it poor families? Poor families struggling to make ends meet. Struggling to get their paycheck every other week. Struggling to make ends meet and to survive under our state's tax burden. Those parents have the hardest time being able to afford an alternative school or private school for their children. A voucher would help the poor kids the most and give them the opportunity to get the best education to fit their needs. There is some worry among the public schools that they would be decimated by a school voucher system. If the public schools are doing a great job like many of them are, they have absolutely nothing to worry about. The best public schools will be able to retain their students and attract new ones. They are giving the best

education. Parents will want to send their children there. Remember, our goal is the best education for every child in Maine. Everyone in this body would admit that some schools are not as good as others. There are some public schools that are doing a poor job. A poor job for some of their students. In those cases, I think it would be very fortunate if those students who don't fit in those poor schools get the opportunity to go to another school where they can get the best education. I urge you to join with concerned parents all around the State of Maine and vote against the pending motion. Thank you.

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

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

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

Representative MCNEIL: Mr. Speaker, Men and Women of the House. I believe that school vouchers or school choice is going to be something that we really need to face, because schools do not respond to every student in our classroom. I am the parent of three children. Two made out beautifully in the public school system, but one did not do so well in our public school system. If this is not the vehicle, could I ask Representative Brennan, will we be looking at another vehicle? I realize this was very broad and that maybe it just has no end to it. Will we be looking at something where parents if they have to send their children to a private school, could be reimbursed or receive some type of a credit, even if it is not full? Maybe some type of a break so that they can help their child even if the school system is not able to.

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

Representative BRENNAN: Mr. Speaker, Men and Women of the House. The Education Committee has carried over two separate bills that have to do with charter schools. It is our intention next session to not only deal with those bills, but deal with the discussion about school choice within the context of charter schools.

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

Representative RICHARD: Mr. Speaker, Men and Women of the House. Discussion has taken place about this bill and the way it is written. I think it is important that everybody in here knows that what this bill says for vouchers is that the sending school administrative unit would be responsible for payment of tuition to the school on behalf of that student enrolled. This does not say that the state money that is given to a school will follow the student. This says that the school administrative unit will pay the tuition. You know tuition at some private schools is quite a bit. That is what people are talking about when they say that this bill is not particularly well written. I think you should be aware also, if you are not already aware, that over 1,000 students this year have school choice through school superintendent's agreements. Also, we have in the state two or three coalitions. In these coalitions, we have one in central Maine, where the students have the choice of going to a school in whichever town they would like to attend. What we have tried to promote is this kind of school choice, coalitions. Last year and again this year we have presented bills with that particular idea in mind. The

schools would get together and be willing to accept students from other schools that would take care of what the Representative from South Portland has said. Sometimes a student is in a school situation with which he cannot work. This would give that student the opportunity to go to another school. It is just that the state money follows the student. We are talking about, this year, \$3,377. It may, we hope, be a little bit more than that next year. That money would just go to the unit where the student is attending school, rather than going to the unit where they had attended school. I hope we have made clear to you the reasoning why we found this particular school voucher bill not an acceptable bill.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Caribou, Representative Belanger.

Representative **BELANGER**: Mr. Speaker, Men and Women of the House. I will be brief. I just want to point out one other, what I believe, serious flaw with the bill before you. If you are currently in a community with excellent schools and you are overcrowded and a number of your students are in portable classrooms, under the provisions of this bill, if 1,000 students decided they wanted to attend your school, you would have to accept them and you could not refuse them. You would have to make provisions for them. The bill is seriously flawed. You should not vote on this if you favor vouchers or you do not favor vouchers. The provisions of the bill, I think, are so flawed that we need to work on it and come back next session with different legislation. 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. 161

YEA - Ahearne, Andrews, Bagley, Baker, Belanger, Berry DP, Berry RL, Bolduc, Bouffard, Bowles, Bragdon, Brennan, Brooks, Bruno, Bryant, Bull, Bumps, Cameron, Campbell, Carr, Chick, Chizmar, Cianchette, Clark, Clough, Colwell, Cowger, Cross, Daigle, Davidson, Davis, Desmond, Dudley, Dugay, Duncan, Dunlap, Duplessie, Etnier, Fisher, Frechette, Fuller, Gagne, Gagnon, Gillis, Goodwin, Gooley, Hatch, Heidrich, Honey, Jabar, Jacobs, Jodrey, Jones, Joy, Kane, Kneeland, LaVerdiere, Lemoine, Lemont, Lindahl, Lovett, Madore, Mailhot, Martin, Matthews, Mayo, McAlevey, McDonough, McGlocklin, McKee, McKenney, McNeil, Mitchell, Murphy E, Murphy T, Muse, Nass, Norbert, Nutting, O'Brien JA, O'Brien LL, Peavey, Perry, Pieh, Povich, Powers, Richard, Richardson J, Rines, Rosen, Samson, Sanborn, Savage C, Savage W, Saxl JW, Saxl MV, Schneider, Sherman, Shiah, Shields, Sirois, Skoglund, Stanley, Stanwood, Stedman, Stevens, Sullivan, Tessier, Thompson, Tobin D, Tobin J, Townsend, Tripp, True, Tuttle, Twomey, Usher, Volenik, Waterhouse, Watson, Weston, Wheeler GJ, Williams, Winsor, Mr. Speaker.

NAY - Buck, Collins, Foster, Gerry, Glynn, Kasprzak, Labrecque, MacDougall, Mack, Marvin, Mendros, Perkins, Pinkham, Plowman, Shorey, Snowe-Mello, Tracy, Trahan, Treadwell, Wheeler EM.

ABSENT - Cote, Green, O'Neal, O'Neil, Quint, Richardson E.
Yes, 125; No, 20; Absent, 6; Excused, 0.

125 having voted in the affirmative and 20 voted in the negative, with 6 being absent, the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

The Speaker resumed the Chair.

The House was called to order by the Speaker.

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

CONSENT CALENDAR

First Day

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

(S.P. 256) (L.D. 751) Bill "An Act to Amend the Moose Hunting Laws" (EMERGENCY) Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought to Pass**

(S.P. 708) (L.D. 2017) Bill "An Act to Allow the Taking of Endangered or Threatened Species Under the Authority of the Department of Inland Fisheries and Wildlife" Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought to Pass**

(S.P. 153) (L.D. 473) Bill "An Act to Clarify the Laws Pertaining to the Importation of Fish" Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-249)**

(S.P. 182) (L.D. 536) Bill "An Act to Improve Wild Game Transportation Laws" Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-248)**

(S.P. 187) (L.D. 580) Bill "An Act to Clarify the Voting Rights of Persons Residing in Certain Sanitary Districts" (EMERGENCY) Committee on **UTILITIES AND ENERGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-260)**

(S.P. 240) (L.D. 662) Bill "An Act to Amend Maine's Boating Laws Pertaining to Noise Limits on Watercraft" Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-250)**

(S.P. 241) (L.D. 663) Bill "An Act to Clarify the Powers of Game Wardens When Stopping Motor Vehicles" Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-251)**

(S.P. 406) (L.D. 1195) Bill "An Act to Create Accountability in the Management of Trout and Salmon in Maine" Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-252)**

(S.P. 415) (L.D. 1204) Bill "An Act to Amend the Fishing Laws" Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-253)**

(S.P. 574) (L.D. 1654) Bill "An Act to Improve the Efficiency of Environmental Regulation in the Unorganized and Deorganized Areas of the State" Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-261)**

(S.P. 725) (L.D. 2045) Resolve, to Establish the Citizens' Advisory Committee to Secure the Future of Maine's Wildlife and Fish Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-254)**

(S.P. 768) (L.D. 2158) Bill "An Act to Authorize Matinicus Isle Plantation to Implement a Disposal Fee for Motorized Vehicles" Committee on **NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-259)**

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:

SENATE DIVIDED REPORT - Majority (8) Ought Not to Pass - Minority (2) Ought to Pass as Amended by Committee Amendment "A" (S-207) - Committee on CRIMINAL JUSTICE on Bill "An Act to Allow the State to Obtain a Defendant's Medical Records in Cases Involving OUI"

(S.P. 691) (L.D. 1937)

Which was **TABLED** by Representative **POVICH** of Ellsworth pending his motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

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

Representative **POVICH**: Mr. Speaker, Men and Women of the House. LD 1937, "An Act to Allow the State to Obtain a Defendant's Medical Records in Cases Involving OUI." This bill allows the hospital records of a defendant that contain blood alcohol results to be available to the state through ordinary discovery procedures. The state would subpoena hospitals for specific records.

This bill also allows the discovery of any medical records related to the treatment of an injury suffered by a defendant who is charged with operating a motor vehicle or watercraft while intoxicated, if the defendant denies culpability for the accident that caused the injury. That is not very clear. I will try to further refine these comments. This is a very serious matter in current Maine law.

In Maine, if you are stopped for OUI, you have the right to refuse a blood test. There is a severe consequence if you do, but your right not to test is there for you. You do not have to take a blood test. This LD challenges that, because if you are in a hospital ER and incapacitated, you do not have the right to refuse. You are unable to refuse.

It was a tough bill for the Criminal Justice Committee. Although we recognized how the law in the state condemns operating under the influence, the law also protects the defendant from self-incrimination. Also importantly, the state protects confidentiality and the doctor patient relationship.

The testimony stated the doctor patient privilege exists because the public welfare is best served by encouraging patients to make full disclosure to their doctors, thus enabling their doctors to provide the best possible medical care. In some cases, medical care could be less than effective if patients fear that their statement can be used against them. Should Miranda-like warnings be required in emergency rooms?

This bill was opposed by the Maine Hospital Association who said LD 1937 creates a serious threat to long held principles of the confidential nature of medical information.

Medical professionals who view themselves as patient advocates and ethnical practitioners may now not fully question a patient while taking a history or fully document findings in an attempt to not incriminate their patients. Other means must be developed by which the state can compel the information requested. There is a compelling interest for the state.

The majority of 11 members of the committee balanced our decision by realizing both interests could be satisfied in this instance. If the subpoena was quashed by the hospital, the

judge, in camera, or rather in chambers, could determine that a certain amount of evidence could be released to satisfy the public's safety interest. This, in our opinion, was the other means to the end.

Current Maine law allows for the state's and the patient's interests to be protected. Please support the current motion Ought Not to Pass. Thank you.

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

Representative **O'BRIEN**: Mr. Speaker, Men and Women of the House. I have to stand and respectfully disagree with my good chair of the Criminal Justice Committee on this one. The minority of us felt strongly on the other side. What this bill does, and I will explain pieces of it again, if enactment occurs and the amendment is, if there is serious bodily injury or death to another person, again, if someone else is seriously hurt or dies as a result of this accident, then the state can require the blood to be taken and the alcohol level to be given to the state. To me, this is a very, very important thing. The other thing that it does and I am sure that other speakers will speak about it, is there is another part. It is not just blood alcohol, but it is also medical records. The medical records that would be given are only those that pertain to the treatment of the injury, such as, as I have expressed to a few of you, if the steering wheel is imprinted on the chest of a person, they would then determine that indeed that person was the driver of the vehicle. This is an OUI bill. I feel very strongly about it. I would urge you to reject the Majority Ought Not to Pass Report. Thank you.

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

Representative **MCALEVEY**: Mr. Speaker, Ladies and Gentlemen of the House. Let me just clarify a couple of items please. First of all, we do not have a right to operate a motor vehicle. It is a privilege granted by the State of Maine. That is right in your test when you take your test. Secondly, if you are stopped and an officer has legitimate probable cause to believe that you are operating a motor vehicle when under the influence, you are read what is called implied consent. In that implied consent in the law that we wrote, you have a duty to submit, not a right. If you don't submit, then the Secretary of State will administratively take your license. Lots of times people confuse the fact that they have a right to drive. It is a privilege we grant to the citizens of this state, a privilege only. With that privilege comes some requirements, such as a duty to submit.

Some of the testimony we heard was OUI accidents that involve serious injury or death become felony OUIs. They rise to that level where it is at least a Class C crime. Sometime the police need to determine who was operating because the car is full of people and nobody is agreeing. There is trace forensic evidence, such as hair particles on the windshield or bruising from the mechanics of the industry. The police wish to find that out through the type of treatment in the hospital. One of the concerns we heard from the hospitals was they didn't want to open up the whole patient's records, which would lead to previous illnesses, diseases or whatever. I think when the police are looking for something, they are looking only for the specific information dealing with their treatment in terms of the mechanics of the injury. You can reconstruct beyond a reasonable doubt. You have to for the court, who operating the motor vehicle by the physical evidence that is left behind.

The point I wanted to make was, you have a duty to submit to an alcohol test. You have a right to refuse it, but there are

consequences administratively. The ability to operate a motor vehicle is a privilege that we grant. It is not a right. Lots of times people are confused about that. Thank you.

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

Representative THOMPSON: Mr. Speaker, Men and Women of the House. I listened to all of you and now you are going to have to listen to me for a few minutes. I strongly endorse the Majority Ought Not to Pass Report. We look at the OUI law changes or any other changes on crime and we start from the premise that we are only doing this to criminals. We are not only doing it to criminals, we are doing it to anyone who is involved in an accident and goes to the hospital. They can go and get your records. What we are saying is, we have a policy now where an independent person, a judge reviews your medical records to see if there is something in there that could be released. We are going through a system that says, if a cop wants the records or the DA wants the records, give it to them. I don't want the DA to have my medical records. I don't want the DA to have the medical records of anyone, unless they can prove to a judge that they are necessary for the prosecution of the case. We talk about big brother and big government, but whenever the word criminal is raised, we through all that out. We say they are only criminals, what the heck. Every right that you give up on a criminal defendant, you are giving up your own rights. How many of your rights do you want to give up on your own confidential information. The system isn't broken. Occasionally the DA loses a case because of our constitutional rights. They are supposed to lose some cases because of constitutional protections. You are not supposed to just hand everything over to the state. Why not let us just convict people on a lower burden of proof. Not everybody that is charged is guilty. If you forget that fact, you are giving away your own rights. I strongly urge you to vote for the Majority Ought Not to Pass Report.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Frechette.

Representative FRECHETTE: Mr. Speaker, Men and Women of the House. I ask you to vote against the Majority Report and support the Minority Report. I believe we need to send a message, not only to individuals who are involved in OUI cases, but also to our law enforcement officers and prosecutors. The Minority Report would allow for the medical records to be obtained in cases in which another person has suffered serious bodily injury or death. This would allow our law enforcement officers and prosecutors to get the information that is necessary for cases that are the most serious and let us send a clear message to the State of Maine that we are not allowing individuals to have the advantage over our law enforcement officers and prosecutors.

There are many individuals who know how to play the game. When transported to a hospital, they know they can possibly get away without being tested for long periods of time. This will delay the whole process of the investigating officer. I think in their minds it will hopefully give them an advantage if they do have an opportunity after their treatment is in the process of being moved forward and the doctor allows the officer in there, they have a better chance of passing a sobriety test.

This is why I believe we should level the playing field. I ask that you oppose the pending motion. When the vote is taken, Mr. Speaker, I request a roll call.

The SPEAKER: The Chair recognizes the Representative from Hodgdon, Representative Sherman.

Representative SHERMAN: Mr. Speaker, Men and Women of the House. I am on the majority side on this one. I believe, under the present laws, it has already been stated. I will read that section to you. "Notwithstanding this section, the result of a laboratory or any other test kept by a hospital or other medical facility, which reflects blood alcohol concentrations may not be excluded as evidence in a criminal civil proceedings by any claim of confidentiality or privilege and may be admitted provided that the result is relevant and reliable evidence. If the proceeding is one which the operator of a motor vehicle or a water craft is alleged to have operated under the influence of intoxicating liquor or drugs, the court is satisfied that probable cause exists to believe the operator committed the offenses charged." I think this has been said before. I will repeat that. This is an opening up, so that DAs can come in under discovery proceedings, these documents that presently doctors and nurses think are confidential. This is a repetition of what was said before, but I would like to read that also. It says, "Medical professionals who view themselves as patient advocates and ethical practitioners may not fully question a patient while taking history or fully documenting findings in an attempt not to incriminate the patient." That alone would interfere with confidentiality. I urge you to support the Majority Report.

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

Representative SAVAGE: Mr. Speaker, Men and Women of the House. Our criminal justice system is held in awe around the world. We do not believe that the ends always justify the means. This is a bad bill. Please vote Ought Not to Pass. Thank you.

Representative FRECHETTE of Biddeford REQUESTED a roll call on the motion to ACCEPT the Majority Ought Not to Pass Report.

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

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

ROLL CALL NO. 162

YEA - Ahearne, Bagley, Baker, Belanger, Berry DP, Berry RL, Bragdon, Brennan, Brooks, Bruno, Bryant, Buck, Bull, Bumps, Cameron, Carr, Chick, Chizmar, Cianchette, Clough, Collins, Colwell, Cowger, Daigle, Davidson, Desmond, Dudley, Dugay, Duncan, Dunlap, Duplessie, Etnier, Fisher, Fuller, Gagne, Gagnon, Gerry, Glynn, Goodwin, Gooley, Hatch, Honey, Jabar, Jacobs, Jodrey, Jones, Joy, Kane, Kasprzak, Kneeland, Labrecque, LaVerdiere, Lemoine, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, Martin, Marvin, Matthews, Mayo, McAlevey, McDonough, McGlocklin, McKee, McNeil, Mendros, Mitchell, Murphy E, Murphy T, Muse, Nass, Norbert, O'Brien LL, Peavey, Perkins, Pieh, Pinkham, Plowman, Povich, Powers, Richard, Rines, Samson, Sanborn, Savage C, Savage W, Saxl JW, Saxl MV, Sherman, Shiah, Shields, Sirois, Skoglund, Snowe-Mello, Stanley, Stevens, Sullivan, Tessier, Thompson, Tobin D, Townsend, Tracy, Trahan, Treadwell, Tripp, True, Twomey, Usher, Volenik, Waterhouse, Watson, Wheeler EM, Wheeler GJ, Williams, Winsor, Mr. Speaker.

NAY - Andrews, Bouffard, Bowles, Campbell, Cross, Davis, Foster, Frechette, Gillis, Heidrich, Mailhot, McKenney, Nutting, O'Brien JA, Rosen, Schneider, Shorey, Stanwood, Stedman, Tobin J, Tuttle, Weston.

ABSENT - Bolduc, Clark, Cote, Green, O'Neal, O'Neil, Perry, Quint, Richardson E, Richardson J.

Yes, 119; No, 22; Absent, 10; Excused, 0.

119 having voted in the affirmative and 22 voted in the negative, with 10 being absent, the Majority **Ought Not to Pass** Report was **ACCEPTED** in concurrence.

Bill "An Act to Reauthorize and Amend the Diesel-powered Motor Vehicle Emission Opacity Testing Program" (EMERGENCY)

(S.P. 381) (L.D. 1082)

TABLED - May 7, 1999 (Till Later Today) by Representative MURPHY of Kennebunk.

PENDING - **ADOPTION OF COMMITTEE AMENDMENT "A" (S-184)**.

Subsequently, **Committee Amendment "A" (S-184)** was **ADOPTED**. The Bill was assigned for **SECOND READING** Wednesday, May 12, 1999.

Resolve, Establishing the Commission to Study the Educational Needs of Offenders in the State's Correctional System (EMERGENCY)

(H.P. 616) (L.D. 856)

(C. "A" H-299)

TABLED - May 7, 1999 (Till Later Today) by Representative SHIAH of Bowdoinham.

PENDING - **FINAL PASSAGE**. (Roll Call Requested)

On motion of Representative SAXL of Portland, **TABLED** pending **FINAL PASSAGE** and later today assigned. (Roll Call Requested)

JOINT ORDER - Relative to Establishing the Task Force on Transportation Access, Air Pollution Reduction and Family Self-sufficiency

(S.P. 612)

- In House, Minority (6) **OUGHT NOT TO PASS** Report of the Committee on **HEALTH AND HUMAN SERVICES READ** and **ACCEPTED** on April 29, 1999.

- In Senate, Senate **INSISTED** on its former action whereby the Majority (7) **OUGHT TO PASS** Report of the Committee on **HEALTH AND HUMAN SERVICES** was **READ** and **ACCEPTED** and the Joint Order **PASSED** and **ASKED FOR A COMMITTEE OF CONFERENCE** in **NON-CONCURRENCE**.

TABLED - May 7, 1999 (Till Later Today) by Representative KANE of Saco.

PENDING - **FURTHER CONSIDERATION**.

Representative KANE of Saco moved that the House **ADHERE**.

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

Representative **MCKENNEY**: Mr. Speaker, Men and Women of the House. As I read this Joint Order, I am reminded of the mess that we have made of the automobile emission program in this state. We flounder from one strategy to another. Reformulated gas, the new southern gas we are using now and your guess is as good as mine what we are going to use next summer. Now we are presented a task force on transportation access, air pollution reduction and family self-sufficiency. To achieve self-sufficiency by a government program is an

oxymoron in itself. The task force says it shall study the feasibility of establishing a program to remove older polluting vehicles from the roads by providing newer and less polluting used vehicles. These vehicles are crushed. That is how they are removed from the road. They are permanently removed. As I mentioned previously, this removes a valuable source of used parts that low income people use to keep older cars running. The same people we are trying to be self-sufficient will lose the ability to be self-sufficient if we crush up all the used parts.

I also take issue with the premise that older cars pollute. Unmaintained car pollute whether they are old or new. Old cars can run clean with the proper service. Keep in mind that in California where this plan originated, old cars are 25 to 30 years old or more. They last far longer in California because there is no rust there. Perhaps if we want to turn the fleet over a little quicker, we will have DOT put more salt on the roads. That will do it. In California where the struggle with air quality is never ending, this crushing strategy is almost a last resort. In Maine, with good air most of the time, it has become a first resort, or maybe a first resort. Is this going to be our emissions strategy next year? Are we going to crush cars instead of using southern gas?

The second part of this task force shall examine market incentives, including tax incentives and emission trading to encourage businesses, rental car companies and others to donate vehicles to such a program. Emission trading, do you know how that works? When a car is crushed, someone, a company, pays the owner for the car. In California, Chevron Oil Company does this. They pay \$800 to the owner of a scraped car. In return for this payment, Chevron buys a credit to allow them to pollute further. I don't think we want to be dealing with the emission credits. Thank you.

The **SPEAKER**: 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. Was the motion before us to Adhere? Would that not put us in adherence to our previous position on this bill as Ought Not to Pass?

The **SPEAKER**: The Chair would answer in the affirmative.

The Chair recognizes the Representative from Scarborough, Representative Lovett.

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

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

Representative **LOVETT**: Mr. Speaker, Men and Women of the House. Could I ask for this bill to be Indefinitely Postponed?

The **SPEAKER**: The Chair would answer in the negative.

The Chair recognizes the Representative from Portland, Representative Saxl.

Representative **SAXL**: Mr. Speaker, Men and Women of the House. Point of parliamentary procedure, Mr. Speaker. Mr. Speaker, if the chamber accepts the motion to Adhere, would this bill then be dead?

The **SPEAKER**: The Chair would answer in the affirmative. If the House accepts the motion to Adhere, the bill is in non-concurrence between the chambers.

Subsequently, the House voted to **ADHERE**.

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

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

(H.P. 1189) (L.D. 1699)

- In House, Minority (2) **OUGHT TO PASS AS AMENDED** Report of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-381)** on May 6, 1999.

- In Senate, Majority (11) **OUGHT NOT TO PASS** Report of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY READ and ACCEPTED in NON-CONCURRENCE**.

TABLED - May 10, 1999 (Till Later Today) by Representative SAXL of Portland.

PENDING - **FURTHER CONSIDERATION**.

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

JOINT ORDER - relative to recalling Bill, "An Act to Exempt from the Sales Tax Feminine Hygiene Products," H.P. 1531, L.D. 2184, from the legislative files to the House

(H.P. 1575)

TABLED - May 10, 1999 (Till Later Today) by Representative BAKER of Bangor.

PENDING - **PASSAGE**. (2/3 vote required)

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

Representative **BAKER**: Mr. Speaker, Men and Women of the House. I rise today as sponsor of LD 2184, "An Act to Eliminate the Sales Tax from Feminine Hygiene Products." I have brought this bill back from the Dead Files, an action that I do not take lightly.

I wish to speak to this issue for a number of reasons. When I learned that this bill had received a unanimous Ought Not to Pass out of committee, I was puzzled. Several members had assured me that there was a number in the tax code under which to put this exemption. But when I asked questions, here is what I was told. "This is a silly bill." "You should be embarrassed to bring it to the floor." "This is not a gender issue." "It should be means tested (Ms. Rockefeller should not be exempt.)" "Taxing feminine hygiene products is not more discriminatory than taxing cigarettes." "We cannot add an additional number to the list of exemptions." "Our tax system needs to be overhauled. This is no time to create a new exemption."

These perceptions, combined with the discriminatory nature of the tax, are the reasons I speak before you today.

First, this is not a silly bill. The tax, however, is a silly tax. Some things should not be taxed, and this is one of them. Menstruation is not a choice; it is an innate biological condition. It occurs for 5 to 7 days, every 28 days, for roughly 40 years of a woman's life. Viewed consecutively, the number of days that the average woman spends bleeding add up to nine and one quarter years of her life, with an additional 4 to 6 weeks after the birth of each child. Over the course of four decades, she will spend more than \$3,480 on feminine hygiene supplies, \$170 of those dollars on taxes. A family like mine with four daughters will spend \$17,500 on supplies.

Should I be embarrassed to talk about this matter on the House floor? I don't think so. All too recently, the media has saturated us with the intricate details of presidential oral sex. Bob Dole goes on television and talks about erectile dysfunction and the wonders of Viagra, both matters of choice. But apparently, the tax on feminine hygiene products is an embarrassing subject for some people to talk about. Which is precisely why the tax still exists.

The matter I bring before you today, assuredly an oft-hidden subject, is not about choice, but necessity. Every month that a woman does not get pregnant, her body sheds its uterine lining in rhythm with the moon. Bleeding comes from the word *bledsun*, which means blessing. Many cultures have viewed menstruation as sacred because of its powerful role in creating the miracle of a child. Women were honored for their contribution, not taxed. In native cultures, women went apart from the group and sat on moss (weather permitting), a luxury hardly afforded most of us today even were we so inclined.

Is the sales tax on feminine hygiene products a gender issue? Without a doubt. It is not something that men do. I remember the day that the girls in our fifth grade class were called out to see "the movie" designed to initiate us into the mysteries. The boys were excluded, but they knew. In that moment we all understood, if we had not before, that the two genders are truly different. There is no equivalent condition for men.

Whatever the reasons the tax exists (I'm told it's because feminine hygiene products are paper products), we should recognize that this tax is not only inappropriate, it is also unfair. It affects only women, all women for decades of their lives. We have made great strides in ending gender discrimination. Yet despite 36 years of legislation to the contrary, American women still earn substantially less money than American men for the same work. And women still pay a tax on an item that men do not, and cannot, share.

Feminine hygiene products are a medical necessity. They are a health item. There are no safe alternatives, no acceptable substitutes. Women of reproductive age spend 68 percent more than men on out of pocket health care costs. The sales tax on these products adds insult to injury. It is time to remove this unfair burden on women consumers. There are places to insert this new exemption: Section 3 (grocery staples) for example, since feminine hygiene products are a necessary staple. Or Section 5 (medicine) since these products are part of women's health care. We could do the unthinkable and add an additional number (80) to our current tax code.

Fairness, two days after Mother's Day, demands nothing less.

I urge you to vote against the Majority Ought Not to Pass and in favor of this bill. In so doing, you will remedy an imbalance in the tax code, and you will ensure that women in their reproductive years are not additionally taxed because of their inherent biological systems. In addition, you will honor the women in this House and women all across Maine, your mothers and wives, your sisters and daughters, your colleagues and friends. I urge your support. Thank you.

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

Representative **GAGNON**: Mr. Speaker, Men and Women of the House. I hope the House will join me in defeating the order. This was a bill that received a unanimous Ought Not to Pass in our committee, by both Democrats and Republicans, men and

women. I do offer my apologies to the good Representative if she was offended by any comments made, either jokingly or otherwise, that was not appropriate. I would ask the body to consider what our committee considered, which is that we were not interested at this time to create another whole category of exemptions of paper products, which would include anything from diapers to napkins. That would be hard to define. It would be hard to say no in the future by setting this precedent. That is why this committee voted unanimously Ought Not to Pass. At least that is what I understood the committee voted. There might be other reasons why people voted differently. Certainly some people do find this embarrassing. I don't. I had three sisters and I have three daughters at home. Clearly some people do find it embarrassing to talk about. That is not the basis of what the committee vote was all about. I would encourage the body to defeat this motion.

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

Representative **BROOKS**: Mr. Speaker, Ladies and Gentlemen of the House. I urge you to join with Representative Baker and me to pass this Joint Order and bring this bill back to the floor. Usually I agree with the chair of the Taxation Committee, but in this particular case, I think that Representative Baker stated appropriately, I think that we can establish a category 80 among the tax exempts and list this as feminine hygiene products. It doesn't have to be listed among all of the other paper products. This tax reform proposal we are discussing here today, to me, at least, is somewhat reminiscent of earlier taxes. One of which was just as discriminatory as this measure. In a debate that occurred many years ago over such a tax law, that tax was referred to "One of the oldest forms of taxation known. In ancient times such taxes were imposed on an enemy both as a revenue measure and to impress a state of inferiority and subjection to the potentate that taxed."

This quote was taken directly from a library document that retold the testimony regarding not this tax, but a tax many of us in this House will remember, at least the male members of this house, the pole tax. It was a very discriminatory tax that was levied only on men with a requirement that it be paid before we were even able to cast a vote in a general or local election. The pole tax was in effect from the early 1800s. As a matter of fact, somewhere around the time this state was incorporated as a state, to 1973 when it was finally repealed as unconstitutional and discriminatory. The tax we are facing here today is just as discriminatory. The pole tax was levied against men simply because they were men. The tax on feminine hygiene products is equally discriminatory. What choices do women have between the ages of 12 and 50? I am sure that as it was mentioned to me in the hallways during the time that the bill was given public hearing that some here are asking, why not tax condoms, Viagra or even jock straps? Let me remind you that in all of these cases the purchases of those items have choices. The jock can skip this week's game. Those who need or want to use Viagra or condoms also make choices. What choices do women have? I don't need to remind any of you that women have absolutely no control over their monthly menstrual cycles. Believe me, I lived for a long time with a woman who it would happen to her very unexpectedly and PMS was something we both had to live through.

I know that all of us here hope that they don't make the choice to forego the products that we are taxing. If any of this debate embarrasses members of this House, I apologize. I want

to suggest that if you want to be embarrassed, feel embarrassed that we spent several hours of debate earlier this year on which dirt to select as the official state soil. Feel embarrassed for several years of failing to meet our obligations on school funding, not on a subject like this. None of us should feel the least bit of uncomfot about a discussion over a discriminatory tax such as this. Please join with me in trying to bring back this bill so that we can support the repeal of tax on feminine hygiene products.

Mr. Speaker, I request the yeas and nays.

Representative **BROOKS** of Winterport **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: The Chair recognizes the Representative from Portland, Representative Townsend.

Representative **TOWNSEND**: Mr. Speaker, Men and Women of the House. I apologize for prolonging the debate, but I certainly feel we have many more pressing issues to take on today. I do want to speak to this and ask you to vote against passage of this order. We erode our tax code one good idea at a time. Largely, ideas that seem like a good idea when you first think about them, but when you examine them a little more closely, turn out to be not as good or as valuable as they initially seemed. I believe this is bad tax policy. It is part of a larger code of paper products, household products, whether that is Depends, diapers, napkins or whatever. Furthermore, this is reliable revenue for the state. What better tax policy could there be? It is better than taxing things that people cut back on in times of recession. Beyond that, the savings to individual woman are minor. They are far outweighed by the benefits that we derive from the general fund in the general-purpose aide to education, higher education, human services or you name it. I am perfectly happy to pay this minor amount of tax. I view it as my contribution to the greater good. Furthermore, being a married woman, it is not just my tax, it is part of the household budget. I don't understand why we see this as being a female tax. It is merely a tax on households. Please join me in voting against passage.

The SPEAKER: The Chair recognizes the Representative from Arundel, Representative Daigle.

Representative **DAIGLE**: Mr. Speaker, Ladies and Gentlemen of the House. I would like to add a little expertise to the subject matter and ask you to vote in favor of the Representative from Bangor's amendment. Years past, I worked as an engineer for Johnson and Johnson Corporation in Illinois. We manufactured women's feminine hygiene products. Let me tell you that they are not paper products. They may be categorized that way, but I believe an understandable error may be made by the state. They are a very high technology product. Polypropylene liners, polyethylene barriers, starch fibers used for absorbage, adhesives, sealed with ultrasound and other very sophisticated materials and products. They are regulated by the FDA as a medical device. They were when I made them. I am sure they are continuing to be regulated that way today. This may be considered a question, do we currently levy a sales tax on other medical devices? If so, it would be inconsistent with the way we are regulating these products.

The SPEAKER: The Representative from Arundel, Representative Daigle has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Waterville, Representative Gagnon.

Representative **GAGNON**: Mr. Speaker, Men and Women of the House. The answer to the question is, yes, there are a number of medical products that we do tax. There are some that we do not. Certainly, prescription drugs we do not, but we do tax medical items.

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

Representative **MACK**: Mr. Speaker, Right Honorable Men and Women of the House. I urge your support of the good Representative from Bangor's motion. I want to tell a little story about this bill. About a year and half ago I had promised my girlfriend that I would put this bill in. When it came up for cloture time, I had not put this bill in. When the Right Honorable Representative from Bangor, Representative Baker, had put her bill in, I asked to be a cosponsor. When she got the bill back from the Revisor's Office, there were so many people that wanted to cosponsor it, it filled up right away. I didn't get a chance to cosponsor it. I would like to think that by speaking on this bill, I have in some way lived up to my past promise.

I think this bill is a good idea. Initially, when you first hear the bill, we all laugh. I know I did when I first thought about it. When you stop and think for a second, even though this is something we don't discuss around the dinner table, this bill makes a lot of sense. Feminine hygiene products are a necessity for woman. They don't have a choice over their use. There are already many, many exemptions in the sales tax law. One more should not cause a problem. In response to the Right Honorable Representative from Portland, Representative Townsend, who said she likes to pay these taxes to the State of Maine for the good we do in the budget. Well, if she wants to pay even more taxes, I encourage her to send it in. For the rest of us and the women I know in my life, I think they are better able to determine what is best for themselves and their families with their own money, rather than send it up here to Augusta. Thank you. I urge you to vote in favor of the pending motion.

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

Representative **COLWELL**: Mr. Speaker, Men and Women of the House. I will be very brief. This bill was treated with seriousness in the committee. It is a serious issue. As the good house chair stated, it was not a gender based vote. It was a unanimous vote. The three women voted along with the rest of the committee. It was not a Republican/Democrat vote. It was a unanimous decision. It has nothing to do with whether or not we are discriminating against women. We are not discriminating against women. The point was made of whether or not we are embarrassed to discuss this. I will admit that I am slightly embarrassed to discuss this. My embarrassment stems from the fact that we do have a tax code that is built upon a house of cards. It is a house of 79 sales tax exemptions reaching into the area of \$900 million of exemptions. Every time we add another one, we still have to pay the state bills, educate our children,

make the trains run on time and that was the justification or the logic of the committee. At some point, we would love for this whole body to join in with the committee and try to fashion a rationale sales tax policy that will generate the revenues that we need to educate our children and make the trains run on time. Thank you Mr. Speaker.

The **SPEAKER**: 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.

This Bill having been finally rejected, according to Joint Rule 404 a two-thirds vote of the members present being necessary for **PASSAGE** of this Joint Order, a total was taken.

ROLL CALL NO. 163

YEA - Bagley, Baker, Belanger, Brooks, Bruno, Buck, Campbell, Carr, Chizmar, Clough, Daigle, Davis, Desmond, Dugay, Duplessie, Foster, Gerry, Gillis, Glynn, Goodwin, Honey, Jacobs, Jones, Kasprzak, Labrecque, MacDougall, Mack, Mailhot, McAlevey, McKee, Mendros, Perkins, Plowman, Sanborn, Schneider, Shorey, Sirois, Skoglund, Snowe-Mello, Sullivan, Tessier, Tobin D, Tobin J, Tracy, Treadwell, Twomey, Waterhouse, Wheeler EM, Wheeler GJ.

NAY - Ahearne, Andrews, Berry DP, Berry RL, Bouffard, Bowles, Bragdon, Brennan, Bryant, Bull, Bumps, Cameron, Chick, Cianchette, Collins, Colwell, Cowger, Cross, Davidson, Dudley, Duncan, Dunlap, Etnier, Fisher, Fuller, Gagnon, Gooley, Hatch, Heidrich, Jabar, Jodrey, Joy, Kane, Kneeland, LaVerdiere, Lemoine, Lemont, Lindahl, Lovett, Madore, Martin, Marvin, Matthews, Mayo, McDonough, McGlocklin, McKenney, McNeil, Mitchell, Murphy E, Murphy T, Muse, Nass, Norbert, Nutting, O'Brien JA, O'Brien LL, Peavey, Pieh, Pinkham, Povich, Powers, Richard, Richardson E, Rines, Rosen, Samson, Savage C, Savage W, Saxl JW, Saxl MV, Sherman, Shiah, Shields, Stanley, Stanwood, Stedman, Stevens, Thompson, Townsend, Trahan, True, Tuttle, Usher, Volenik, Watson, Weston, Williams, Winsor, Mr. Speaker.

ABSENT - Bolduc, Clark, Cote, Frechette, Gagne, Green, O'Neal, O'Neil, Perry, Quint, Richardson J, Tripp.

Yes, 49; No, 90; Absent, 12; Excused, 0.

49 having voted in the affirmative and 90 voted in the negative, with 12 being absent, the Joint Order **FAILED** of **PASSAGE**.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH** with the exception of matters being held.

On motion of Representative **CROSS** of Dover-Foxcroft, the House adjourned at 5:53 p.m., until 9:00 a.m., Wednesday, May 12, 1999.