

MAINE STATE LEGISLATURE

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

Volume II

First Regular Session

May 13, 1999 – June 19, 1999

Second Regular Session

January 5, 2000 – March 22, 2000

ONE HUNDRED AND NINETEENTH LEGISLATURE
FIRST REGULAR SESSION
53rd Legislative Day
Tuesday, May 18, 1999

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

Prayer by Deacon Dean Lachance, St. Paul Center, Augusta.

National Anthem by Cape Elizabeth Middle School 8th Grade Band.

Pledge of Allegiance.

Doctor of the day, Dr. Stephen Sears, M.D., Augusta.

The Journal of yesterday was read and approved.

SENATE PAPERS

Non-Concurrent Matter

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

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

- In House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-371)** on May 11, 1999.

- In Senate, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-371)** on May 12, 1999, in concurrence.

RECALLED from the Engrossing Department pursuant to Joint Order (S.P. 828).

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-371) AND SENATE AMENDMENT "A" (S-295)** in **NON-CONCURRENCE**.

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

Non-Concurrent Matter

Bill "An Act to Prohibit Law Suits by Municipalities Against Firearm or Ammunition Manufacturers" (EMERGENCY)

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

Majority (7) **OUGHT TO PASS AS AMENDED** Report of the Committee on **STATE AND LOCAL GOVERNMENT READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-442)** in the House on May 12, 1999.

Came from the Senate with the Minority (6) **OUGHT NOT TO PASS** Report of the Committee on **STATE AND LOCAL GOVERNMENT READ** and **ACCEPTED** in **NON-CONCURRENCE**.

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

Non-Concurrent Matter

Bill "An Act to Clarify Referendum Wording"

(H.P. 41) (L.D. 55)

Majority (11) **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-532)** in the House on May 14, 1999.

Came from the Senate with the Minority (1) **OUGHT NOT TO PASS** Report of the Committee on **LEGAL AND VETERANS AFFAIRS READ** and **ACCEPTED** in **NON-CONCURRENCE**.

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

Non-Concurrent Matter

Bill "An Act to Require that the State Planning Office Report to the Committee on State and Local Government"

(H.P. 619) (L.D. 859)

House **INSISTED** on its former action whereby the Majority (9) **OUGHT TO PASS AS AMENDED** Report of the Committee on **STATE AND LOCAL GOVERNMENT** was **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-322) AS AMENDED BY HOUSE AMENDMENT "A" (H-505)** thereto and **HOUSE AMENDMENT "A" (H-496)** and **ASKED FOR A COMMITTEE OF CONFERENCE** in the House on May 12, 1999.

Came from the Senate with that Body having **ADHERED** to its former action whereby the Minority (4) **OUGHT TO PASS AS AMENDED** Report of the Committee on **STATE AND LOCAL GOVERNMENT** was **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-323)** in **NON-CONCURRENCE**.

On motion of Representative AHEARNE of Madawaska, **TABLED** pending **FURTHER CONSIDERATION** and later today assigned.

COMMUNICATIONS

The Following Communication: (S.C. 267)

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

May 17, 1999

The Honorable Joseph W. Mayo

Clerk of the House

State House Station 2

Augusta, ME 04333

Dear Clerk Mayo:

Please be advised the Senate today Adhered to its previous action whereby the Majority Ought Not To Pass Report from the Committee on Labor on Bill "An Act to Amend the Prevailing Wage Laws" (H.P. 728) (L.D. 1018), was accepted.

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

READ and ORDERED PLACED ON FILE.

The Following Communication: (S.C. 268)

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

May 17, 1999

The Honorable G. Steven Rowe

Speaker of the House

2 State House Station

Augusta, Maine 04333

Dear Speaker Rowe:

In accordance with Joint Rule 506, please be advised that the Senate today confirmed the following nominations.

Upon the recommendation of the Joint Standing Committee on Judiciary, the nominations of the Honorable Paul L. Rudman of Veazie for reappointment as an Associate Justice of the Maine Supreme Court, the Honorable John V. Romei of Machias for reappointment as a District Court Judge and the Honorable Andrew M. Mead of Bangor for reappointment as a Superior Court Justice.

Upon the recommendation of the Joint Standing Committee on Marine Resources, the nominations of L. Blair Pyne of Bremen and Marsden Brewer of Stonington for appointment and Donald W. Perkins, Jr. of Westbrook, Charlton H. Ames of Cumberland Foreside, David W. Jordan of Scarborough, and Marshall E. Alexander of Biddeford for reappointment to the Marine Resources Advisory Council.

Thank you for your attention to this matter.

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

READ and ORDERED PLACED ON FILE.

The Following Communication: (S.C. 269)

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

May 17, 1999

The Honorable Joseph W. Mayo

Clerk of the House

State House Station 2

Augusta, ME 04333

Dear Clerk Mayo:

Please be advised the Senate today Adhered to its previous action whereby the Majority Ought Not to Pass Report from the Committee on Labor on Bill "An Act to Provide Binding Arbitration for Police Departments, Sheriff Departments and Professional Fire Departments" (H.P. 600) (L.D. 840), was accepted.

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

READ and ORDERED PLACED ON FILE.

The Following Communication: (S.C. 270)

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

May 17, 1999

The Honorable Joseph W. Mayo

Clerk of the House

State House Station 2

Augusta, ME 04333

Dear Clerk Mayo:

Please be advised the Senate today Adhered to its previous action whereby the Majority Ought Not To Pass Report from the Committee on Labor on Bill "An Act to Revise the Fact-

finding Process under the Public Employees Labor Relations Laws" (H.P. 495) (L.D. 702), was accepted.

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

READ and ORDERED PLACED ON FILE.

SPECIAL SENTIMENT CALENDAR

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

Recognizing:

Andrew Ketterer, Attorney General of the State of Maine, who has been cited by the President of the United States, William J. Clinton, for his leadership and proactive role in civil rights and domestic violence issues in the State of Maine. President Clinton also applauded Attorney General Ketterer for the formation of the Civil Rights Teams in Maine schools and plans to model the state program nationwide. Attorney General Ketterer participated in a national press conference with the President concerning National Hate Crimes Legislation. He currently serves as Vice-President of the National Association of Attorneys General and is Chairman of the National Association of Attorneys General Civil Rights Committee. We acknowledge his dedicated service and commitment to civil rights and we extend our best wishes to him;

(HLS 406)

Presented by Representative CHICK of Lebanon.

Cosponsored by Speaker ROWE of Portland, Representative MURPHY of Kennebunk, Representative CAMPBELL of Holden, Representative SAXL of Portland, Representative SHIAH of Bowdoinham, Representative SCHNEIDER of Durham, Representative THOMPSON of Naples, President LAWRENCE of York, Senator LONGLEY of Waldo, Senator MacKINNON of York, Senator TREAT of Kennebec, Senator BENOIT of Franklin, Senator GOLDTHWAIT of Hancock, Senator LIBBY of York, Representative RICHARD of Madison, Senator MILLS of Somerset.

On **OBJECTION** of Representative CHICK of Lebanon, was **REMOVED** from the Special Sentiment Calendar.

READ.

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

REPORTS OF COMMITTEE

Ought to Pass Pursuant to Joint Order (S.P. 811)

Report of the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act to Promote Community Mental Health Services"

(S.P. 829) (L.D. 2230)

Reporting **Ought to Pass** pursuant to Joint Order (S.P. 811).

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

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

The Bill **READ ONCE** and **TOMORROW ASSIGNED FOR SECOND READING.**

Divided Report

Majority Report of the Committee on **LABOR** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-269)** on Bill "An Act to Require That Workers' Compensation Coverage Be Equitably Applied to the Timber Industry"

(S.P. 248) (L.D. 670)

Signed:

Senators:

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 "B" (S-270)** on same Bill.

Signed:

Representatives:

MacDOUGALL of North Berwick

MACK of Standish

TREADWELL of Carmel

Came from the Senate with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-269)**.

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 **LABOR** reporting **Ought Not to Pass** on Bill "An Act to Clarify the Medical Fee Schedule in Workers' Compensation Cases"

(S.P. 509) (L.D. 1510)

Signed:

Senators:

LaFOUNTAIN of York

MILLS of Somerset

Representatives:

HATCH of Skowhegan

GOODWIN of Pembroke

FRECHETTE of Biddeford

MATTHEWS of Winslow

SAMSON of Jay

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

Signed:

Representatives:

DAVIS of Falmouth

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, Men and Women of the House. Currently in the Workers' Comp System, I know you have heard a lot about the Workers' Comp System in the last few days, if someone is injured and the insurance company refuses to pay for an operation and it is an immediate need, sometimes doctors confirm the operation hoping that the approval will come through from the insurance company. Sometimes it does, sometimes it doesn't and sometimes it drags on for many months. Currently if the person who is injured does not pay, the hospital goes to great lengths to collect what they need to collect in order to pay their bills. They even put a lien on someone's property, taking them to court, all at a time when they least can afford it. We have had people before the committee that have gone for 18 months without a single check from the Workers' Comp System. At a time when they are least able to get any funds to pay the bills, they are pressured by the hospitals and the doctors to pay.

At which point, many or some, would go out and find an attorney to find out if they can move the claim along. You have to understand there are no attorneys in the system and they are not paid for by the insurance company, for the employee. It does not mean to say that there are not plenty of attorneys for the insurance companies who contest these particular claims. When the employee does get an attorney, the attorney will go to great lengths to try to get the payment that is due for the employee, to the hospital and to the doctors with prior consent. At which point, they will tell the doctors that we will get payment for you, but in return we would like a small fee. Sometimes around 30 percent. This seems reasonable to me seeing the employee could not pay the doctor's bill without having an attorney go to the insurance company and do some legal work.

This bill was brought in. There was a case that the doctors felt they should get full payment. I believe they should. The problem being is if the insurance company pays nothing, nothing leaves nothing. It is better to have 70 percent than to have nothing at all or have an employee out there who has lost their home, car and many times a good part of their working life. I see no justification in moving this bill at this point. I think at some point we have turn back and think like this has to happen in order for payment to be made at all from the insurance companies.

I would ask that you follow my light and vote **Ought Not to Pass** on this report. Thank 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 Standish, Representative Mack.

Representative MACK: Mr. Speaker, Right Honorable Men and Women of the House. I urge you to defeat the pending motion and to support this bill. If you are a trial lawyer, you are going to hate this bill. If you are anybody else, you should like this bill. What this bill says is that in a settlement for a workers' comp case, the doctor gets paid for his services and his payment will not be reduced by attorney's fees. A doctor or a surgeon or any other medical professional provides a service. They have a

fee set for providing their service. After they provide their service, they should be paid for their service. They are giving medical care for the injured worker. A service we definitely want to have performed and to have done. They should be paid for that. If this bill does not pass, you will have a lot of doctors who will refuse to treat people in workers' comp cases unless there is cash up front, because they know there is a good chance they won't get paid or they will take one-third less for their service.

In short, the doctors should be paid. The trial lawyers should not be paid for what a doctor has done. I urge you to vote against the pending motion.

The SPEAKER: The Chair recognizes the Representative from Auburn, Representative Shields.

Representative SHIELDS: Mr. Speaker, Ladies and Gentlemen of the House. The doctor's fees are set by schedule. They are fixed fees. They cannot be arbitrary in a workers' compensation case. Therefore, if a physician or a surgeon performs those services, it should be paid properly. There should not be the reduction of that payment simply because an attorney is involved in the case.

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

Representative TOBIN: Mr. Speaker, Ladies and Gentlemen of the House. I am sure you haven't followed how I have been voting on these workers' compensation bills, but to let you know, I have been voting against every one of them. It is my firm belief that workers' comp should be considered as a package. This is the first one that comes through that my good friends on the other side of the aisle are pushing. Unfortunately, I am going to have to hold true and vote against this and consider any bill that comes through this Legislature and vote against it so that we can consider workers' comp as a package deal to protect the worker. Thank you.

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

Representative MATTHEWS: Mr. Speaker, Men and Women of the House. I hope you will support the good chair of the committee and vote Ought Not to Pass. This particular issue is being resolved internally by the board. We have heard the members of the minority members of the committee mention that many, many times. Let's let the process work if it is ongoing. The board is worker on this issue. Let's give them a chance to see if they can resolve it. Thank you.

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

Representative MACDOUGALL: Mr. Speaker, Ladies and Gentlemen of the House. This is another labor day. I would like to share one aspect why I am in support of the bill even though my name doesn't appear there. I was in support of the bill. Hospitals are placed in a position of receiving significantly reduced fees in order to pay for the legal costs incurred. The gentleman from the Association of Maine Hospitals testified before our committee. Hospital fees are already discounted for services related to workers' compensation. Maine's hospitals currently have some of the worst reimbursement rates in the nation for Medicare. Hospital charges that are caused by shortfalls are up to \$150 million a year. Reducing fees paid the hospitals to recover the legal fees only increases fees to the other patients that are paying in good faith. The hospitals should not be placed in that position of distributing the legal fees incurred relating to workers' compensation cases to these other

patients that pay the fees in good faith. Maine hospitals are impacted negatively. That is why I am in support of the bill.

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. 228

YEA - Ahearne, Bagley, Baker, Berry RL, Bouffard, Brennan, Brooks, Bryant, Bull, Carr, Chizmar, Clark, Colwell, Cote, Cowger, Davidson, Desmond, Dudley, Dugay, Dunlap, Duplessie, Etnier, Fisher, Frechette, Fuller, Gagne, Gagnon, Goodwin, Hatch, Jacobs, Kane, Labrecque, LaVerdiere, Lemoine, Mailhot, Martin, Matthews, McGlocklin, Mitchell, Norbert, O'Brien LL, O'Neal, O'Neil, Perry, Pieh, Povich, Powers, Richard, Rines, Samson, Sanborn, Savage W, Saxl JW, Saxl MV, Schneider, Shiah, Sirois, Skoglund, Stanley, Stevens, Sullivan, Thompson, Tobin D, Townsend, Tracy, Twomey, Usher, Volenik, Wheeler GJ, Williams, Mr. Speaker.

NAY - Andrews, Belanger, Berry DP, Bowles, Bragdon, Bruno, Bumps, Cameron, Campbell, Chick, Cianchette, Clough, Collins, Cross, Daigle, Davis, Duncan, Foster, Gerry, Gillis, Glynn, Gooley, Heidrich, Honey, Jodrey, Jones, Joy, Kasprzak, Kneeland, Lindahl, Lovett, MacDougall, Mack, Madore, Marvin, Mayo, McAlevey, McKenney, McNeil, Mendros, Murphy E, Murphy T, Nass, Nutting, O'Brien JA, Peavey, Perkins, Pinkham, Plowman, Richardson E, Rosen, Sherman, Shields, Shorey, Snowe-Mello, Stanwood, Stedman, Tobin J, Trahan, Treadwell, True, Waterhouse, Weston, Wheeler EM.

ABSENT - Bolduc, Buck, Green, Jabar, Lemont, McDonough, McKee, Muse, Quint, Richardson J, Savage C, Tessier, Tripp, Tuttle, Watson, Winsor.

Yes, 71; No, 64; Absent, 16; Excused, 0.

71 having voted in the affirmative and 64 voted in the negative, with 16 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-216)** on Bill "An Act to Ensure Prompt Payment of Unemployment Compensation Benefits to Displaced Workers" (S.P. 638) (L.D. 1805)

Signed:

Senators:

LaFOUNTAIN of York
MILLS of Somerset
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:

Representatives:

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

Came from the Senate with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-216) AS AMENDED BY SENATE AMENDMENT "A" (S-267)** thereto.

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 **CRIMINAL JUSTICE** reporting **Ought Not to Pass** on Bill "An Act to Reinstate the Death Penalty"

(H.P. 1558) (L.D. 2214)

Signed:

Senators:

MURRAY of Penobscot
O'GARA of Cumberland
DAVIS of Piscataquis

Representatives:

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

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-590)** on same Bill.

Signed:

Representative:

TOBIN of Dexter

READ.

Representative POVICH of Ellsworth moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

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

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

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

Signed:

Senators:

GOLDTHWAIT of Hancock
DAVIS of Piscataquis

Representatives:

BAGLEY of Machias
RINES of Wiscasset
BUMPS of China
KASPRZAK of Newport

JODREY of Bethel

RICHARDSON of Greenville

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

Signed:

Senator:

PENDLETON of Cumberland

Representatives:

AHEARNE of Madawaska
McDONOUGH of Portland
TWOMEY of Biddeford
GERRY of Auburn

READ.

On motion of Representative AHEARNE of Madawaska, the Minority **Ought Not to Pass** Report was **ACCEPTED**.

On motion of Representative JOY of Crystal, the House **RECONSIDERED** its action whereby the Minority **Ought Not to Pass** Report was **ACCEPTED**.

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

Representative JOY: Mr. Speaker, Ladies and Gentlemen of the House. This bill that is before you probably is one of the most important bills that can come before this body or the other body in this session or any other session. We continually hear about the one, two, three, four and five Maines. This situation in which we find ourselves where both bodies of the Legislature are determined by population sets that situation in motion. If you want to return and have one Maine and a one Maine united, then you will pass this bill. This bill would give the balance back to the state and its government, the same as we have on the federal level. On the federal level we have two Senators per state. That gives us the balance. It gives each state an equal voice in that body on our federal government. Ladies and gentlemen, the counties of Maine do not have an equal voice. I understand that there are going to be people who probably will say that this is unconstitutional to have two Senators per county, but that is not so. There have been rulings, I believe in the '70s, which mandated that we go to a one man, one vote situation before the other body. Ladies and gentlemen, our Constitution in this United States does not require that. There are many descending opinions, which indicate that the Constitution does not have any authority over how the state determines its representation. We continually find ourselves in a situation where because of special interests or common interests, we find that the two bodies pass laws, which are detrimental to other parts of the state. We can only look at what is happening and what has been happening to our natural resource industries to find that this balance does not exist in our state.

Our Constitution says that each body shall have the ability to negate the other. Ladies and gentlemen, the ability is there, but perhaps the will is not. I think it is time that we set matters straight and give the rural areas of Maine an equal balance in the governance of this state. If we don't, ladies and gentlemen, you are going to just exacerbate the situation, which exists now where you have, as I indicated, one, two, three, four or five Maines. Ladies and gentlemen, this bill can be sent out to the people and correct the situation, which is very, very bad for the economic situation in our state.

We keep hearing that the southern part of the state has to send money north to support the northern part. What is not counted in there is one out of every \$5 that goes into the state coffers comes from the forests and the bulk of the forests are in

eastern, western and northern Maine. I didn't coin the two Maines situation, but it was brought out last year, last session, in the bill to determine a feasibility of creating two Maines. It was of such magnitude that it was the main theme of the State of the State Address two years ago. Ladies and gentlemen, I urge you to defeat the pending motion, turn this around, pass this and let it go out to the people so that the people can have their say and have an equal voice in the government.

Mr. Speaker, I request when the vote is taken, it be taken by the yeas and nays. Thank you.

Representative JOY of Crystal **REQUESTED** a roll call on the motion to **ACCEPT** the **Minority Ought Not to Pass Report**.

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

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

Representative **AHEARNE**: Mr. Speaker, Ladies and Gentlemen of the House. As members well know, this bill was committed back to State and Local Government. The issues raised up were, as my good friend from Crystal brought out, regarding the constitutionality of this bill. I always pride myself of being a realist when it comes to these types of issues. As members know, I strongly fight for what I believe in. Sometimes I fight against some really tough odds. I did support this initiative at first. I said, yes, there is an issue here. There is another issue, that is in Washington and it is called the Supreme Court. The Supreme Court ruling in 1964, which is called Reynolds versus Simms, it sets up the standards of a one man, one vote. I am just going to read very briefly from the summary provided to us by our legal aide and a good explanation of what Reynolds versus Simms means. I will just read very quickly.

"Voters in several Alabama counties sued various officials having state election duties charging that failure to appropriately apportion the State Legislature deprived them of their rights under the equal protection clause of the Fourteenth Amendment and the State Constitution. The complaint sought to have the existing legislative apportionment provisions declared unconstitutional alleging that the provisions discriminated against voters in counties whose populations have grown proportionately at a greater rate than counties since the 1900 census. The majority of the court held that the seats in both houses of the bicameral Legislature must be apportioned substantially on a population base per the equal protection clause. The federal Constitution requirement is that both houses of the State Legislature must be apportioned on a population basis. It means that as nearly as practical, districts be of equal protection, though mechanical exactness is not required. Some deviations from the strict equal protection principle are constantly permissible in the two houses of a bicameral State Legislature for incident of a rational state policy, so long as the basic standard equal population among districts is not significantly departed from."

There is no question that if we were to move forward with this bill that there would be a challenge. I know that there is a disagreement with that court. There is a feeling now that this current court may have a difference of opinion. As I said earlier in my testimony, I believe I am a realist. This is one of the landmark rulings of the Supreme Court, Reynolds versus Simms. I cannot see how the court, as much as some members may disagree with where they are in terms of their philosophical standings, that they would reverse a landmark ruling of Reynolds versus Simms. We could debate this all day, I am sure. I am sure there are many members who may disagree, but I think my

opinion is the courts will not overturn a landmark ruling. I ask you to accept the **Minority Ought Not to Pass Report**.

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

Representative **BELANGER**: Mr. Speaker, Men and Women of the House. I find it hard to believe my ears. It was not long ago in this very chamber that members when we were debating a labor bill, that we heard the argument that we should do what is right and then let the courts decide if it is constitutional or not. I would say that we should do what is right and let the courts decide what is constitutional. Our federal system has a very similar parallel system that is being proposed. Why did our forefathers institute two Senators from each state along with representatives based on population? It was to bring balance across the country. I would suggest that this measure, when enacted, will bring balance to the State of Maine. I urge your support of the majority and not the minority. Thank you.

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

Representative **THOMPSON**: Mr. Speaker, Men and Women of the House. I am speaking in favor of the **Minority Ought Not to Pass Report**. Let me tell you a few things. First of all, I don't believe it is the right thing to do. Secondly, when you make the comment that it is the parallel to the federal system, I don't think so. The federal system was set up for the states to have independent states rights. That is why there are two Senators from each state. You don't have the same parallel system in the state. There is no setting up 16 counties in the Constitution of Maine. Let's say we passed this constitutional amendment to say there are two Senators from each county. Next year we come back and decide to split Cumberland County into six counties and give them 12 Senators by majority vote. Gee, I never thought of that. Isn't that the truth? There is no where in the Constitution that says there is 16 counties. Every two years we could come in here and change the makeup of the State Senate by virtue of defining what a county is. It sounds a bit absurd to me.

Sending this out to vote would, talk about two Maines. Let's send an issue out to the voters to really polarize the state. Let's send this out to the voters so we can whip up a frenzy. Let's go to Cumberland County and say, we have a Constitutional Amendment here to take away four of your Senators or whatever it would do. That wouldn't whip up any animosity towards northern Maine would it. Let's go to York County and say, let's take away some of your Senators. That wouldn't whip up any problems with northern and southern Maine issues. Let's be realistic here folks. We are setting up a huge fight here if we pass this and send it out. Second of all, we are setting up a system that would be controlled, who knows by whom. We can change the number of Senators based on a majority vote.

There can be issues that happen in here that you don't like and that you think things are turning against your area. We are dealing with the Constitution of the State of Maine and changing a basic premise of the way we do business. We should not do it unless there is compelling reasons why it would help the entire State of Maine. Let's change the Constitution to help one section of Maine. You are saying that this document has been flawed for how many years. There is a lot of problems with this issue.

Under our court decisions at the federal level, it would be held unconstitutional. I don't think that is the issue to rest on. It is not good for the State of Maine. It sets up a system that is

subject to political manipulation based on the vote of the majority in the future. It is wrong for the State of Maine. I urge you to support the Ought Not to Pass report.

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

Representative MCDONOUGH: Mr. Speaker, Men and Women of the House. I rise this morning in support of the Minority Ought Not to Pass Report on this particular proposal. As a member of the State and Local Government Committee, Mr. Speaker, I concur with the chair of the committee and his arguments that it is not constitutional and also with my good friend from Naples, Representative Thompson, that it doesn't make a lot of sense to try and polarize this state. We are working very hard to do away with this concept that we have two Maines here in the state. My good friend, Representative Joy, talked about trees and the amount of contribution that those make here in the State of Maine. I can tell you trees don't vote. The people who cut the trees, mill the trees, process them in the paper mills and so forth, those are the people that count. However, we have to go with the majority of people. The one person, one vote concept makes a whole lot of sense to this Representative. I implore the members of this House to vote with the minority on this particular issue. It is very important that we stand behind that concept of one person, one vote. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Lincoln, Representative Carr.

Representative CARR: Mr. Speaker, Men and Women of the House. We have heard arguments on both sides of this issue. We have heard the argument of the two Maines and actually more than two Maines, the urban versus the rural. I guess something that really caught my attention was when the Representative from Naples, Representative Thompson, was talking about the animosity that would be created in Cumberland County if we took away four of their Senators. I guess that that possibly could be some of the animosity that we hear from those that live in the northern sections of the state already.

In my previous employment, prior to coming down here, I kept pretty close watch of how the Supreme Court of the United States worked and some of their decisions. One of the things that I did learn was that as times changed and as people changed and the nominees changed as they go to the Supreme Court, people's ideas on how government should operate and what is right and what is wrong has changed. If you look back a few years with the Supreme Court, there were many of the decisions that they made that thought that segregation was fine. Today, that is not fine. There was a lot of different things as far as women's rights was involved. There were a lot of rulings. A lot of those rulings have changed. I submit to you that it is time for us to make a change in the State of Maine. I think it is a change that would help solidify our state and unite us more. There are arguments on both sides. I think that the right thing to do at this time is to defeat this motion, which is the Minority Ought Not to Pass. The majority of the people on that committee were in favor of this. It has also been to the House before and then sent back for reconsideration. During that time there was a couple of votes that were lost. I think we have to consider some of the things that have been going on from the time it left until the time it came back. I think the right thing to do is for us to vote down the Ought Not to Pass so we can pass the Majority Report. Thank you.

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

Representative MARTIN: Mr. Speaker, Members of the House. I have been teaching state government for some 30 years. I have seen over the years what has happened as a result of the Supreme Court decisions. Baker versus Carr in 1964 as a result of a Kentucky case made it clear that the urban areas were entitled to their share of representation. It was followed two years later by Reynolds versus Simms, which made it clear that the Senate of the states had to be also based on one person, one vote. There has been no retraction from the Supreme Court on the question of equal representation based on the number of votes per person. The one thing that they have done is to allow some deviation when you create the legislative districts. For example, it is roughly 10 percent legislative seats, whether it be in the House or Senate. That is the maximum that is allowed in terms of any variation between legislative seats. Taking one step further on the congressional level, it is zero, the deviation level between the congressional seats. People say, gee, the United States Senate can be based on the number of Senators per state. Why is not okay for State Legislatures to do the same? Basically, it is simply because the US Constitution does not guarantee that the states have that same right. The only hope of changing that is by amending the Constitution of the United States. If you are assuming there is hope there, then I really am looking forward to the day that the capitol of the State of Maine will move to Eagle Lake. That will never happen and I know it. I am realistic enough to know that.

Let's stop to think one step further. How long do you think it is going to take for the people, if we were ever to go through that process, that a State Senator in Cumberland County would represent better than 100,000 people and a State Senator in Piscataquis County, where I used to live, would represent about 16,000 people? Let's think it through. How many people would elect the Senator in Piscataquis County? About the number of people necessary to elect a House seat presently. I don't see how that is fair. Obviously if you look at it in the sense that you live in Piscataquis County, it is a heck of a lot fairer than it is if you live somewhere else.

One step further, based on what took place with Reynolds versus Simms, I became a believer and I wasn't at the time when I graduated from my masters program at Orono in political science. I am now a believer that if we believe so strongly that there is a problem with the Senate, then abolish one of us. Abolish the Senate or abolish the House of Representatives and create a unicameral Legislature. In fact, what you would have would be the basis of equal representation throughout. You wouldn't have the duplication that we have today. All that you have with Senators is more people to represent. If that is really what we ought to be doing and thinking about, in my opinion, that is where we ought to be moving, instead of thinking about doing this.

It is quite true from time to time that I want to get even with Cumberland County too. This is not the way to do it. I really beg of you not to send the message to the students that we are teaching at the university or high school level that we can pass a piece of legislation, spit in the face of the United States Supreme Court and we are going to ignore the Constitution of the United States. To me, that is not a good message to be sending. If you want to change the process, then everyone in this room who believes it ought to be changed, start the process to amend the Constitution of the United States by starting the process right

here, by starting the petitions of the Legislature through the legislative process of amending the Constitution, which is allowed under the Constitution of the United States. Let's start with that and go through the steps that are necessary in order to get the two-thirds necessary to amend the Constitution through the legislative process. It is constitutional to do that. Get your Senators and my Senators to put in a Constitutional Amendment to change the US Constitution, which has been done, you know, a number of times, whether it is lowering the minimum age for voting to 18, through the Twenty-sixth Amendment, whether or not it is famous amendment, which most of us remember on April 15th, the Sixteenth Amendment to the Constitution, which allows the United States government to create a graduated income tax. I can go on, but I won't bore you anymore with changes that have been made to amendments to the US Constitution that can be done constitutionally. I wouldn't hope that is a process you would take. I support the motion to accept the Ought Not to Pass.

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

Representative **BUMPS**: Mr. Speaker, Men and Women of the House. I need to inject into the debate an analogy. In some ways, I think about the debate around this topic like I think about the debate around the school funding formula. You know it is easy to debate the school funding formula until that sheet is printed out with exactly how much money each community in Maine is going to receive. Suddenly, the very rational debate, logical debate, about what is right for the funding of education evaporates. We all have a parochial interest in how much money our communities are going to get to fund education. The only problem with a bill like this is I can't hide the formula or the equation until after we have done all our work. It is clear in the title before the language of the bill that each county in Maine will get two seats. Some of us stand to win and some of us stand to lose. I happen to be from a county that will lose a State Senator if this bill is passed. I tend to believe this is the right thing to do.

As I have listened to the debate this morning, the Representative from Caribou, in my opinion, made the most compelling argument. We use this question of constitutionality, whether or not we perceive something to be constitutional or not, when it is convenient for us. I suggest that if we are going to stick to this argument of enacting laws based on whether or not we think they are constitutional or not, then we are all out to become members of the Judiciary and not members of the Legislature. I choose to run for the Legislature, will enact laws and if somebody takes issue with the laws that are enacted by this body, they have the recourse necessary to take those to the court and allow the court to decide. This case that is used to defeat the argument for passage of this bill is the Reynolds versus Simms case in 1964.

Some of you might not believe this, but I, too, am a student of political science. In my study of political science have learned that the court has regularly reversed itself on decisions. I will spare you the list that a Senator brought to our committee of just page after page where the United States Supreme Court has reversed itself on earlier issued decisions. This is the practice of the Legislature and it is the practice of the court. If it is the right thing to do, let us go ahead and do it. If the court should find upon a challenge, which the Representative from Madawaska is almost certain is forthcoming and I am not sure what the basis for that certainty is, but if there is going to be a challenge, then let's let the court decide.

When we bring students into this chamber and the chamber down the hall, the first lesson we teach them is that the House is the body of the people and that the Senate is the body of the land. We proved that by things as elementary as the colors of the chamber. The color on this end of the hall happens to be green, the body of the people. Down there we have a more heavenly color, the color of the sky, blue. This is a basic lesson, but if that is true, then the representation in this body will be based on population. The representation on the other end of the hall will be able to have its constitutional duty to have a negative impact on this body, which doesn't exist now.

In this case that suggests that you ought to vote against this bill, there is an equally strong and compelling dissenting opinion, which you have heard nothing about this morning. That dissenting opinion, in my opinion is the most compelling one. It speaks very directly to the right of the state to enact local government units to organize their state government in the way they see fit. It is not the role of the federal government to impose on the state, the organization of state and local governments.

As you cast your vote this morning, I would ask you to think seriously about your role as a legislator. If you should choose to become a member of the Judiciary, that opportunity will probably be available to you once you leave this chamber. If you choose to file a grievance against the Legislature by filing a challenge in court to the passage of this bill, which I certainly hope will happen, you will have that opportunity too when you leave the Legislature. I would encourage you to do it. Meanwhile please reject the pending motion so we can go on to accept the majority opinion, Ought to Pass. Thank you.

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

Representative **DUNLAP**: Mr. Speaker, Men and Women of the House. Just a thought, my good friend from Eagle Lake, Representative Martin, was talking about amending the Constitution. I think some people are operating under an assumption that we have always had a popular election for United States Senators. In fact, that was brought in under the Seventeenth Amendment. Prior to that, the United States Senate was elected by the State Legislatures. This could be thought as an amendment for this bill. If the House of Representatives could elect the State Senate, a lot fewer of our bills would get killed. I hope you would consider that as an amendment. Thank you.

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

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

The SPEAKER: The Representative may pose her question.

Representative **FULLER**: Mr. Speaker, Men and Women of the House. Is there any other state with a bicameral Legislature that presently has a system of representation of a certain number per county to sit in their Senate and comparable to what is being proposed? Thank you.

The SPEAKER: The Representative from Manchester, Representative Fuller has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Eagle Lake, Representative Martin.

Representative **MARTIN**: Mr. Speaker, Men and Women of the House. The answer to that is no.

The SPEAKER: The Chair recognizes the Representative from Brewer, Representative Fisher.

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

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

Representative **FISHER**: Mr. Speaker, Men and Women of the House. This would lower the number of Senators to 32. Are we sure we are going far enough on this?

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

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

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

Representative **BOWLES**: Mr. Speaker, Men and Women of the House. To anyone who would care to answer, has the Constitution of Maine previously been altered regarding the number and distribution of Senators?

The **SPEAKER**: The Representative from Sanford, Representative Bowles has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Eagle Lake, Representative Martin.

Representative **MARTIN**: Mr. Speaker, Men and Women of the House. The Constitution has been altered twice. It was first altered for the House of Representatives after Baker versus Carr. Prior to that the Constitution said that no city in Maine could have more than seven Representatives, which limited, of course, the City of Portland to seven. Because of Baker versus Carr, the Supreme Court ruled that Maine had to allocate by population its House and the City of Portland, at that time, went to 11. Subsequent to that, after the Supreme Court decision of Reynolds versus Simms the structure of the State Senate was changed. At that time, the Constitution of Maine said that no county could have more than four Senators. No one could have less than one. That was altered at that time because we were declared to be in violation of the US Constitution. The amendment, as I recall off the top of my head, was in 1966. That was the final decision that was made. That was the last change.

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

Representative **CHICK**: Mr. Speaker, Ladies and Gentlemen of the House. I have been sitting by here patiently this morning. I have really enjoyed the comments that have been made. However, we are talking about only one thing here. It comes from the problems that have occurred after World War II where human rights entered the picture. We are at the point of one person, one vote.

In growing up in a small rural town in Maine and attending the town meetings and then taking part in some of the activities of the town, I have seen this thing pass where many would be subjected to the desires of a few. For that reason, and as long as we have a Constitution in Maine and a Maine court, which I have great respect for, always have, I don't believe that I shall listen to some of these fishing expeditions that people have tried to take us on this morning. I would recommend that, as far as this individual of this body is concerned, that we continue to allow each person in Maine to have an equal say at the ballot box. Thank you.

Representative **ETNIER** of Harpswell assumed the Chair.
The House was called to order by the Speaker Pro Tem.

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

Representative **MATTHEWS**: Mr. Speaker, Men and Women of the House. Having been a member of the other body, I hope that this House today will vote for the Ought Not to Pass report. I want to correct one statement that I heard on this floor. As a member of the other body and, thankfully, a member of this body, I have referred over the years when I talked to kids in schools and my Senate District that represented three counties, if I recall, and this House, the House of Representatives, both as the people's house. Never once did I ever refer to the body, the other body, as the House of Land or, for that matter, the House of Lords. That is another system in another country. This is the United States of America. I would hope that the Constitution would only be changed in order to give people more representation, not less. I take strong exception to this bill and hope and urge each and every one of us to vote Ought Not to Pass. Thank you.

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

Representative **TWOMEY**: Mr. Speaker, Men and Women of the House. I am on the Minority Report. I was the last time around. The reason that I chose to be on the Minority Report was after hearing the bill, I thought initially it sounds fair. The more we debated it, the more we got into the bill, I realized what this was really all about. Representation, I am here and I represent 8,000 constituents. I know who they are. I know them by their first name. They know who I am. I am reachable. I know every one of them. If this were to happen, some Senators might have 50,000 people. How do you reach 50,000 people? How do you know them? How do you campaign to 50,000 people? It is truly about representation. Please, I urge you to support the Minority Report. Thank you.

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

ROLL CALL NO. 229

YEA - Ahearn, Andrews, Baker, Berry RL, Bolduc, Bouffard, Bragdon, Brennan, Brooks, Bruno, Bryant, Bull, Chick, Cianchette, Colwell, Cote, Cowger, Daigle, Davidson, Davis, Desmond, Dudley, Dunlap, Duplessie, Etnier, Fisher, Frechette, Fuller, Gagne, Gagnon, Gerry, Glynn, Green, Hatch, Jacobs, Kane, Labrecque, LaVerdiere, Lemoine, Lemont, MacDougall, Madore, Mailhot, Martin, Marvin, Matthews, McAlevey, McDonough, McGlocklin, McKee, Mitchell, Murphy T, Norbert, O'Brien LL, O'Neal, O'Neil, Peavey, Perry, Pieh, Povich, Powers, Quint, Richard, Richardson J, Samson, Sanborn, Savage W, Saxl JW, Saxl MV, Shiah, Sirois, Stevens, Sullivan, Thompson, Tobin D, Townsend, Tracy, Tripp, Twomey, Usher, Volenik, Waterhouse, Watson, Wheeler GJ, Williams, Mr. Speaker.

NAY - Bagley, Belanger, Berry DP, Bowles, Bumps, Cameron, Campbell, Carr, Chizmar, Clark, Clough, Collins, Cross, Dugay, Duncan, Foster, Gillis, Goodwin, Gooley, Heidrich, Honey, Jodrey, Jones, Joy, Kasprzak, Kneeland, Lindahl, Lovett, Mack, Mayo, McKenney, McNeil, Mendros, Murphy E, Nass, Nutting, O'Brien JA, Perkins, Pinkham, Plowman, Richardson E, Rines, Rosen, Schneider, Sherman, Shields, Shorey, Skoglund, Snowe-Mello, Stanley, Stanwood, Stedman, Tessier, Tobin J, Trahan, Treadwell, True, Weston, Wheeler EM, Winsor.

ABSENT - Buck, Jabar, Muse, Savage C, Tuttle.

Yes, 86; No, 60; Absent, 5; Excused, 0.

86 having voted in the affirmative and 60 voted in the negative, with 5 being absent, the Minority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

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

CONSENT CALENDAR

First Day

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

(S.P. 657) (L.D. 1879) Bill "An Act to Increase Access to Basic Needs for Low-income Maine Children and Families" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-290)**

(H.P. 846) (L.D. 1180) Bill "An Act to Require Additional Vaccines for Employees of Health Care Facilities" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-603)**

(H.P. 886) (L.D. 1243) Bill "An Act to Strengthen the Kinship Laws" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-599)**

(H.P. 935) (L.D. 1312) Bill "An Act to Improve Consumers' Opportunities to Hire and Retain Personal Care Attendants" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-596)**

(H.P. 1313) (L.D. 1896) Resolve, to Increase Reimbursement for Chiropractic Manipulation under the Medicaid Program Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-602)**

(H.P. 1516) (L.D. 2164) Bill "An Act to Enhance Access to Technology for Maine Schools and Libraries" Committee on **UTILITIES AND ENERGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-594)**

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

(S.P. 738) (L.D. 2088) Bill "An Act to Revise Certain Provisions of the Fish and Wildlife Laws" (EMERGENCY) Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-292)**

On motion of Representative DUNLAP of Old Town, was **REMOVED** from the First Day Consent Calendar.

The Committee Report was **READ** and **ACCEPTED**. The Bill was **READ ONCE**. Committee Amendment "A" (S-192) was **READ** by the Clerk and **ADOPTED**.

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

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-192)** in concurrence.

CONSENT CALENDAR

Second Day

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

(S.P. 39) (L.D. 49) Bill "An Act to Amend the Drug Laws Related to Possession of a Firearm" (C. "A" S-278)

(S.P. 111) (L.D. 308) Bill "An Act to Implement the Recommendations of the 118th Legislative Joint Select Committee to Implement a Program for the Control, Care and Treatment of Sexually Violent Predators" (C. "A" S-279)

(S.P. 515) (L.D. 1516) Bill "An Act Concerning Disposal of Solid Waste from Decommissioning Activities" (C. "A" S-285)

(S.P. 578) (L.D. 1658) Bill "An Act to Release Juvenile Crime Records to School Personnel" (C. "A" S-277)

(S.P. 641) (L.D. 1823) Bill "An Act to Increase Accessibility to the Department of Environmental Protection Clean-up Funds for Businesses" (C. "A" S-286)

(H.P. 940) (L.D. 1337) Bill "An Act Regarding Taxation of Clean Vehicle Fuels" (C. "A" H-592)

(H.P. 1264) (L.D. 1818) Bill "An Act to Create Statewide Smoking Cessation Services" (C. "A" H-593)

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

BILLS IN THE SECOND READING

House

Bill "An Act to Allow Three Hunters to Hunt Deer Together" (H.P. 704) (L.D. 971)

House As Amended

Bill "An Act to Require Testing for HIV and Blood-borne Pathogens of All Prisoners in the Maine Correctional System" (H.P. 658) (L.D. 914) (C. "A" H-478)

Bill "An Act to Establish a Lobster Trap Tag Freeze to Limit Effort in the Lobster Fishery" (H.P. 1385) (L.D. 1982) (C. "B" H-580)

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

Bill "An Act to Amend Maine's Boating Laws Pertaining to Noise Limits on Watercraft" (S.P. 240) (L.D. 662) (C. "A" S-250)

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

On motion of Representative CLARK of Millinocket, was **SET ASIDE**.

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

Bill "An Act Requiring Doctors Giving 2nd Opinions in Workers' Compensation Cases to be Certified"

(S.P. 350) (L.D. 1054)
(S. "A" S-275)

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

On motion of Representative TREADWELL of Carmel, was **SET ASIDE**.

The same Representative **REQUESTED** a roll call on **PASSAGE TO BE ENGROSSED as Amended**.

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

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

ROLL CALL NO. 230

YEA - Ahearne, Bagley, Baker, Belanger, Berry DP, Berry RL, Bolduc, Bouffard, Bowles, Bragdon, Brennan, Brooks, Bruno, Bryant, Bull, Bumps, Cameron, Carr, Chick, Chizmar, Cianchette, Clark, Collins, Colwell, Cote, Cowger, Cross, Daigle, Davidson, Desmond, Dudley, Dugay, Duncan, Dunlap, Duplessie, Etnier, Fisher, Frechette, Fuller, Gagne, Gagnon, Gerry, Gooley, Green, Hatch, Honey, Jacobs, Kane, LaVerdiere, Lemoine, Lemont, Lindahl, Mack, Madore, Mailhot, Martin, Marvin, Matthews, Mayo, McAlevey, McDonough, McGlocklin, McKee, McKenney, McNeil, Mendros, Mitchell, Murphy E, Nass, Norbert, Nutting, O'Brien JA, O'Brien LL, O'Neal, O'Neil, Peavey, Perkins, Perry, Pieh, Povich, Powers, Quint, Richard, Richardson J, Rines, Rosen, Samson, Sanborn, Savage W, Saxl JW, Saxl MV, Sherman, Shiah, Shields, Shorey, Sirois, Skoglund, Snowe-Mello, Stanley, Stevens, Sullivan, Tessier, Thompson, Townsend, Tracy, Trahan, Tripp, Twomey, Usher, Volenik, Watson, Wheeler EM, Wheeler GJ, Williams, Mr. Speaker.

NAY - Andrews, Campbell, Clough, Davis, Foster, Gillis, Glynn, Heidrich, Jodrey, Jones, Joy, Kasprzak, Kneeland, Labrecque, Lovett, MacDougall, Murphy T, Pinkham, Plowman, Richardson E, Schneider, Stanwood, Stedman, Tobin D, Tobin J, Treadwell, True, Waterhouse, Weston, Winsor.

ABSENT - Buck, Goodwin, Jabar, Muse, Savage C, Tuttle.
Yes, 115; No, 30; Absent, 6; Excused, 0.

115 having voted in the affirmative and 30 voted in the negative, with 6 being absent, the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-275)** in concurrence.

Bill "An Act to Ensure that Displaced Workers Have Access to Appropriate Job Training, Education and Employment Services through a Peer Support Program"

(S.P. 594) (L.D. 1718)
(C. "A" S-242)

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

On motion of Representative TREADWELL of Carmel, was **SET ASIDE**.

The same Representative **REQUESTED** a roll call on **PASSAGE TO BE ENGROSSED as Amended**.

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

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

ROLL CALL NO. 231

YEA - Ahearne, Bagley, Baker, Belanger, Berry RL, Bolduc, Bouffard, Bragdon, Brennan, Brooks, Bryant, Bull, Bumps, Cameron, Carr, Chick, Chizmar, Clark, Collins, Colwell, Cote, Cowger, Cross, Daigle, Davidson, Desmond, Dudley, Dugay, Dunlap, Duplessie, Etnier, Fisher, Frechette, Fuller, Gagne, Gagnon, Gerry, Gillis, Goodwin, Gooley, Green, Hatch, Honey, Jacobs, Kane, LaVerdiere, Lemoine, Lemont, Madore, Mailhot, Martin, Matthews, Mayo, McAlevey, McDonough, McGlocklin, McKee, McNeil, Mendros, Mitchell, Murphy E, Norbert, Nutting, O'Brien JA, O'Brien LL, O'Neal, O'Neil, Perkins, Perry, Pieh, Plowman, Povich, Powers, Quint, Richard, Richardson J, Rines, Rosen, Samson, Sanborn, Savage W, Saxl JW, Saxl MV, Sherman, Shiah, Shields, Shorey, Sirois, Skoglund, Snowe-Mello, Stanley, Stevens, Sullivan, Tessier, Thompson, Tobin D, Tobin J, Townsend, Tracy, Tripp, True, Twomey, Usher, Volenik, Waterhouse, Watson, Wheeler GJ, Williams, Mr. Speaker.

NAY - Andrews, Berry DP, Bowles, Bruno, Campbell, Cianchette, Clough, Davis, Duncan, Foster, Glynn, Heidrich, Jodrey, Jones, Joy, Kasprzak, Kneeland, Labrecque, Lindahl, Lovett, MacDougall, Mack, Marvin, McKenney, Murphy T, Nass, Peavey, Pinkham, Richardson E, Schneider, Stanwood, Stedman, Trahan, Treadwell, Weston, Wheeler EM, Winsor.

ABSENT - Buck, Jabar, Muse, Savage C, Tuttle.
Yes, 109; No, 37; Absent, 5; Excused, 0.

109 having voted in the affirmative and 37 voted in the negative, with 5 being absent, the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-242)** in concurrence.

UNFINISHED BUSINESS

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

SENATE 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 11, 1999 (Till Later Today) by Representative **SAMSON** of Jay.

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

Representative **HATCH** of Skowhegan moved that the Bill and all accompanying papers be **COMMITTED** to the Committee on **LABOR**.

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

Representative **TREADWELL**: Mr. Speaker, Ladies and Gentlemen of the House. This bill has already been worked in the committee. I don't think it is good legislation and I would like to tell you why I don't think it is. For the past 30 years labor laws balance the rights of educational employees to collectively

bargain for wages, hours and working conditions. School boards make policy regarding education of the students by prohibiting negotiations on educational policy. The change in this bill could make decisions regarding student education and curriculum subjects, subject to review by an arbitrator who was not locally elected to make educational decisions and who has no knowledge of education matters and may have no information about local conditions. Educational policies are those decisions made by school boards that directly impact on the education of students. Negotiations of such policies may significantly reduce the ability of school boards to carry out their responsibilities under education law. Inclusion of education policies in a collective bargaining agreement will make these subjects grievable and ultimately give an arbitrator jurisdiction over decisions of the school board in these areas. I would request that you defeat the amendment. I guess that is all I need for right now.

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

Representative DAVIS: Mr. Speaker, Men and Women of the House. It seems to me that if you think about this bill, elected officials make policy. This would change that.

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

Representative SAXL: Mr. Speaker, Men and Women of the House. I wonder about the germaneness of this debate to the motion to Commit to committee.

The SPEAKER: The Chair would remind members to keep their remarks to the pending question, which is committal of the bill. The Representative may proceed.

Representative DAVIS: Mr. Speaker, Men and Women of the House. I don't think we should recommit. I think we should vote it down. Elected officials are going to give up their authority. Thank you.

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. I urge you to vote against the pending motion so that we may then Indefinitely Postpone the bill. We have worked this bill quite a bit in committee. We had the discussions about the bill in committee. We had discussions in the committee about the Supreme Court ruling that affects this bill. In the committee we already discussed the effects this bill has that would take powers away from locally elected school boards and then give it over to the bargaining process. This bill would be a major change. It has been discussed in committee to death. We have gone over all aspects of the bill. I urge you vote against the pending motion.

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

Representative HATCH: Mr. Speaker, Ladies and Gentlemen of the House. I hope you will follow my light to commit this bill to the Labor Committee. There have been some conversations going on between the Education Committee and the Labor Committee. There are two groups, Maine School Management and teachers who would like to work with us on an issue that they have some feelings over. I do not know what this debate is all about in regards to a committal back to a committee. I would ask that you follow my light. I believe this is basically a good bill. I believe things can be ironed out. If they can't, we will fight it out in committee before we get to the House floor. Thank you.

Representative TREADWELL of Carmel REQUESTED a roll call on the motion to COMMIT the Bill and all accompanying papers to the Committee on LABOR.

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 to Commit the Bill and all accompanying papers to the Committee on Labor. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 232

YEA - Ahearne, Bagley, Baker, Belanger, Berry RL, Bolduc, Bouffard, Brennan, Brooks, Bryant, Bull, Cameron, Carr, Chizmar, Clark, Colwell, Cote, Cowger, Davidson, Desmond, Dudley, Dugay, Dunlap, Duplessie, Etnier, Fisher, Frechette, Fuller, Gagne, Gagnon, Goodwin, Green, Hatch, Jacobs, Kane, LaVerdiere, Lemoine, Lemont, Mailhot, Martin, Matthews, Mayo, McDonough, McGlocklin, McKee, Mitchell, Murphy E, Norbert, O'Brien LL, O'Neal, O'Neil, Perry, Pieh, Plowman, Povich, Powers, Quint, Richard, Richardson J, Rines, Samson, Sanborn, Savage W, Saxl JW, Saxl MV, Sherman, Shiah, Sirois, Skoglund, Stanley, Stevens, Sullivan, Tessier, Thompson, Townsend, Tracy, Tripp, Twomey, Usher, Volenik, Watson, Weston, Wheeler GJ, Williams, Mr. Speaker.

NAY - Andrews, Berry DP, Bowles, Bragdon, Bruno, Bumps, Campbell, Chick, Cianchette, Clough, Collins, Cross, Daigle, Davis, Duncan, Foster, Gerry, Gillis, Glynn, Gooley, Heidrich, Honey, Jodrey, Jones, Joy, Kasprzak, Kneeland, Labrecque, Lindahl, Lovett, MacDougall, Mack, Madore, Marvin, McAlevey, McKenney, McNeil, Mendros, Murphy T, Nass, Nutting, O'Brien JA, Peavey, Perkins, Pinkham, Richardson E, Rosen, Schneider, Shields, Shorey, Snowe-Mello, Stanwood, Stedman, Tobin D, Tobin J, Trahan, Treadwell, True, Waterhouse, Wheeler EM, Winsor.

ABSENT - Buck, Jabar, Muse, Savage C, Tuttle.

Yes, 85; No, 61; Absent, 5; Excused, 0.

85 having voted in the affirmative and 61 voted in the negative, with 5 being absent, the Bill and all accompanying papers were COMMITTED to the Committee on LABOR and sent for concurrence.

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

HOUSE DIVIDED REPORT - Majority (11) Ought to Pass as Amended by Committee Amendment "A" (H-487) - Minority (2) Ought Not to Pass - Committee on LEGAL AND VETERANS AFFAIRS on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Require Signatures from All Counties on Direct Initiative Petitions

(H.P. 1020) (L.D. 1431)

TABLED - May 12, 1999 (Till Later Today) by Representative LEMOINE of Old Orchard Beach.

PENDING - Motion of Representative TUTTLE of Sanford to ACCEPT the Majority OUGHT TO PASS AS AMENDED Report. (Roll Call Ordered.)

Representative TWOMEY of Biddeford moved that the Bill and all accompanying papers be INDEFINITELY POSTPONED.

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

Representative TWOMEY: Mr. Speaker, Men and Women of the House. I really did not intend to be the Norma Ray of petitions, but last week you heard me speak about being 250

feet away from voting places, which would have put me on another street. This bill would now make me go to 16 counties in the State of Maine in order to get referendum petitions signed. I truly believe that this bill is another roadblock for petitioners. I think it is unfair and it is undemocratic. I think it allows one county to veto the rest of the state. Maine has a state government, not a federation of counties. It is another example of special corporate interests trying to hinder the petition process. If this bill passes, the referendum battle isn't over. This will divide and hurt both Democrats and Republicans alike. I really don't like roadblocks. I really think that people need to be heard. I think that sometimes people pass petitions for some part of the southern part of the state and sometimes other counties may not be that informed about it or feel that passionate about it. I really think that this would hinder that process. Another stumbling block, I think Robert Frost said it best, "Something there is that doesn't love a wall." Thank you.

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

Representative CHIZMAR: Mr. Speaker, Men and Women of the House. I urge you to vote against Indefinite Postponement of this bill. I do not feel and the majority of the committee does not feel that Representative Campbell's legislation is a stumbling block to the process. What it does is it is designed to bring all of our state citizens into the initiative and referendum process. You know right you can qualify for the Maine ballot by circulating petitions in Portland and its suburbs. This bill is designed to bring all of Maine's citizens into the process. Initiatives should demonstrate statewide interest and support. Thank you.

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

Representative MCKENNEY: Mr. Speaker, Men and Women of the House. We just heard, not 20 minutes ago, very eloquent arguments about one man, one vote concept. It sounded like our whole free world depended on the one man, one vote concept. Doesn't it follow that an issue that affects the whole state, show some support from every single county? Why should it be possible to gather all the signatures one might need in downtown Biddeford on a petition that affects the whole state? If a petition gatherer can't gather 396 signatures in Piscataquis County or 698 signatures in Waldo County, then their bill shouldn't see the light of day. Thank you.

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

Representative MAYO: Mr. Speaker, Ladies and Gentlemen of the House. I, too, rise to support the acting chairman of the Legal and Veterans Affairs Committee in urging you not to Indefinitely Postpone this bill. I would remind you that 11 of the 13 members of the committee support the motion on LD 1431. Currently of the 21 states in this country that have the statutory initiative situation, as does Maine, of those 11 require geographic distribution. The good Representative from Cumberland, Representative McKenney, is correct that currently as the statute under which we operate it allows for one or two municipalities in this state to control the initiative process. I don't think that is what the citizens of the State of Maine require. If you can't convince voters in all 16 counties of this state to support an initiative, then it is my feeling that that initiative should not appear on the ballot. This is a very simple thing. We are not messing around with the 10 percent requirement, which is currently in the Constitution. We are just saying that 6 percent of the number of signatures required be collected in each of the 16

counties. We are still dealing with the current number of 42,000. It is, I think, up to the citizens of the State of Maine to make a decision on this very important bill. I would urge that you not Indefinitely Postpone it. Let it go forward. Thank you.

Representative MENDROS of Lewiston 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 Old Orchard, Representative Lemoine.

Representative LEMOINE: Mr. Speaker, Men and Women of the House. I rise to support the Indefinite Postponement of this measure. I do so having listened carefully to the debate this morning about restructuring the way in which we, as a people, select the Senators of this state. I would suggest to the members of this body that the petition process is one with which we ought to have great respect and ought not to tinker with in a way that dissolves the power of a person or a percentage of the voters to change the laws of this state, regardless of where that voter hangs his or her hat.

I would bring to the body's attention some of the discussion that our law court has given to this issue over the years, since Maine in 1909 adopted the initiative, a portion of the Constitution. I will read a short paragraph. It captures the theme of the initiative process and what it has meant to the people of this state. The court in that decision said, "The initiative made a fundamental change in the existing form of government in so far as the legislative power was involved. Formerly, that power was invested in the House of Representatives and the Senate by the amendment the people reserved to themselves the power to propose laws to enact and reject them at the polls independent of the Legislature. Furthermore, this right of the people to enact legislation is an absolute one and cannot be abridged directly or indirectly by any action of the Legislature." The theme of the initiative is at the core of what the people of this state have in their Constitution. I would hope that the body will support the motion. Thank you.

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

Representative CHIZMAR: Mr. Speaker, Men and Women of the House. There is something here that I would like to bring to your attention. As you know, Maine's requirement is tied to the gubernatorial vote. For the next four years according to the numbers that I have on the pass out that Representative Labrecque from Gorham passed out last week. During which the requirement is about 42,000 signatures. This proposal would require petitioners to collect at least 2,500 signatures from citizens in each of the 16 counties. Thank you.

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

Representative WATERHOUSE: Mr. Speaker, Ladies and Gentlemen of the House. I agree with the good Representative from Biddeford, Representative Twomey. This is definitely another roadblock in the petition process. I don't know how many people I have talked to that got involved in this process and tell me what an arduous task it is to get the senses as to the way the system is set up now. I have seen a number of worthy issues that didn't get the necessary signatures to come before the people. The thing we keep forgetting about this whole issue and I haven't heard it mentioned yet, we ought to keep in the back of our minds, when people feel strongly enough to go

through this process and work hard to get these signatures to have their issue brought before the people, all the people get a chance to vote on that issue. It may be a regional issue. Who knows what issue it is going to be tomorrow, but it may be a county that has no interest at all in that certain issue because it may be something that only a few number of people in a certain area of the state are concerned about. Once the issue is before the people and we have the public debate and it is going to be on the ballot in those areas where the people may not necessarily be concerned with the issue, they will get a chance to address that issue. It is not a case of under representation from the different counties around the state because they will be dealing with it in a statewide election. I urge you to support the Indefinite Postponement. Thank you.

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

Representative **GERRY**: Mr. Speaker, Ladies and Gentlemen of the House. I rise to support the Indefinite Postponement of the bill and all its papers. I am against this bill because it attacks the citizen initiative process with a true citizen initiative, the citizen initiating this. It is just another step that a core group will have to go through, that they will not be able to do it and you will have a bigger group, maybe a special interest from out of state that will come in. In other words, it is going to cost more money and more time to keep track of the whole process of doing a citizen initiative. It is just one more hoop that the regular citizen has to go through.

A couple weeks ago we talked on a bill about prohibiting people petitioning at the polls. If we pass this bill, I can guarantee you that more people will go to the polls to collect the signatures because that will be the only way they can compete. I urge you to support the Indefinite Postponement of this bill.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Gorham, Representative Labrecque.

Representative **LABRECQUE**: Mr. Speaker, Ladies and Gentlemen of the House. I rise in opposition to the present motion. I would call or say that perhaps some of those who have spoken previously have made a very good case on why this piece of legislation needs to pass. We talk about all of the people needing to be heard. We talk about all of the people getting a chance to vote. We talk about regular citizens. A citizen's initiative drive is for all of the people, the regular people, who oppose something that we have passed. Why should not all of the people be responsible for having a say in that and have to have the signatures from at least all of the counties. Thank you Mr. Speaker.

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

Representative **BRENNAN**: Mr. Speaker, Men and Women of the House. Last November when everybody in this body ran for the position you now have, there was not a state law that said you have to get a certain amount of votes from a certain part of your district. The last time we had an election for governor, nobody said that you could only get a certain amount of votes from a certain part of the state. The last time we had an election for a US Senator nobody said you could only get a certain amount of votes from a certain part of the state. This is what this bill before us today dramatically changes what we have had in place in this state in all the other elections we have had. I believe this is an unnecessary impediment to the citizen initiative process. If you are a citizen of this state and you are a voter in this state, you should be allowed to sign a citizen initiative

regardless of where you live or whether or not you are at 6.1 percent in your particular county and that means you no longer qualify for that citizen initiative. That is not right. We should support the Indefinite Postponement of this bill. Thank you.

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

Representative **SHIAH**: Mr. Speaker, Colleagues of the House. I am speaking as a member of the Legal and Veterans Affairs Committee. I was on the committee at that time. I opposed this bill in committee and still strongly opposed the bill. I will be supporting the motion to Indefinitely Postpone. I believe it is a solution seeking a problem. I believe, again, we have the citizens of this state are wise enough to figure out how they are going to vote on issues. We don't have to have another impediment, another roadblock in the way of the citizens petitioning our government. I think this is just one roadblock. We defeated the last one. I don't want to go back home and say we put another roadblock in the way of you petitioning us, your government. I think this is a unneeded and unwarranted. I support the motion to Indefinitely Postpone. Thank you.

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

Representative **TRACY**: Mr. Speaker, Ladies and Gentlemen of the House. I would like to follow up on what the good Representative from Portland, Representative Brennan, said about the distribution of votes for gubernatorial candidates or anything else. When we took our petitions out, ladies and gentlemen of the House, to go out and seek signatures within our district, it did not say that we if we had five towns, we had to have five signatures from each town. I would urge the Indefinite Postponement of this bill and its accompanying papers. 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 also rise in support of the pending motion. I have the right to be able to vote on an initiated petition if it is brought forth and not have that right denied by one or two counties who do not support that. The whole reason we have these initiated petitions is to give the people the right to vote and to make a decision on important statewide issues. We should not be denying people's right to vote on these issues simply because one of two counties did not show enough support to send this to ballot. If they want to vote against it during the election, that is one thing. They should not have the right to deny the men and women of this state to vote on initiated petitions. I urge your support for the pending motion. Thank you.

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

Representative **CAMPBELL**: Mr. Speaker, Men and Women of the House. As it has been spoken earlier, this is my bill. I sponsored this bill for one simple reason. As a result, before I share that reason, of some of the initiatives imposed upon one segment of the state, significantly initialed or signed by another segment of the state. My reason for sponsoring this legislation is simple. One segment of the population should not impose their issues on other counties without significant awareness and input from those counties before the issue appears on the ballot. Thank you.

The SPEAKER PRO TEM: A roll call has been ordered. The pending question before the House is Indefinite

Postponement of the Bill and Accompanying Papers. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 233

YEA - Ahearne, Baker, Berry RL, Bragdon, Brennan, Brooks, Bryant, Buck, Bull, Bumps, Cianchette, Clough, Collins, Colwell, Cote, Cowger, Daigle, Davidson, Davis, Desmond, Dudley, Duplessie, Etnier, Foster, Frechette, Fuller, Gagnon, Gerry, Glynn, Goodwin, Green, Hatch, Jacobs, Kane, Kasprzak, LaVerdiere, Lemoine, Lovett, MacDougall, Mack, Madore, Mailhot, Matthews, McDonough, McGlocklin, McKee, McNeil, Mendros, Mitchell, Norbert, Nutting, O'Brien JA, O'Brien LL, O'Neal, O'Neil, Peavey, Perkins, Perry, Pieh, Plowman, Powers, Quint, Richardson J, Samson, Savage W, Saxl JW, Saxl MV, Shiah, Sirois, Skoglund, Snowe-Mello, Stanwood, Stevens, Sullivan, Thompson, Tobin D, Tobin J, Townsend, Tracy, Tripp, Twomey, Volenik, Waterhouse, Watson, Weston, Wheeler EM, Williams, Winsor, Mr. Speaker.

NAY - Andrews, Bagley, Belanger, Berry DP, Bolduc, Bouffard, Bowles, Bruno, Cameron, Campbell, Carr, Chick, Chizmar, Clark, Cross, Dugay, Duncan, Dunlap, Fisher, Gagne, Gillis, Gooley, Heidrich, Honey, Jodrey, Jones, Joy, Kneeland, Labrecque, Lemont, Lindahl, Martin, Marvin, Mayo, McAlevey, McKenney, Murphy E, Murphy T, Nass, Pinkham, Povich, Richard, Richardson E, Rines, Rosen, Sanborn, Schneider, Sherman, Shields, Shorey, Stanley, Stedman, Tessier, Trahan, Treadwell, True, Usher, Wheeler GJ.

ABSENT - Jabar, Muse, Savage C, Tuttle.

Yes, 89; No, 58; Absent, 4; Excused, 0.

89 having voted in the affirmative and 58 voted in the negative, with 4 being absent, the Bill and all accompanying papers were **INDEFINITELY POSTPONED** and sent for concurrence.

JOINT ORDER - Relative to Establishing The Task Force to Redesign the Governance System of the Governor Baxter School for the Deaf

(H.P. 1183)

TABLED - May 12, 1999 (Till Later Today) by Representative SHIAH of Bowdoinham.

PENDING - **ADOPTION OF COMMITTEE AMENDMENT "A" (H-367).**

Subsequently, Representative WATSON of Farmingdale **WITHDREW** her Joint Order.

Resolve, to Extend the Hours for the Sale of Liquor on January 1, 2000

(H.P. 1580) (L.D. 2229)

(Committee on **LEGAL AND VETERANS AFFAIRS** suggested)

TABLED - May 12, 1999 (Till Later Today) by Representative TUTTLE of Sanford.

PENDING - Motion of Representative MARTIN of Eagle Lake to **INDEFINITELY POSTPONE** the Bill and accompanying papers. (Roll Call Ordered)

Representative MENDROS of Lewiston moved that the Resolve and all accompanying papers be **COMMITTED** to the Committee on **LEGAL AND VETERANS AFFAIRS**.

Representative SAXL of Portland **REQUESTED** a roll call on the motion to **COMMIT** the Resolve and all accompanying papers to the Committee on **LEGAL AND VETERANS AFFAIRS**.

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 Eagle Lake, Representative Martin.

Representative **MARTIN**: Mr. Speaker, Members of the House. Just to try to tell people where we are, obviously the motion to Indefinitely Postpone, which I made has less priority than the motion to Commit. In order to get to the motion to Indefinitely Postpone, we would have to vote no on the motion to Commit.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Kennebunk, Representative Murphy.

Representative **MURPHY**: Mr. Speaker, Men and Women of the House. We still have plenty of time in this session to hear this issue, be able to hear from the public and have the committee make recommendations. I would urge the members of this House the courtesy that we extend to each other that and we support this motion to refer this bill to Legal and Veterans Affairs.

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

Representative **SAXL**: Mr. Speaker, Men and Women of the House. In speaking to my good friend from Lewiston, Representative Mendros, one of the common questions you ask the Legislative Council is when did you first learn of this problem? The fact that it was going to become the year 2000 it has been evident to each and every one in this House for a little bit of time. To introduce a piece of legislation in this manner at this late date, it just doesn't seem to rise to level of importance that we really need to take it back into committee and to study very carefully the implications of this legislation. It is pretty obvious to each and every one of us. In an effort to come to compromise with Representative Mendros, of course, I did offer to hold it over to next session. He wasn't interested in that as well. I think we have a lot of serious matters to come before us later on in this session. It is no offense to Representative Mendros. I think we have stood and listened to him on a lot of measures that have come before us. He has brought forward a lot of good ideas through the Legislative Council and before cloture. I think it is time to say enough is enough and let's get on with finishing up our business and going home.

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

Representative **MARTIN**: Mr. Speaker, Members of the House. You may remember at the beginning of session we had protracted debates as to whether or not the Governor ought to be allowed to introduce legislation at a later time of the year during the legislative session. You may remember the interesting positions that people took on both sides of the aisle. Now we have Legislative Council who said we don't allow bills in unless they are emergencies because we have cloture time. Remember cloture time. This bill was let in without a council meeting, but it was let in by circulating the ballot. If you have never done that, by the way, this is the way you go one on one and you get people to sign off. It is an after deadline bill. What happened to our attack upon the Chief Executive? Now we are going to allow bills to come in until the day we adjourn. Having said that, if anyone's mind would be changed at a public hearing, then I might be willing to accept it at this late date. We all know that this is not going anywhere. The Representative from Lewiston asked me if I would be willing to compromise. I said, "Yes, at midnight on January 1." I want to allow for the drunks to

get home before people leave for work. If the ability to drink to 4 or 4:15 and then you have your last drink and you leave the bar at 5:00, the people going to work at the mills in the morning are going to meet the people coming from the bars. I don't think we really want to have that. In all due respect to the Minority Floor Leader, I would hope you would vote the way he did, against the Governor today, in late bills.

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

Representative MENDROS: Mr. Speaker, Ladies and Gentlemen of the House. Mr. Speaker, Ladies and Gentlemen of the House. I just wanted to give you a few facts on this. Legislative Council hadn't met in quite a while. This needed to get going. I knew it was important to get it to committee and have it be heard. I went and polled, which is the process, six of the eight members of the Legislative Council I spoke with supported it and let it go through and go to committee. I will gladly debate anybody in committee on it whether it is a good idea or not. That is the process. If they are afraid to debate me in committee and they want to debate me here, I am not going to debate here. We will debate the merits there.

I remember when we discussed cloture on December 2nd and I had an amendment in to move the cloture date to January 8th for new members, I was told that there is a process and you will be allowed to do. Don't worry, the Legislative Council is fair and we will allow the bills in. The Legislative Council was fair and they did allow this bill in because, as I explained to my good friend from Portland, Representative Saxl, when he asked me if it could be held over. I said, "Yes, if you want to wait 1,000 years." My point is I will debate this in committee. Every other bill has been to committee. Send this to committee and bring 50 people there and hammer on me at the committee meeting. If you want to, kill it in committee. It is not even that big a deal. It is going to keep me busy in the next two weeks working on that instead of looking stuff up in the calendar to debate. The choice is yours. Are we going to follow the process or not? Thank you.

The SPEAKER PRO TEM: A roll call has been ordered. The pending question before the House is to Commit the Resolve and all Accompanying Papers to the Committee on Legal and Veterans Affairs. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 234

YEA - Belanger, Berry DP, Bolduc, Bowles, Bragdon, Brooks, Buck, Campbell, Collins, Cowger, Cross, Davidson, Davis, Dudley, Foster, Gerry, Gillis, Glynn, Heidrich, Honey, Jones, Joy, Kasprzak, Kneeland, MacDougall, Mack, Marvin, Mayo, McKenney, McNeil, Mendros, Mitchell, Murphy T, Nass, Nutting, O'Brien JA, O'Neil, Peavey, Perkins, Pinkham, Plowman, Quint, Rines, Rosen, Savage W, Schneider, Sherman, Shields, Shorey, Snowe-Mello, Stedman, Stevens, Tobin D, Tobin J, Tracy, Trahan, Treadwell, True, Volenik, Waterhouse, Weston, Winsor.

NAY - Ahearne, Andrews, Bagley, Baker, Berry RL, Bouffard, Brennan, Bruno, Bryant, Bull, Bumps, Cameron, Carr, Chick, Chizmar, Cianchette, Clark, Clough, Colwell, Cote, Daigle, Desmond, Dugay, Duncan, Dunlap, Duplessie, Etnier, Fisher, Frechette, Fuller, Gagne, Gagnon, Gooley, Green, Hatch, Jacobs, Jodrey, Kane, Labrecque, LaVerdiere, Lemoine, Lemont, Lindahl, Lovett, Madore, Mailhot, Martin, Matthews, McAlevey, McDonough, McGlocklin, McKee, Murphy E, Norbert, O'Brien LL, O'Neal, Perry, Pieh, Povich, Powers, Richard, Richardson E, Richardson J, Samson, Sanborn, Saxl JW,

Saxl MV, Shiah, Sirois, Skoglund, Stanley, Stanwood, Sullivan, Tessier, Thompson, Townsend, Tripp, Twomey, Usher, Watson, Wheeler EM, Wheeler GJ, Williams, Mr. Speaker.

ABSENT - Goodwin, Jabar, Muse, Savage C, Tuttle.

Yes, 62; No, 84; Absent, 5; Excused, 0.

62 having voted in the affirmative and 84 voted in the negative, with 5 being absent, the motion to **COMMIT** the Resolve and all accompanying papers to the Committee on **LEGAL AND VETERANS AFFAIRS FAILED**.

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

ROLL CALL NO. 235

YEA - Ahearne, Andrews, Bagley, Baker, Belanger, Berry DP, Berry RL, Bolduc, Bouffard, Bowles, Brennan, Bruno, Bryant, Bull, Bumps, Cameron, Carr, Chick, Chizmar, Clark, Clough, Collins, Colwell, Cote, Cross, Daigle, Davis, Desmond, Dugay, Duncan, Dunlap, Duplessie, Etnier, Fisher, Foster, Frechette, Fuller, Gagne, Gagnon, Gerry, Gillis, Goodwin, Gooley, Green, Hatch, Honey, Jacobs, Jodrey, Joy, Kane, Labrecque, LaVerdiere, Lemoine, Lemont, Lindahl, Lovett, MacDougall, Madore, Mailhot, Martin, Matthews, Mayo, McAlevey, McDonough, McGlocklin, McKee, Murphy E, Norbert, O'Brien JA, O'Brien LL, O'Neal, Peavey, Perry, Pieh, Pinkham, Povich, Powers, Richard, Richardson E, Richardson J, Rosen, Samson, Sanborn, Saxl JW, Saxl MV, Shiah, Sirois, Skoglund, Stanley, Stanwood, Stedman, Sullivan, Tessier, Thompson, Tobin J, Townsend, Tripp, Twomey, Usher, Watson, Weston, Wheeler EM, Wheeler GJ, Williams, Mr. Speaker.

NAY - Bragdon, Brooks, Buck, Campbell, Cianchette, Cowger, Davidson, Dudley, Glynn, Heidrich, Jones, Kasprzak, Mack, Marvin, McKenney, McNeil, Mendros, Mitchell, Murphy T, Nass, Nutting, O'Neil, Perkins, Plowman, Quint, Rines, Savage W, Schneider, Sherman, Shields, Shorey, Snowe-Mello, Stevens, Tobin D, Tracy, Trahan, Treadwell, True, Volenik, Waterhouse, Winsor.

ABSENT - Jabar, Kneeland, Muse, Savage C, Tuttle.

Yes, 105; No, 41; Absent, 5; Excused, 0.

105 having voted in the affirmative and 41 voted in the negative, with 5 being absent, the Resolve and all accompanying papers were **INDEFINITELY POSTPONED** and sent for concurrence.

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

The Speaker resumed the Chair.

The House was called to order by the Speaker.

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

Expression of Legislative Sentiment recognizing Andrew Ketterer, Attorney General of the State of Maine.

(HLS 406)

Which was tabled by Representative CHICK of Lebanon pending **PASSAGE**.

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

Representative **CHICK**: Mr. Speaker, Ladies and Gentlemen of the House and to the Attorney General of the State of Maine. It is a privilege for me to be able to submit a document to honor someone from Maine that has contributed, I believe, greatly to our current problems, without going into what we read in the papers each day. The fact that his work, his pro-active role in these matters, received the attention from the President of the United States. I believe we should honor people from our state. I certainly believe in the State of Maine and always have. I would say the best I can that I would hope that the 119th Maine Legislature would join with me in thanking him for his work in this matter. Thank you.

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

Representative **RICHARD**: Mr. Speaker, Men and Women of the House. As the previous speaker said, the Attorney General from Maine is actually from Madison, Maine. He is my constituent. We are very proud of him in Madison. For those of you who don't know, he occupied this seat for a period of time. He moved from this seat to Attorney General. I would be remiss if I did not offer my congratulations. We have not had an Attorney General before who has risen to the position of Vice President of all of the Attorney Generals in the country or who have had this kind of recognition from the President of the United States. I am not only proud that he is the Attorney General from the State of Maine, but I am proud that he is the Attorney General from Madison, Maine.

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

Representative **HATCH**: Mr. Speaker, Ladies and Gentlemen of the House. I rise today to congratulate my friend and former seatmate, the Attorney General of the State of Maine, Andrew Ketterer. It doesn't seem so long ago, it was four terms ago, that we were seatmates. He taught me just about everything I know in about three days. One thing he taught me was only talk when you have something to say. I do. Thank you very much Drew. You have done us a great deed in bringing these honors to the State of Maine. Thank you.

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

Representative **O'BRIEN**: Mr. Speaker, Colleagues of the House. I also would be remiss without standing and saying a few words about my friend, Drew Ketterer. Many of you may remember and I am sure he remembers that earlier this session I nominated someone else for the position of Attorney General of the State of Maine. Despite that, I have great respect for the Attorney General. I have worked with him on many, many issues and legislation involving, specifically sexual abuse or sexual assault and domestic violence. As this points out, he is an absolute leader in this field. I also want to say despite his very, very busy schedule, he just handed me a press article about me. He took the time out of his day to do that. I very much respect the personal touch that he gives to his office. Thank you very much for everything.

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

Representative **LORING**: Mr. Speaker, Men and Women of the House. On behalf of the Penobscot Nation and the ALANA Board, we would like to thank you for the work you have done in the schools throughout the State of Maine, the civil rights team has really been a positive influence in these times. We recognize that contribution. We thank you for that.

Subsequently, the Sentiment was **PASSED** and sent for concurrence.

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

UNFINISHED BUSINESS

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

SENATE DIVIDED REPORT - Report "A" (6) Ought Not to Pass - Report "B" (4) Ought to Pass as Amended by Committee Amendment "A" (S-233) - Report "C" (2) Ought to Pass as Amended by Committee Amendment "B" (S-234) - Committee on LEGAL AND VETERANS AFFAIRS on Bill "An Act to Apportion State Lottery Funds to Pay for Quality Early Care and Education"

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

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

TABLED - May 12, 1999 (Till Later Today) by Representative TUTTLE of Sanford.

PENDING - Motion of same Representative to ACCEPT Report "A" OUGHT NOT TO PASS.

Subsequently, Report "A" **Ought Not to Pass was ACCEPTED** in concurrence.

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

HOUSE DIVIDED REPORT - Report "A" (9) Ought Not to Pass - Report "B" (2) Ought to Pass - Report "C" (1) Ought to Pass as Amended by Committee Amendment "A" (H-497) - Committee on LEGAL AND VETERANS AFFAIRS on Bill "An Act to Eliminate Voter Registration on Election Day"

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

TABLED - May 12, 1999 (Till Later Today) by Representative TUTTLE of Sanford.

PENDING - Motion of same Representative to ACCEPT Report "A" OUGHT NOT TO PASS.

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

Representative **MCKENNEY**: Mr. Speaker, Men and Women of the House. Voting day for many towns is the busiest day of the year, certainly the busiest for the town clerk and their staff. There is too much activity on voting day to adequately check IDs for voters. The situation is right for voter fraud. Town clerks are usually very dedicated employees. They like to do their job properly. If they can't, they don't like it. They like to be able to do their job. Registering voters on voting day is tough on them. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from York, Representative Andrews.

Representative **ANDREWS**: Mr. Speaker, Men and Women of the House. This is a bill that I submitted. For me, this bill is not a Republican or a Democratic party issue. It is an issue of voter fraud or dishonest election. I would feel perhaps more comfortable having same day voter registration if, perhaps, we had some type of uniformed method for checking the id of the

individuals. As it is right now, in many towns all you have to do is show an envelope with an address on it. We all know how busy the town clerks and the wardens are and particularly when you are having a presidential or national election. It is very difficult to follow through on some of these issues. Maine is one of either three or four states that allows same day voter registration. I just feel that until we come up with some concrete uniform method for identifying residency that we should not have same day voter registration. I would ask you to defeat this motion. Thank you.

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

Representative **MAYO**: Mr. Speaker, Ladies and Gentlemen of the House. I rise in support of the committee on this particular issue. It was nine on the committee voting Ought Not to Pass. Maine has had same day voter registration since 1973. While I understand the good Representative Andrews concern about this. It is my understanding that we have seen similar legislation the last two legislative sessions. The problem has always been what type of identification could be use that would not slow down the process of people being allowed to vote. Since 1973, when we put this legislation into place, we have seen an increase in voter participation. It has been reported that there have been cases of problems around the state. In talking with the Town Clerks Association, they have not substantiated that they feel there has been voter fraud. I would urge that you support the committee in this matter, Ought Not to Pass. Possibly in the future someone will have a brilliant idea as to how we can handle this situation with an easy identification process. Currently, the committee has not, over three sessions, been able to come up with one.

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

Representative **CHIZMAR**: Mr. Speaker, Men and Women of the House. I rise in support of the Ought Not to Pass motion. I would ask you to consider two thoughts. Increasing voter participation is what we should be working towards, not discouraging it. The second item is voter fraud can be committed if you register on election day or before. This bill is not the solution to the problem. Thank you.

Representative **STEDMAN** of Hartland **REQUESTED** a roll call on the motion to **ACCEPT** Report "A" **Ought Not to Pass**.

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

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

Representative **CHICK**: Mr. Speaker, Ladies and Gentlemen of the House. I rise to speak about something that I consider probably one of our greatest rights. That is the privilege to vote. I am sure that the members here in the House today have a memory of things that have taken place in other parts of the country where numerous rules have tried to be applied. You see the right of people overcame all those items. I believe that we should continue to give people that right to go and cast their ballot for whatever they choose. Thank you.

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

ROLL CALL NO. 236

YEA - Ahearne, Bagley, Baker, Berry RL, Bolduc, Bouffard, Brooks, Bruno, Bryant, Bull, Chick, Chizmar, Clark, Colwell,

Cote, Cowger, Daigle, Davidson, Desmond, Dudley, Dugay, Dunlap, Duplessie, Etnier, Fisher, Frechette, Fuller, Gagne, Gagnon, Gerry, Gillis, Goodwin, Green, Hatch, Jabar, Jacobs, Kane, LaVerdiere, Lemoine, MacDougall, Mailhot, Martin, Matthews, Mayo, McAlevey, McDonough, McGlocklin, McKee, Mendros, Mitchell, Murphy T, Norbert, Nutting, O'Brien LL, O'Neal, O'Neil, Peavey, Perkins, Perry, Pieh, Povich, Powers, Quint, Richard, Richardson E, Richardson J, Rines, Samson, Sanborn, Savage W, Saxl JW, Saxl MV, Sherman, Shiah, Sirois, Skoglund, Stanley, Stanwood, Stevens, Sullivan, Tessier, Thompson, Tobin D, Townsend, Tracy, Tripp, True, Twomey, Usher, Volenik, Watson, Williams, Mr. Speaker.

NAY - Andrews, Belanger, Berry DP, Bowles, Bragdon, Buck, Bumps, Cameron, Campbell, Carr, Cianchette, Clough, Collins, Cross, Davis, Duncan, Foster, Glynn, Gooley, Heidrich, Honey, Jodrey, Jones, Joy, Kasprzak, Kneeland, Labrecque, Lemont, Lindahl, Lovett, Mack, Marvin, McKenney, McNeil, Murphy E, Nass, O'Brien JA, Pinkham, Plowman, Rosen, Schneider, Shields, Shorey, Snowe-Mello, Stedman, Tobin J, Trahan, Treadwell, Waterhouse, Winsor.

ABSENT - Brennan, Madore, Muse, Savage C, Tuttle, Weston, Wheeler EM, Wheeler GJ.

Yes, 93; No, 50; Absent, 8; Excused, 0.

93 having voted in the affirmative and 50 voted in the negative, with 8 being absent, Report "A" **Ought Not to Pass** was **ACCEPTED** and sent for concurrence.

SENATE DIVIDED REPORT - Majority (11) **Ought to Pass as Amended by Committee Amendment "A" (S-266)** - Minority (1) **Ought Not to Pass** - Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Improve the State's Democracy by Increasing Access to the Ballot and Other Election Processes"

(S.P. 217) (L.D. 639)

- 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-266)**.

TABLED - May 13, 1999 (Till Later Today) by Representative TUTTLE of Sanford.

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

The SPEAKER: The Chair recognizes the Representative from Gorham, Representative Labrecque.

Representative **LABRECQUE**: Mr. Speaker, Ladies and Gentlemen of the House. Before we take a final vote on this, there are a couple of things that I would like to say with regards to this piece of legislation. The title sounds nice. I think that all of us would like to have increased access to the ballot and election process. When you dig into this bill, I personally feel there is something here that is bad. There are a couple of things that I particularly do not like. I take my politics very seriously. I would suggest that all of you do or you wouldn't be here. Once upon a time there was not a Republican or a Democrat party. We were nonexistent. Our predecessors worked hard to establish our party, worked hard to become majority. Today we continue that tradition to work hard to maintain the majority status. I do not believe that there is anybody in here that does not want to maintain majority status. With that said, there are also a number of people who have differences of opinion and

who are forming other political parties. I don't have a problem with that.

I have a problem that we make it easier for them, than it was for us. One particular section in this bill takes the name Independent and secures it as always meaning a person who is unenrolled. I have a minor problem with that because I know in other states there is an Independent political party. I also know that people here in Maine when they are not enrolled in a party consider themselves to be unenrolled. In some instances they do say they are an Independent. Forever saying that Independent means unenrolled, in my humble opinion, is wrong.

One other particular piece of this bill that really bothers me the most is when you go around with your petitions and get your signatures to run for an office, you have to get people who are enrolled in your party to sign your petition. I cannot gather Democrats on my list. I could, but they are not counted. This particular piece of legislation allows parties in a minority party to collect signatures from anybody that is not enrolled in a party. If you cannot see a problem with that, I will delve into it with you at a later date. Thank you Mr. Speaker. I request a roll call.

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

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

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

Representative **CHIZMAR**: Mr. Speaker, Men and Women of the House. I need to thank Representative Labrecque for addressing her concerns regarding this piece of legislation. I need to share with you some items that might be of interest to you. This piece of legislation changes the law to provide for a party to qualify to participate in a primary if they were designated on the ballot of at least one of the two proceeding general elections and held municipal state caucuses that year and received 5 percent of the vote. It also allows a party that forms around a candidate to be recognized as qualified to participate in a primary election once it has filed the consent of the candidate. There are numerous other issues why this is a good bill. I would urge you to support the Ought to Pass as Amended motion. Thank you.

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

ROLL CALL NO. 237

YEA - Ahearne, Bagley, Baker, Belanger, Berry DP, Berry RL, Bolduc, Bouffard, Bowles, Bragdon, Brennan, Brooks, Bruno, Bryant, Bull, Bumps, Campbell, Carr, Chick, Chizmar, Cianchette, Clark, Collins, Colwell, Cote, Cowger, Cross, Daigle, Davidson, Desmond, Dudley, Dugay, Duncan, Dunlap, Duplessie, Etnier, Fisher, Frechette, Fuller, Gagne, Gagnon, Gerry, Gillis, Glynn, Goodwin, Gooley, Green, Hatch, Heidrich, Honey, Jabar, Jacobs, Jodrey, Kane, Kasprzak, LaVerdiere, Lemoine, Lemont, Lindahl, MacDougall, Mack, Mailhot, Martin, Marvin, Matthews, Mayo, McDonough, McGlocklin, McKee, McKenney, Mendros, Mitchell, Murphy T, Nass, Norbert, Nutting, O'Brien LL, O'Neal, O'Neil, Peavey, Perkins, Perry, Pieh, Povich, Powers, Quint, Richard, Richardson E, Richardson J, Rines, Rosen, Samson, Sanborn, Savage W, Saxl JW, Saxl MV, Shiah, Shields, Shorey, Sirois, Skoglund, Snowe-Mello, Stanley, Stanwood, Stevens, Sullivan, Tessier, Thompson, Tobin D,

Townsend, Tracy, Trahan, Twomey, Usher, Volenik, Waterhouse, Wheeler EM, Wheeler GJ, Williams, Winsor, Mr. Speaker.

NAY - Andrews, Cameron, Clough, Davis, Foster, Jones, Joy, Labrecque, McAlevey, Murphy E, Pinkham, Plowman, Schneider, Sherman, Stedman, Tobin J, Treadwell, True.

ABSENT - Buck, Kneeland, Lovett, Madore, McNeil, Muse, O'Brien JA, Savage C, Tripp, Tuttle, Watson, Weston.

Yes, 121; No, 18; Absent, 12; Excused, 0.

121 having voted in the affirmative and 18 voted in the negative, with 12 being absent, the Majority **Ought to Pass as Amended Report was ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (S-266)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Wednesday, May 19, 1999.

An Act to Amend the Maine Health Data Organization Statutes (EMERGENCY)

(H.P. 1003) (L.D. 1401)

(C. "A" H-483)

TABLED - May 14, 1999 (Till Later Today) by Representative SAXL of Portland.

PENDING - **PASSAGE TO BE ENACTED**.

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

An Act to Provide for Increased Penalties and Enforcement Regarding Dangerous Dogs

(H.P. 433) (L.D. 575)

(C. "A" H-488)

TABLED - May 14, 1999 (Till Later Today) by Representative SAXL of Portland.

PENDING - **PASSAGE TO BE ENACTED**.

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

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

An Act to Make Failure to Provide Proper Identification a Violation of the Liquor Laws

(H.P. 274) (L.D. 382)

(C. "A" H-313)

TABLED - May 14, 1999 (Till Later Today) by Representative TRACY of Rome.

PENDING - **PASSAGE TO BE ENACTED**.

Representative TRACY of Rome **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 Lewiston, Representative Mendros.

Representative **MENDROS**: Mr. Speaker, Ladies and Gentlemen of the House. I would remind you what this bill does. Don't be fooled by the title. In the amendment it changes this to "An Act to Make Failure to Provide Proper Identification a Violation of the Liquor Laws." What this bill will do is, you can read it in the summary. You can read it in the bill. You can read

it anywhere you want. What this bill will do is make it illegal, Class E crime, to not have identification. For example, if my seatmate were at Pats Pizza enjoying a pizza, not even having a drink, a police officer went in there and thought there was something going on, they believed he was under 21 years of age and did not have Id, he would be in violation of the liquor laws. It would be a Class E crime. You don't have to be drinking. You don't have to have any alcohol with you. You don't even have to be in a place where you have to be 21 to get in. All you have to do is they have to believe there is some liquor violation going on. If you don't have identification, you are violating the law. It is a Class E crime. I had no problem with the bill the way it was written. It allowed for an exemption if you weren't in violation and if you were over 21, it would be waived. That has all been eliminated by the amendment. This amendment makes it illegal in the State of Maine not to have an Id. Potentially, it is a Class E crime.

I went home and talked about this to a lot of constituents. They are all pretty horrified about it. I spoke with one constituent I have a lot of respect for, my mother, she said that when she was in Greece during the occupation in World War II, she used to have to carry an Id around everywhere she went. This is not where we want to go. I am not screaming wolf here. I can tell you while I was the President of the University of Maine, there was a student there who was pulled over by the campus police. He did not have his Id. He didn't have his green card. He was arrested and brought into the station, because he didn't have his Id. I found this out because my executive assistant was his fiancé. She called me at three in the morning and I had to call and yell at them. Technically it was illegal for him not to have his green card. He was from Pakistan. He didn't fly into Canada and sneak across the border into Maine. These laws have the potential to be abused. They have to be written in such a way that they can't. That is a real incident that happened. I can give you others, but I won't bore you with them. This is what we are making. We are making it illegal to not have an Id on you. I have a real problem with that. I urge you to vote against the pending motion. Thank you.

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

Representative **DUNLAP**: Mr. Speaker, Men and Women of the House. I think my friend from Lewiston must be looking at a different amendment than the one I am looking at. The Committee Amendment that I am looking at says that it is a violation if an individual refuses to provide proper identification to any law enforcement officer after the minor has been advised that the officer is investigating a possible liquor violation. Basically, if the good Representative from Lewiston's seatmate came into Pats Pizza where I am a bartender and I thought that I am sure this fella is of age, I need to see your Id. He refuses to let me see the Id. I call the cops. The cops come and ask to see the Id. He says, "I am not going to show you my Id." That is what this bill covers. It does not say that you have to cross the border with papers. It is two entirely different issues, ladies and gentlemen. I would support enactment of this legislation. Thank you.

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

Representative **MENDROS**: Mr. Speaker, Ladies and Gentlemen of the House. I am looking at the bill. A person may not refuse to provide any law enforcement officer proper identification after that person has been advised that the person

is under 21 years of age and an investigation is being made for possible liquor violation. First of all, if you are at Pats Pizza eating a pizza, you don't need an Id. You only need an Id if you are getting a drink. Anyone in there is required by law and if you do not have an Id on you, you have to refuse when you ask for it. That is what the law says. No, I don't want to give it to you. It is no, I can't give it to you is also a refusal. Thank you.

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

Representative **MCALLEVEY**: Mr. Speaker, Ladies and Gentlemen of the House. In my limited knowledge, it is my perception that the only time that you currently can be charged with an offense is if you fail to provide a driver's license when you are asked, when an officer is doing either a motor vehicle accident report or he is thinking of summoning you or arresting you for a traffic violation. That is because the license technically belongs to the state. Nothing in the law says you have to provide your name or your identity to a police officer if he walks up to you on the street. That is the law of the land. If you sign a fingerprint card, after having been arrested with a false name, that is a crime. There is no law that says you are supposed to provide your identity. Your identity belongs to you. Yes, it could be a lot easier if you could prove who you are or the authorities could prove who you are, but your identity is yours, not the states, not the governments, it is yours. This is a slippery slope. A little bit today, a little bit tomorrow and a little bit the day after that. The next thing you know, we will all have nationwide phone numbers we are born with or social security numbers, which is another matter. You may not perceive it today, but this is a very small encroachment upon that issue. I advocate if you are ever stopped by a police officer that you do cooperate and you do provide them with proof of your identity and your name and your date of birth. It is common sense. We all have to pitch in to make this society work. Charging someone with the failure to provide an Id, other than motor vehicle, is a real small chink in our armor of democracy.

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. I will direct this question to the Representative from Old Town, since he brought it up. I hadn't had a chance to look the amendment over. Right now, if you are in an establishment that serves alcohol, but you are allowed to be in there if you are under 21 and the owner asks you for whatever reason for an identification to see if you are underage and you refuse to give it to them and he calls the police officer and the police officer is refused by this person, is the person still there legally and if not under those situations cannot the owner or the police officer ask the person to leave?

The SPEAKER: The Representative from Bridgton, Representative Waterhouse has posed a question through the Chair to anyone who may care to respond.

Representative **BROOKS** of Winterport **REQUESTED** that the Clerk **READ** the Committee Report.

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

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

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

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

Representative **PLOWMAN**: Mr. Speaker, Men and Women of the House. When we are defining the word "minor" in this bill, is this a minor under the age of 18 or is this a minor who is not drinking age?

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

Representative **MENDROS**: Mr. Speaker, Men and Women of the House. In answer to that question, refusal to provide proper identification.. I can read it. "May not refuse to provide any law enforcement officer proper identification after that person has been advised that the officer has reason to believe the person is under 21 years of age." Anybody who the officer has reason to believe is under 21 years of age is a minor. That is why I pointed out that the title that was up there was wrong and there is a new title up there. Where it said minor in the original title, there was explanation in the original bill. According to this bill, to answer that question, it is anybody who the officer believes is under 21 years of age.

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

Representative **CHIZMAR**: Mr. Speaker, Men and Women of the House. To address the good Representative from Lewiston's question, the title of the bill has been changed. It appears in the amendment (H-313). I would ask your support for enactment. There are three words in the Committee Amendment that you need to remember. The first one is minor, under 21 years of age. The other two are liquor violations. Thank you.

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

Representative **PERKINS**: Mr. Speaker, Ladies and Gentlemen of the House. I think we should defeat this bill. Just read the language. It doesn't even say that person is charged with anything. It doesn't even say the officer has to say that I am suspecting anything that you are in violation. It just says that the officer is investigating a possible liquor violation. It could be somewhere unrelated. It says that in both of these areas down below. The officer is investigating a possible liquor violation. It seems to me that this is a real jump in taking somebody's rights of privacy away just because they are a minor. Could I ask a question? Is it not true that several years back, even a couple of decades, there was a landmark case involving a person from a minority ethnic group out in the Midwest and having to do with the so-called vagrancy laws that we used to have. This person was walking around in the neighborhood and he was arrested. He was charged for vagrancy and the charge was he didn't have an Id. That was a real huge case. I would just like to ask anybody if they remember that? He wasn't a minor, but the principles established, I believe the Supreme Court said, that you do not need to walk around with an Id. 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 Hampden, Representative Plowman.

Representative **PLOWMAN**: Mr. Speaker, Men and Women of the House. This Committee Amendment troubles me.

It brings a lot of questions out and I would like to try to voice them if I could. I am getting less eloquent by the day. First of all, Section 1, D3, assumes that you are talking to a minor. That cannot be established until after the identification has been shown. Second, as brought up before, a possible liquor violation could be that the liquor enforcement officer walks in and notices that the DJ is drinking a beer, which is a liquor violation. I have seen this happen and go from table to table asking for identification from everyone in the bar. That is the violation, walking from table to table asking for Id is the result. It has nothing to do with the original violation. When we talk about giving our license to a police officer for pulling us over, that is because we have a privilege to drive in the State of Maine. As was pointed out earlier, your identification is your right to have. Unless someone has good cause and knows that you are a minor and they are approaching you and says that you are a minor and I want your Id. I am not sure how this would work. Second of all, would the officer have to advise the person that I am going to ask you for your identification now. If you do not give it to me, you are breaking the law. If this is a minor, then I suggest we have some problems with the juvenile code. I don't think this is a well-written piece of legislation. I think that we ought to defeat it. Thank you.

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

Representative **WATERHOUSE**: Mr. Speaker, Ladies and Gentlemen of the House. I apologize for rising again on this bill, but I have a lot of problems with it. When I sat on the Criminal Justice Committee in the 117th, we did some real comprehensive things with OUI. I understand the good intentions of the members of the committee that tried to approach this problem. We had one issue we dealt with as far as people who are stopped for OUI and their refusal to take a breathalyzer or some other test. There were thoughts back then of making that a crime. The refusal to do that, to take the test. If you would think that you would ever want something to be required and make it a crime to refuse, it would be in those situations. We decided not to do that. We were trying to get at the problem of drunk driving. I wasn't in on any of the committee hearings on this. I don't really know what the members are trying to get at, but I think they are trying to get at people drinking. To me, this is not the way to do it. I don't feel comfortable voting for this. I intend to vote against the enactment and I hope you will do the same. Thank you.

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

Representative **POVICH**: Mr. Speaker, Men and Women of the House. This is my bill. It has been turned into a different version of the original bill, but I do still recommend passage for enactment. I submitted this bill on behalf of the Bureau of Liquor Enforcement to help them help me to do my job to keep underage individuals from drinking. It is a real problem in the state. It is a real problem in my business. I urge you to pass LD 382. Thank you.

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

Representative **LINDAHL**: Mr. Speaker, Men and Women of the House. Right now we are coming upon graduation time. This is where all the kids go out and get their booze. You have your alcohol free parties, but they also have their pit parties. This is where a police officer gets called to a disturbance, a loud party, you may pull into the pit and there may be 20 kids there or

200 kids there. There are kegs of beer. What this law says is, if you are going to be around booze, you had better be able to prove you are an adult and can legally have it. Just think back to those police officers in Rockport that we debated last week, I believe it was, that made maybe a bad decision. They made the best decision they could make at that time. Let's say those same officers go into a gravel pit someplace and there is a whole bunch of kids there and a bunch of booze and nobody has an Id. They either seize the booze, which may be illegal if the people are all of age. Maybe they are all 21, 22 or maybe they look young. If you are going to be around booze, you have got to have an Id. It is very simple. They are not going into Pats Pizza and going out and asking someone who is 24 years old to show them their Id or else I am going to arrest you. That is not happening. That is ridiculous. There is a real problem at graduation time with young people drinking. If you are going to be out drinking, have an Id. That is all it amounts to. Thank you.

The SPEAKER: 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.

ROLL CALL NO. 238

YEA - Ahearne, Andrews, Bagley, Baker, Belanger, Berry DP, Bouffard, Bowles, Bruno, Bull, Bumps, Cameron, Campbell, Carr, Chick, Chizmar, Clark, Clough, Collins, Colwell, Cote, Cross, Daigle, Desmond, Dugay, Duncan, Dunlap, Fisher, Frechette, Fuller, Gagne, Gagnon, Glynn, Gooley, Hatch, Heidrich, Honey, Jabar, Jacobs, Jodrey, Jones, Joy, Kane, Kneeland, Labrecque, Lemoine, Lemont, Lindahl, Lovett, Madore, Mailhot, Martin, Marvin, Matthews, Mayo, McDonough, McGlocklin, McKee, McKenney, McNeil, Murphy E, Murphy T, Nass, O'Brien LL, O'Neal, O'Neil, Perry, Pieh, Povich, Richard, Richardson E, Rosen, Samson, Sanborn, Saxl MV, Schneider, Shiah, Shields, Sirois, Stanley, Stanwood, Stedman, Sullivan, Tessier, Tobin D, Tobin J, Townsend, Treadwell, True, Usher, Wheeler EM, Wheeler GJ, Williams, Mr. Speaker.

NAY - Berry RL, Bolduc, Bragdon, Brennan, Brooks, Bryant, Cianchette, Cowger, Davidson, Davis, Dudley, Duplessie, Etnier, Foster, Gerry, Gillis, Goodwin, Green, Kasprzak, LaVerdiere, MacDougall, Mack, McAlevey, Mendros, Mitchell, Norbert, Nutting, O'Brien JA, Peavey, Perkins, Pinkham, Plowman, Powers, Quint, Richardson J, Rines, Savage W, Saxl JW, Sherman, Shorey, Skoglund, Snowe-Mello, Stevens, Thompson, Tracy, Trahan, Tripp, Twomey, Volenik, Waterhouse, Watson, Winsor.

ABSENT - Buck, Muse, Savage C, Tuttle, Weston.

Yes, 94; No, 52; Absent, 5; Excused, 0.

94 having voted in the affirmative and 52 voted in the negative, with 5 being absent, the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

SENATE DIVIDED REPORT - Majority (8) **Ought to Pass** - Minority (5) **Ought Not to Pass** - Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Improve the Maine Clean Election Act"

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

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

TABLED - May 14, 1999 (Till Later Today) by Representative SAXL of Portland.

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

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

Representative **GAGNE**: Mr. Speaker, Ladies and Gentlemen of the House. I rise to oppose this minority motion and urge you to support the Majority Report, of which I am a member. The sponsor is also a member of the committee and had no specific agenda in mind here, just an honest belief that the title is definitely misleading. It was a pretty good idea to use the word clean election when you are running a campaign with a referendum and getting people to be interested. They look at politicians as being unclean. In fact, that is probably what got them to vote for it. It went through and that was nice. Now, you and I have to deal with this. Next year is our campaign and, for us, we are the future candidates dealing with, as far as I am concerned, a public election fund. We will be public election candidates if we choose it.

The title, if changed, we can do it by removing this motion, public election fits. We use public money. We have \$2 million out of our revenue. That is public tax money. You had a check off on your forms for \$3. There is some more tax money. You also have to obtain from 50 constituents in your district, I am talking you father, mother and relatives, because they don't count anymore. They have to be 50 constituents. I call that public money. We have three sources and they are all public money to run your public election campaign. Out of all of this, obviously, it is the opposite of this public money and so forth. It would be private money. That means public money is clean money and private money is unclean money. If that is true, then you are going to be that. You are going to be that candidate. Be truthful and call it what it is. It is a public election fund. You will be a public election candidate. That is how it should be worded. That is what people write on the checks that will be required from the gathering that you are going to have to go through. You are going to need 50 of those and they are going to be made out to public elections fund, if we pass this, if not, clean elections fund. Obviously you will be a clean election candidate. In this case, if we have the right title, public election candidate.

It may sound like I am against this whole idea of being supporters of public election candidates. I am not. I think it would be a great idea. They give us \$5,000 for signing up. We don't have to worry about making friends with anybody in particular. It goes along pretty well. I think that would worry no one. However, we have got to also realize that there are a lot of other little things that are going along with this. We have had several bills come into our committee that wanted to change that whole public elections thing. We looked at those and thought they all sounded good and maybe we would like to do it. We even have a lawsuit coming along this summer that is going to look at it again. There are a lot of things going on with this whole public elections act.

This bill is a good start to really tell it like it is. It is a public election fund to fund public election candidates. I would ask you to vote against this motion. Vote the Majority Report.

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

Representative **FULLER**: Mr. Speaker, Ladies and Gentlemen of the House. I stand to support Representative Gagne and her position. I hope that you will reject the Minority Ought Not to Pass Report. The reality is this is a fund of public money, as was just pointed out with all the figures, \$2 million, plus all the check off amounts. If I choose not to participate in being funded from this clean election fund, I then will be painted

as "unclean" candidate, no matter how clean my money is. I assure you, my money is clean. I think we need to call it as it is and turn down the motion to Ought Not to Pass and support the Majority Report. Thank you.

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

Representative **NORBERT**: Mr. Speaker, Ladies and Gentlemen of the House. I rise in support of the pending motion. The voters have spoken clearly on this, overwhelmingly. They passed this bill. It is interesting to hear the position of my good friends, the Representative from Buckfield and the Representative from Manchester, for whom I have great respect for both of them. The fact is, the voters have a different idea. It was only after this Legislature did not act on campaign finance reform for a decade that the voters took it into their hands and passed comprehensive campaign finance reform. Who are we to be telling them about the wisdom of their vote? The fact is voters continue to show their support for it by checking off, in ever growing numbers, on their tax returns support for the clean election fund. Also, candidates will not be labeled. There will be no labeling on the ballot whether you are clean or dirty. That argument really doesn't hold water. The fact is voters want us to give the Clean Election Act a chance. That is why there is a provision in the law to review it in the 120th Legislature after it has at least a chance to go through one election cycle. I strongly urge you to support the Minority Ought Not to Pass Report. Now is not the time to change the act. We need to give it a chance to work. The voters have spoken very clearly on this. Thank you.

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

Representative **CAMERON**: Mr. Speaker, Ladies and Gentlemen of the House. This bill is not about changing the procedure. It is only about changing the name. The voters voted on clean elections because that was the only choice they had. They never had a choice between voting between the term clean election and public election. I think it confuses the issue to say that the voters voted for clean elections. They voted for the process. While I disagree with the process and I think public using tax money to finance our campaigns is totally inappropriate, that doesn't make any difference. That is what the public said they wanted to do. When you hear that we are somehow changing the process by changing the name, that is misleading. The name really does define the process because it is a public process. I would encourage you, please, to reject the motion that is on the floor and change the name to what it really is for a couple of reasons. The term clean elections is to some degree a slap in the face to all of us. Those of you who have been here and friends that we have had that are no longer here, I submit to you for the 99.9 percent of these folks, they are good, honest and decent people, not the people that are created in the media as being controlled by the folks out in the lobby. We are not controlled by the folks out in the lobby.

For me to have to stand here before you and tell you where my campaign money came from, I couldn't do it. Yes, I have it written down at home, but I can't tell you now that so and so gave me this much money. One contribution I can tell you was \$1,000 from a public person, a friend, who has never called me and asked me for anything. To say that these elections are driven by the money from the folks in the hallway is a bit of a slap in the fact to all of us and all of our friends who have been here in the past and all of our friends that will be here in the future.

I would encourage you to call this process what it really is. It is public financing of elections. Again, the public didn't have a choice to vote on choosing between the term public elections or clean elections. To say that this is what they choose is true, but it is the only choice they had. It was this or nothing. I also submit to you that this whole process is a bit demeaning to the public because what this really says is that the public can be bought. The more money that we have, we can buy an election. I don't care which side of the aisle you are sitting on, I don't believe that is true. Can we spend more money on signs, ads and all those kinds of things? Yes, we truly can, but that is about getting a message across to the people. I think what they vote on is the message. They don't vote on how much money you made. How much money you had in that election is public information now if the public truly wants to find out. It is available. There is nothing hidden. I would encourage you to vote against the Minority Report so we can go on and pass the Majority Report. Let's call these elections what they are, publicly financed elections. It is not demeaning to the process. It is merely naming them as they are. Thank you.

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

Representative **WILLIAMS**: Mr. Speaker, Ladies and Gentlemen of the House. The debate seems to be straying a little bit into the area of arguing that the merits of the Clean Election Act, as the good Representative from Buckfield mentioned, that will be coming before the courts to decide. I would like to stick to the issue of the name change. In the field of advertising when a product is marketed, often times, a underhanded technique is used whereby a specific item is advertised in hopes that the consumer will call up or come into the store and inquire about the item only to find out that that item is no longer available. We would be happy to sell you this more expensive model or version, it has all the other features, but it is just a little bit more expensive. We think you will be just as happy with that. I think we are all familiar with what that is called. It is called bait and switch. I think that is what we are embarking upon here whereby one thing is advertised. We hook the voter and now we are going to change it on them. I suggest to you that is somewhat underhanded.

If I may borrow again from the field of advertising, I think one of the staples in advertising is consistency. One needs to be consistent. I think that in this day and age, the area of politics is confusing enough. The voters in the State of Maine have signed on to this. They have endorsed it. Let's not confuse them any further by switching it. The nut of the issue, really, is the fear that people are going to be somehow labeled unclean or unethical if they don't elect to enroll as a clean election candidate. The best example I can give you is when I was in graduate school at the University of Maine, I had the good fortune of being the head resident in a resident's hall. In this resident's hall, it was a traditional residents hall, four floors and eight sections. There was one section that was a quiet section. There was one section that was a chem.-free section. Ladies and gentlemen, that didn't make all the other sections loud sections. It didn't make all the other sections chem.-full sections. Just because one student decided to live on a quiet section, didn't make everybody else loud students. These terms are not mutually exclusive.

Ladies and gentlemen, I would submit to you and I would suggest to you that if somebody is going to be an unclean

candidate or an unethical candidate, let the people decide, the same people that endorsed the Clean Election Act.

The SPEAKER: The Chair recognizes the Representative from Brewer, Representative Fisher.

Representative FISHER: Mr. Speaker, Men and Women of the House. The good Representative from Orono just made our case. Clean elections are like motherhood and apple pie. What a great way to get people to sign a petition and vote on a bill. It is simply that. Clean elections were a drive financed by a single, very large, contributor. There is a bit of hypocrisy there. I found this whole process ugly when we first dealt with it two years ago. I thought it implied that people, as the good Representative from Rumford said, in the past and presently, we are dirty candidates. Those who are promoting the Maine clean elections will say that that is not what we meant. When you went to the polls and signed the petitions or when you signed the petitions out on the street, the petition was presented to you by people who implied that up until now, elections were corrupt. They will also tell you that this will not be used against you if you choose not to be a candidate of that. This law doesn't go into affect for another year. In a very recent special election a very last minute mailing accusing a candidate of not being a clean election candidate was done. We have already laid the groundwork for improper behavior in elections based on this name. I encourage you to follow the Ought to Pass report. Thank you.

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

Representative MATTHEWS: Mr. Speaker, Men and Women of the House. The Maine Clean Election Act was initiated and passed by many voters across the state. Eleven hundred volunteers collected 65,000 signatures to put this measure on the ballot. Three hundred twenty thousand voters approved the measure. The measure received more votes than the good Governor on the second floor. I would remind the members of this House that what we do as legislators, the oath the we take to the Constitution, that the people that we are forever in gratitude to and swear to uphold and do our best for, are the people. Ladies and gentlemen, we are not the only avenue in the Constitution for people trying to change policy and law. We have a referendum process, a very sacred process, one, which has worked very well to serve this state and our country. I would urge the membership to support the Minority Ought Not to Pass Report. Preserve the referendum process and not tinker with what the public has decided and passed in our election system. Thank you.

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

Representative DUPLESSIE: Mr. Speaker, Ladies and Gentlemen of the House. I rise in support of the Minority Ought Not to Pass Report. This law, as you all know, was passed. I am concerned about what we are hearing as far as clean elections and public financing. It is not total public financing. Some of the money comes from the lobbyist registration fees, fines for election law violations and voluntary check offs on your income tax box. I don't know how many in here do the voluntary check off, but I am proud that I do each year for \$10. It is an amount going into the fund.

As the good Representative from Orono said, consistency, that is what we need to look at. Let it go into affect in January like it is supposed to. The law is written so the 120th can review any needed changes. It is premature to be tinkering with this law

at this time. Please vote for the Minority Ought Not to Pass Report. Thank you.

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

Representative CHIZMAR: Mr. Speaker, Men and Women of the House. Of all of the speakers that have risen on LD 872 and offered their concerns, I have one more to add to it. In my support of the Ought Not to Pass motion, I consider it poor public policy to change anything on this piece of legislation, because at the present time it is under litigation. Mr. Speaker, I have a question to pose through the chair. The title of the bill is, "An Act to Improve the Maine Clean Elections Act." By changing the word clean to public, how is it going to improve this piece of legislation?

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

Representative MCKEE: Mr. Speaker, Men and Women of the House. I don't really know where to begin. I feel that on this day our credibility is at stake here. I think in terms of another issue, term limits, if you will pardon me, this is germane. I voted for term limits. I thought they were a good idea and they would raise public confidence in this place. In a participatory democracy perhaps it would help if many people had an opportunity to serve for eight years and getting to know what it is like to make laws. After I got here, I realized maybe there was something to an institutional memory and experience. I will not vote to change term limits until an entire cycle has occurred of eight years. I believe we should leave the Maine Clean Elections Act alone until there is the opportunity for legislative review after the 2000 elections.

Consider how this law came about. The papers were smeared with stories of cynicism and lack of faith in public politics and probably you, like I, when we decided to run for this office, we were somewhat reluctant, not because we didn't want to do it, but because we wondered what people would think. We, who had worked so hard in our communities, wanted to be a part of this dirty process. We are here because we believe in democracy. We are here because we are trying to raise public confidence in politics. We are here because we believe that participatory democracy only works when we believe in it. Maine clean election was an honest effort to try to address that issue.

All over the country it is catching on. People called us from practically every state in the country to say, how did you do it? How can we get started? What were the problems? Hearings and hearings and it was finally adopted. It wasn't over and then the court suits started. One of the persons who actually was involved in that court suit and was on the side of suing against the Maine Clean Elections Act actually voted Ought Not to Pass on this bill. It was a Senator from the other body. There has been plenty of time in the development of campaign finance reform to make this change. The public has weighed in on it. Editors have weighed in on it.

As a side issue, I thought about this word. I thought I am going to look at it from the other side. Maine public elections, I don't see private as necessarily the opposite of that. It could be non-public. We are all election candidates today. That is what we have today. Instead of complaining, I feel that is what we are doing here. It is an insult, in my opinion, to the Maine public. Instead of complaining, I say, let's get on board. Why don't we all become Maine clean election candidates? I can tell you

raising money was very difficult in the beginning. Raising money, even though it was easier the second time around, took up a lot of time. I wanted to be out there knocking on doors and telling people, once again, who I was and what I represented. Money and the raising of it, to me, gets in the way of the process. If we all could become Maine clean election candidates, we would be playing on an even field here. I think we would be earning high marks from the Maine public if we all did it. What a voice of confidence that would be, a united voice of participation in the Maine Clean Elections Act. If we do this, I feel the cynicism will continue to disappear. Public confidence will be raised.

I hope you will join the Minority Ought Not to Pass Report on this. Let's move on and let the Maine public see what their overwhelming approval of it plays out to be. Thank you Mr. Speaker.

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

Representative **KASPRZAK**: Mr. Speaker, Men and Women of the House. I would argue that the old bait and switch trick has already taken place, as eluded to by the good Representative from Orono. Voters were drawn into a clean election trend and what were they given. They were given publicly funded elections. It is \$2 million for seed money with a never ending opportunity to gobble up even more taxpayer funds. This is a publicly funded election opportunity. Just a few words that come to mind when I think about this issue, clean means free from flaws, sinless complete. The words I think of when I consider the Clean Elections Act are hopes, trick, deceitful and misleading. I urge you to vote accordingly and defeat the pending motion. Thank you.

Representative **NORBERT** of Portland **REQUESTED** a roll call on the motion to **ACCEPT** the Minority **Ought Not to Pass** Report.

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

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

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

The SPEAKER: The Representative may pose his question.

Representative **TRACY**: Mr. Speaker, Men and Women of the House. If we just change the one word, clean, to public, is this not still being funded the same way it has been funded when the law was passed?

The SPEAKER: The Representative from Rome, Representative Tracy has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Freeport, Representative Bull.

Representative **BULL**: Mr. Speaker, Men and Women of the House. Yes.

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

Representative **PERKINS**: Mr. Speaker, Men and Women of the House. I am on the minority. I think I should just explain briefly why. I think all of the people who are in favor of changing the name are absolutely right. The word clean should have never been put in there in the first place. It is misleading and insidious. It should never have been used, because, of course, it implies the opposite, which isn't very nice. I voted on the minority because I feel that we shouldn't be tinkering with even

the name. Let it rest. Nobody could complain about the name enough to vote against it or a lot of people didn't. Many, many people voted in favor of this and they didn't protest because of the name. I think we ought to let it lie. Thank you.

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

ROLL CALL NO. 239

YEA - Ahearne, Andrews, Bagley, Baker, Berry RL, Bolduc, Bouffard, Bragdon, Brennan, Brooks, Bryant, Bull, Carr, Chizmar, Cianchette, Clark, Clough, Colwell, Cote, Cowger, Daigle, Davidson, Davis, Desmond, Dudley, Dugay, Duncan, Duplessie, Etnier, Frechette, Gagnon, Gerry, Gillis, Glynn, Goodwin, Gooley, Green, Hatch, Jabar, Jacobs, Kane, LaVerdiere, Lemoine, Madore, Mailhot, Martin, Matthews, McDonough, McGlocklin, McKee, McNeil, Mendros, Mitchell, Norbert, O'Brien JA, O'Brien LL, O'Neal, O'Neil, Peavey, Perkins, Pieh, Pinkham, Povich, Powers, Quint, Richard, Richardson J, Samson, Sanborn, Savage W, Saxl JW, Saxl MV, Shiah, Shorey, Sirois, Stanwood, Stevens, Sullivan, Tessier, Thompson, Tobin D, Townsend, Tracy, Trahan, Tripp, True, Twomey, Usher, Volenik, Watson, Williams, Mr. Speaker.

NAY - Belanger, Berry DP, Bowles, Bruno, Bumps, Cameron, Campbell, Chick, Collins, Cross, Dunlap, Fisher, Foster, Fuller, Gagne, Heidrich, Honey, Jodrey, Jones, Joy, Kasprzak, Kneeland, Labrecque, Lemont, Lindahl, Lovett, MacDougall, Mack, Marvin, Mayo, McAlevey, McKenney, Murphy E, Murphy T, Nass, Nutting, Perry, Plowman, Richardson E, Rines, Rosen, Schneider, Sherman, Shields, Skoglund, Snowe-Mello, Stanley, Stedman, Tobin J, Treadwell, Waterhouse, Weston, Wheeler EM, Wheeler GJ, Winsor.

ABSENT - Buck, Muse, Savage C, Tuttle.

Yes, 92; No, 55; Absent, 4; Excused, 0.

92 having voted in the affirmative and 55 voted in the negative, with 4 being absent, the Minority **Ought Not to Pass** Report was **ACCEPTED** in concurrence.

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

HOUSE DIVIDED REPORT - Majority (9) **Ought Not to Pass** - Minority (4) **Ought to Pass as Amended by Committee Amendment "A" (H-578)** - Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Eliminate the Minimum Quota Requirement for a Store to Have a Lottery Machine"

(H.P. 78) (L.D. 91)

TABLED - May 17, 1999 (Till Later Today) by Representative SHIAH of Bowdoinham.

PENDING - **ACCEPTANCE OF EITHER REPORT**.

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

Representative **MARTIN** of Eagle Lake **REQUESTED** a roll call on the motion to **ACCEPT** the Minority **Ought to Pass as Amended** Report.

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

The SPEAKER: The Chair recognizes the Representative from Gorham, Representative Labrecque.

Representative **LABRECQUE**: Mr. Speaker, Men and Women of the House. This bill needed to pass only if legislation in the other tri-county states passed. It is my understanding that New Hampshire has already voted not to allow this to happen. This is why this Ought Not to Pass report should be the one. Thank you.

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

Representative **CLARK**: Mr. Speaker, Ladies and Gentlemen of the House. I am the prime sponsor of this bill. The reason why I put this bill in is because a lot of municipalities throughout the state are having problems with the Megabucks machines. The quota right now is \$315 a week. A lot of towns only have one Megabucks machine. They have theirs for \$315. If they don't come up with the \$315 per week, then they have to pay it out of pocket. Other municipalities that have more than one machine that doesn't make the \$315, have to pay out of their own pocket.

I have one town in my district that has two Megabucks machines side by side. Everybody knows that those Megabucks machines bring in a lot of money for that store, a lot of revenues. That is how they get the people to come into their stores. It is because of the Megabucks machines. I don't think it is fair for both of those people competing drawing from one place to the other. If you take one out because it is not doing the business, most of the business will go over where the Megabucks machine is. When we had the public hearing on this bill, most of the opponents opposed to this bill said that the machines were intended to pay for themselves. That is all fine and dandy, but if you have somebody that is trying to survive on a business, that has a Megabucks machine in their business, you lose that revenue.

There were discussions in the committee of having a \$275 a week cap, which is revenue neutral. People didn't like that because it was only revenue neutral. There are a lot of places throughout the state that are under even the \$275 a week minimum. They are in every county in this state. A lot of them are the people you represent. Before this was reduced to \$315, it was \$350 a week. Now \$350 and \$315 is a lot of money to pay in one week for Megabucks machines, especially in a small community. My community, Millinocket, which I represent about 6,000 people, we have five Megabucks machines. We lost one last year, which was on Main Street because they couldn't make up the difference all the time. They were making about \$250 a week and the quota was \$315. That takes away from everything they had to have. A lot of the people who used to go into that place, they lost the business.

These big stores, like Shop n' Save and Shaw's don't have to worry. They have people going to those places every single day to buy groceries and things. They can make anywhere from \$500 a week to \$4,000 a week. Can you imagine making \$4,000 a week on Megabucks tickets? That is a lot of people. It is not just happening in northern Maine or whatever. It is happening throughout the state. I had a lady fax me a letter from a store in Harmony, Maine. She is losing money because she has to pay out of pocket because she is not making the \$315. Yes, that is \$315, in it you have a maintenance charge for that machine. If anything goes wrong with that machine, you just pick up the phone and call down here to Augusta and they come and fix it. I think \$315 is just a little bit too much. I was proposing in committee to have by size or area. If you have a store of 25,000 square feet, you should be able to bring in close to \$500 to

\$1,000 a week. A mom-and-pop store should be about \$250 or below.

When you vote on this today, think of all the people you represent, especially the small communities and the small mom-and-pop stores that are trying to bring in the money. I am not saying that all these people have that. I am saying that make sure that when you vote today, that you try not to boost the small business people out of business because of the Megabucks.

The **SPEAKER**: The Chair recognizes the Representative from Gorham, Representative Labrecque.

Representative **LABRECQUE**: Mr. Speaker, Men and Women of the House. If you will look at amendment (H-578) and read the fiscal note section, this bill becomes affective only if the other two states, which are New Hampshire and Vermont participating in the Tri-State Lotto Compact also adopt similar legislation. It is my understanding the New Hampshire has already voted down this piece of legislation. Thank you Mr. Speaker.

The **SPEAKER**: The Chair recognizes the Representative from Brewer, Representative Fisher.

Representative **FISHER**: Mr. Speaker, Men and Women of the House. I apologize for speaking a third time this month. This is kind of like being on Donahue. The small businessmen that the good Representative from Millinocket spoke about knew the rules when they got into the game. If they couldn't meet a certain level, they would lose machines. That is what is happening to some of them. It is regrettable, but that is the way it is. If they keep the machines, it is going to be at a great expense to the state with revenues not coming in. I urge you to support the Majority Report. Thank you.

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

Representative **MAYO**: Mr. Speaker, Ladies and Gentlemen of the House. I am one of the four people on the other side of this issue. While I can agree, somewhat, with the remarks that the good Representative from Brewer, a lot has changed since we got involved with the lottery. We are now making available in communities many more machines than were formally available. I was talking with a state representative as recent as this afternoon who indicated to me that all of the stores in the three towns, which he represents have machines. There was a time when we first got into this situation that geographic distance played a part. Now, we tend to be issuing more and more licenses for these machines. Some of the original people who started off with them have found themselves at an economic disadvantage because they have grave difficulty competing with the large chains. There are currently 164 agents, mom-and-pop stores in this state that are not meeting the \$350 mark. We have heard mention \$315. That is a temporary situation. It is not in statute. It is not intended to continue. There are 164 small operators who have these machines who feel that the people who come in and use them, hopefully, are buying other things in the store. They are making up the difference. There were a group of us on the minority side who looked at the situation of lowering the \$350/\$315 amount to \$275. We decided at this time not to do it. We are going to take a look at the entire issue at some time in the future, either in the 119th Legislature or the 120th Legislature. I support the contention of the good Representative from Millinocket. I urge you to accept the Minority Ought to Pass as amended Report. Thank you.

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

Representative CHIZMAR: Mr. Speaker, Men and Women of the House. There are four people on the Minority Ought to Pass Report. I am number two. My concern with this Ought Not to Pass is the analysis of the on-line weekly sales. There is a portion taken out for prizes, vendor fees, phone and advertising, plus the profit to the state if \$74.20. My problem is the Super Shaw's and Shop n' Save in Portland, Lewiston and Augusta all pay the same amount and are expected to pay the same amount as the lovely lady from Harmony, Maine who operates in an AG store. It needs to be looked at. Representative Mayo has told it exactly how it is as far as the minority people feel. I would still ask for your consideration on the Minority Ought to Pass.

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

Representative RICHARD: Mr. Speaker, Men and Women of the House. It is essential that I speak because the woman from Harmony, Maine, that has been mentioned twice already is one of my constituents. Believe me, I have heard this story over and over and from many angles. One of the angles that has not been mentioned that she is very upset about is she has an attic full of materials that were given to here when her store celebrated an anniversary for having this machine. She has LL Bean shirts. She has LL caps. She has LL Bean coffee mugs. She just has boxes and boxes of material that Megabucks gave to her to give to her customers. She asked why they gave me all of this and then makes me pay more than I can afford to pay? She has another point. This was mentioned by the Representative from Bath, Representative Mayo, that the rules have changed since these machines were put in. One of the big rules that changed in Harmony, Maine, was they rebuilt the main road. The State of Maine built the road around Harmony, Maine. We have a bypass around Harmony, Maine. She is downtown. A store was built out on the bypass and they let them have a machine also. She just feels that the state is not being very fair to her. To her, I am the state, therefore, I do have to speak for her and for all of the people like her. Therefore, I shall be voting for this motion that is on the floor. Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative TRUE: Mr. Speaker, Men and Women of the House. In listening to the people today and remembering that I was on this committee for six years. It seems to me that about three years ago, if I remember correctly, everybody was clamoring because there were not enough machines out there. In fact, many of the machines were taken out of the stores. My question is, did we not put out a surplus of machines through an act of this Legislature?

The SPEAKER: The Representative from Fryeburg, Representative True has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Buckfield, Representative Gagne.

Representative GAGNE: Mr. Speaker, Ladies and Gentlemen of the House. I am on the Majority Report, Ought Not to Pass on this. There are just a certain number of machines and that is all there are. When you have a business to run and that is what we are in, the lottery business, you got them out

there to make some money. If they can't cut it, then they don't keep the machine. It is as simple as that. If they go below that threshold, they are not making any money for us. It would be great if we could pass them out to every little town and every little store. That would be fine if they could reach some quota and we would be making some money. The lottery isn't a great big moneymaker. We only put it in the areas where we can make the money. I think that is what we have got to think about here and not think about the people involved. That would be nice, but we are in business and business isn't always being nice. Business is making money and that is what we want to do with these machines. You put them in places that make the money.

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

ROLL CALL NO. 240

YEA - Ahearn, Andrews, Bagley, Baker, Bolduc, Bouffard, Bowles, Brooks, Bruno, Bryant, Cameron, Carr, Chizmar, Clark, Cote, Davidson, Davis, Desmond, Dugay, Duncan, Dunlap, Duplessie, Foster, Frechette, Fuller, Gerry, Gillis, Glynn, Goodwin, Jodrey, Jones, Joy, Kasprzak, Kneeland, MacDougall, Mack, Madore, Mailhot, Martin, Matthews, Mayo, McGlocklin, McKee, McKenney, Mendros, Murphy E, Murphy T, Nass, Nutting, O'Brien JA, O'Brien LL, O'Neal, O'Neil, Perkins, Pieh, Pinkham, Plowman, Povich, Quint, Richard, Richardson E, Rines, Rosen, Samson, Sanborn, Schneider, Sherman, Shields, Shorey, Sirois, Skoglund, Snowe-Mello, Stanley, Stanwood, Stedman, Sullivan, Tobin J, Tracy, Trahan, Treadwell, Twomey, Usher, Waterhouse, Weston, Wheeler EM, Wheeler GJ.

NAY - Belanger, Berry DP, Berry RL, Bragdon, Brennan, Bull, Bumps, Campbell, Chick, Cianchette, Clough, Collins, Colwell, Cowger, Cross, Daigle, Dudley, Etnier, Fisher, Gagne, Gagnon, Gooley, Green, Hatch, Heidrich, Honey, Jacobs, Kane, Labrecque, LaVerdiere, Lemoine, Lemont, Lindahl, Lovett, Marvin, McAlevey, McDonough, McNeil, Mitchell, Norbert, Peavey, Perry, Powers, Richardson J, Savage W, Saxl JW, Saxl MV, Shiah, Stevens, Tessier, Thompson, Tobin D, Townsend, Tripp, True, Volenik, Watson, Williams, Winsor, Mr. Speaker.

ABSENT - Buck, Jabar, Muse, Savage C, Tuttle.

Yes, 86; No, 60; Absent, 5; Excused, 0.

86 having voted in the affirmative and 60 voted in the negative, with 5 being absent, the **Minority Ought to Pass as Amended Report was ACCEPTED.**

The Bill was **READ ONCE. Committee Amendment "A" (H-578) was READ** by the Clerk and **ADOPTED.** The Bill was assigned for **SECOND READING** Wednesday, May 19, 1999.

Resolve, to Enhance Fire Protection Services throughout the State

(H.P. 1017) (L.D. 1428)

(H. "A" H-586 to C. "A" H-557)

TABLED - May 17, 1999 (Till Later Today) by Representative POVICH of Ellsworth.

PENDING - **PASSAGE TO BE ENGROSSED.**

Subsequently, the Resolve was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-557) as Amended by House Amendment "A" (H-586)** thereto and sent for concurrence.

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

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

HOUSE DIVIDED REPORT - Majority (12) Ought Not to Pass - Minority (1) Ought to Pass as Amended by Committee Amendment "A" (H-590) - Committee on CRIMINAL JUSTICE on Bill "An Act to Reinstate the Death Penalty"

(H.P. 1558) (L.D. 2214)

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. I move the Majority Ought Not to Pass Report. LD 2214, "An Act to Reinstate the Death Penalty" received a 12 to 1 Ought Not to Pass report from the Criminal Justice Committee. The testimony our committee heard was powerful and compelling. According to Dr. Kimberly Cook, Professor of Criminology at the University of Southern Maine, there are five reasons not to reinstate the Death Penalty in Maine. One, the Death penalty has been studied extensively for deterrent effect. The death penalty offers no deterrent effect. Second, The death penalty is a terribly expensive budget item. I list these items in no particular order. It has been shown that in every jurisdiction where the death penalty is employed, the price tag far outstrips the costs of Life Without Parole Sentence from arrest to death. Each execution is approximately six times the cost of a life imprisonment sentence. Third, problems remain with racial bias in capital punishment. If you are a person of color and you are in this circumstance, you are probably going to get the death penalty. Fourth, public opinion research indicates that the general public is poised and ready to accept an alternative to the death penalty. When given a non-biased question such as Do you prefer the death penalty or life without parole for someone convicted of first degree murder? Repeatedly, when respondents are presented with an option they prefer life without parole. That question is not asked in the referendum question contemplated in this LD. The referendum question simply asks, do you favor reinstating the death penalty?

If we send this LD out to the people, an important question can be raised. Did this body choose a referendum as political cover? We are not saying the people of Maine do not know their business, but the people of Maine elected us to do their business and this is our business for the people of Maine.

Fifth, perhaps most chilling is the research conducted on the "Miscarriages of Justice", where factually innocent people have been sentenced to death and executed. Research shows that more than 400 innocent individuals have been convicted of capital crimes in the 20th century alone. Of those, we now know that at least 23, perhaps more, have been executed. With the modern death penalty there have been 77 innocent people released from death row around the country after the states admitted they had the wrong person.

Walter McMillian of Alabama, a black man, McMillian was convicted of murdering a white woman. After four unsuccessful appeals, three witnesses recanted. One of these had been

rewarded with a lighter sentence in another crime for testifying against McMillian. Two others had received money for their perjured testimony.

Federico Macias of Texas. His court appointed attorney did little to prepare his case for trial. Two days before his execution he received a stay so that new lawyers from a large Texan firm entered the case and devoted the firm's resources and expertise to the case. His conviction was overturned. The court said, "We are left with the firm conviction that Macias was denied his constitutional right to adequate counsel in a capital case in which actual innocence was a close question." The state paid defense counsel \$11.84 per hour. Unfortunately, the justice system got only what it paid for. There are 400 more examples as chilling as this.

Twenty-two years ago, this body disbanded the parole system. Twenty-two years ago this body said that if you are sentenced to a life term in prison, you stayed in prison for your natural life. You will die in prison, if you are sentenced to a life term in prison. Scott Baxter from Brewer said it best. "In Maine, we can sentence a person to life imprisonment with no possibility of parole. This is effectively a sentence of death with God serving as the executioner. The convict will die in prison. The only uncertainty is the date on which the sentence will be carried out. If we discover that the person is innocent, we can release the person, make apologies and restitution. Such actions cannot happen if the person has been killed by the State."

Supreme Court Justice John Paul Stevens wrote: "The quintessential miscarriage of justice is the execution of a person who is entirely innocent." This bill seeks to render the ultimate condemnation, but how do we guarantee that we don't condemn the wrong person? Please support the pending Ought not to Pass motion. Thank you very much.

Representative **WATSON** of Farmingdale assumed the Chair.

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

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

Representative **TOBIN**: Madam Speaker, Ladies and Gentlemen of the House. It is a beautiful afternoon to be discussing a rather dismal subject. I am the minority of one. I will try to be as brief as possible. There are a couple of good reasons about why I voted in favor of this bill. Our good chair has already spoken to the reasons of voting against it, but he has brought several things to mind. The first reason, ladies and gentlemen, can be termed as one word, introspection. Introspection is a term used by philosophers, which means, let's take a good look at ourselves in the mirror. I don't know about you, but when I get up, these full-size mirrors in these motels, I don't know who authorized them, but when you get out of the shower and you have to stand out in front of that full-length area, you wish you had stayed behind the shower curtain. When I did that, that brought something to life. Are we afraid of looking at ourselves in the mirror? I used to be 200 pounds of dynamite. Now I am 225 pounds of soft ripe pear. Thank God we can look and laugh at ourselves. Are we afraid to look in the mirror? Are we afraid to step on the scale? I think a lot of us are.

This bill, ladies and gentlemen, would have given each and every Mainer an opportunity to step on the scale. To look at

themselves in the mirror, not only at their physical appearance, but they would look at their own convictions, morals, principles and values in regards to taking of a human life.

I listen to public radio all the time driving back and forth to Dexter. Thank God for 91.3 out of Waterville. The other morning I was driving down and I listened to a Senator, Senator McCane from Arizona talking about the bombing in Kosovo. I wished I had an opportunity to vote on the bombing in Kosovo. We are taking innocent lives each and every day. We are not dropping just bombs to deteriorate damaged business and industry. We are dropping shrapnel bombs. We would like to think we are isolationists here in the State of Maine. We would like to think that Maine is one of 12 states that don't have capitol punishment and we are proud of it. We are insulating ourselves from the rest of the country. We cannot do that, ladies and gentlemen. We are part of the United States of America. We are condoning the dropping of bombs in Kosovo. How can we condone that and not even consider that this isn't passing the death penalty, this is just considering having the people weigh in on an issue.

Then, of course, we have the ban on partial-birth abortion. If this bill passed, wouldn't it look nice in November's election? Do you favor reinstating the death penalty in the State of Maine? Do you favor a ban on partial-birth abortion? We need to constantly look at ourselves in the mirror, ladies and gentlemen. We have to constantly weigh our values, especially as to the way that pertain to government's role in ruling society. Introspection, that is my first reason.

The second reason, is with mind and a very heavy heart. I have sat on the Criminal Justice Committee for three years, ladies and gentlemen. Dozens of victims have come before our committee. You may think that we have the best criminal justice system in the world and maybe we do. I personally feel as though it needs a lot of improvement. The system, ladies and gentlemen, is represented by a scale, a balance. That is a fallacy. That is a misnomer. The scale is heavily weighted. It is heavily weighted in favor of the accused in favor of the accused and the offender. Three out of 100 rapes end up in convictions. I asked the District Attorney from one of our counties how many sexual offenses he had in his county in 1998? He said, "200." I asked how many jury convictions did you get. He said, "Zero." It is his word against her word. The children are too young and their parents don't want them to testify. The system is heavily weighted towards the accused. When you hear these victims and I am not going to go into the details because you have read them in the papers. Man's inhumanity to man, ladies and gentlemen, is unbelievable. Those accused rights stand there on that scale tipped to its lowest point. It is made of concrete lined with lead. On the other end of that scale is a simple white down feather, the victim that is lost in the first gentle breeze. You can see the emptiness in their eyes. You can feel the emptiness in their hearts.

The bill, ladies and gentlemen, would give us an opportunity to look at what is going on in this state in regards to criminal justice. Yes, crime rates are going down. Thank God they are, but our criminal justice system, ladies and gentlemen, needs to be re-evaluated too. Thank you Madam Speaker.

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

Representative SAVAGE: Madam Speaker, Men and Women of the House. I do think we have the best criminal justice system in the world. I agree with the previous speaker. It needs improvement. It needs a lot of improvement before we

even consider executing the human's convicted at the hands of that system. Thank you.

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

Representative PLOWMAN: Madam Speaker, Men and Women of the House. In Maine's past, this state had a death penalty. Thirty-eight states of our union there exists the possibility of punishment by imposition of the death penalty. I am standing here to allow the people of Maine, by referendum, to choose for themselves whether this state will reinstate the death penalty.

I am going to talk to you frankly and honestly about this bill. It is not a deterrent. It is not a money saver. This bill seeks a sentence, which says that the people of the State of Maine wish the ultimate condemnation to be made of the ultimate crime, murder. Before I speak specifically to the provisions of the bill, I would like to point out to you that the possibility of a jury voting to oppose the death penalty in Maine already exists. However, the jurors must be federal jurors and they must be sitting in a federal court before a federal judge. Federal law already allows for the imposition of the death penalty if the murderer causes the death of a federal agent or if the act occurs on federal property. For your information, the federal government owns 329 acres of land in the State of Maine. Every post office in every city, town, village or unorganized territory, federal buildings such as Bangor, Machias, Portland, Arcadia National Park, Cutler Naval Station, the Moosehorn National Wildlife Refuge and Togus Hospital are places where the death penalty may be sought by the US Attorney of the State of Maine for a murder.

The issue has been raised in recent press reports of persons being released from death row. This argument deals with the possibility that innocent persons are on death row and may be put to death. This bill is prospective. We do not have a backlog of prisoners sitting on death row in the State of Maine. We have state of the art science and technology, which helps to set murders free. They also help to convict with an incredible amount of determination that the person who was convicted was actually the perpetrator. We are not talking about people sitting on death row in the state with 30, 20 and 10 year old convictions. We are not talking about cases that were tried 100 years ago and persons who were put to death and were later found innocent. We are talking about, should the people of the State of Maine vote this in November. This will become a law that is prospective. If you or I were killed tomorrow, our murderer would not face this sentence.

I am going to talk to you about the specifics of the bill a little bit. First of all, there is a lot of information out there regarding persons who are mentally ill. The Governor has the ability to call a commission in this bill. A commission of three psychologists who must examine and determine whether the person who is accused is mentally ill. The person found mentally ill is committed to an institution, not convicted and not executed. A pregnant woman may not be executed. There is an automatic appeal and review process. Three justices on our Maine Judicial Supreme Court can remand for a new trial, three. A majority of the justices, a simple majority, of the sitting justices can reverse the sentence. The Supreme Court can also find the sentence excessive and remand the case for the imposition for a life sentence. What this bill does do is it does say there will be a life sentence. If there is not an execution, there will be a life sentence and it is mandatory. When you hear, life if life, that is when you know. That is not a plea bargain. That is life.

There are separate proceedings for the sentencing and evidence is presented by both sides to show why the death penalty should be merited. Following those proceedings, the court maintains the final say as to whether the death penalty will be awarded. The jury may reach the unanimous decision. The jury must reach a unanimous decision. The judge may still overrule the jury. If a jury does not reach a unanimous decision, the judge may order a life sentence. The net result is murder in the State of Maine will get you a sentence of life, minimum. If it is especially heinous, atrocious or cruel, if it is a multiple murder, children under the age of 16, police officers or corrections officers or an elected public official ranging from the person you elect as road commissioner to your district attorney and every elected public official that is elected in a public, open poll. If someone reaches out and causes the murder, they will get at least a life sentence. If they are found to reach these circumstances, they may receive the death penalty.

Right now there are people who want to vote on this. It is amazing how we alternate from morning to afternoon to evening and from issue to issue as to the right of the people to have a say. On this issue we have just been told that the people shouldn't have the say. On two issues ago, they had to have a say. It always amazes me how this goes back and forth. People know how they feel about the death penalty. They have expressed it to me in one way or another. There are very few people who doubt their feelings regarding the death penalty. The death penalty is appropriate.

I will share with you a couple of things that have happened just in my young life. We have a child burned to death in an oven. He was locked in an oven and burned to death. We had a beloved wife and mother hijacked and beaten to death so that two people could joy ride south in her vehicle. Recently two young men were killed while trying to protect a woman from domestic abuse. They were murdered and she was kidnapped. Just a couple of weeks ago, a husband ran down his wife with his van. We have lost law enforcement officers who were performing their duties to protect the citizens of the State of Maine. To my knowledge, we haven't yet lost a public official. In other states, one very close to us, elected officials were stalked and shot down for the actions that they had taken with respect to one of the citizens in the town.

I hope that you will join with me to oppose the Majority Ought Not to Pass Report and go on to send this bill to referendum so that the people of the State of Maine can decide for themselves whether they think we should have the ultimate sentence for the ultimate crime. Thank you.

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

Representative **PEAVEY**: Madam Speaker, Men and Women of the House. I hope you will vote for the Majority Ought Not to Pass Report on this committee report. Whenever we consider a bill in committee or in this chamber, we must always ask ourselves what is the compelling reason that drives the need for this bill and for this law? After extensive thought and consideration in committee from the public hearing and our work sessions, the majority of the committee really came down to the fact that there are no compelling reasons to have this bill. The death penalty does not serve as a deterrent. There has been an incredible amount of research done on this issue in all the states that have the death penalty. Research actually shows that when you compare death penalty states and non-death penalty states,

the death penalty states have a higher murder rate. That is certainly not a compelling reason to the death penalty.

Research talks to us about the cost, which is enormous. Representative Povich mentioned this. The most comprehensive study was done in North Carolina. It was found that each case that went through the death penalty process was \$2.16 million more than imprisoning that person for life. Those are funds that are going to be diverted from all the other programs for rehabilitation that could be happening in a prison, not necessarily for this prisoner who would be in there for life, but for the other prisoners who are not in there for life. The research finds that in most of the states with the death penalty, all of them, in fact, are three to ten times higher than the cost of lifetime incarceration.

The most compelling to me though is the possibility of convicting innocent people and executing them. Representative Plowman did address that. I agree that we have new and improved methods of proving someone's guilt or innocence. Where are we to decide that for sure? We know that 23 innocent people have been executed in this country. Since 1972, 50 people have been released from death row because new evidence came forward that they were innocent. In passing this law and creating the death penalty, it makes every single one of us part of putting a human being to death. That decision is just not ours to make.

I would also like to address the referendum issue. When we dealt with this death penalty bill, we went through extensive public hearings. Some of us have been through it several years in a row. We had the work session, which people come back and give us more information. We have this debate. We have our caucuses. We have an incredible amount of information here. Putting a human being to death is far too weighty a matter to put it out as a one-liner question on a referendum. I hope you will vote to Ought Not to Pass this bill.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Hodgdon, Representative Sherman.

Representative **SHERMAN**: Madam Speaker, Ladies and Gentlemen of the House. I am on the Majority Report, Ought Not to Pass. I think respect for this body compels me to tell you why I am there. I think I am from a slightly different angle than what Representative Povich and Representative Peavey have stated. I have been here five or six months. It seems like forever now. My opinion of the death penalty was formed many years before I ever came here. Maybe in 30 seconds or less, I can go through a greater than a half century of some of the greatest turmoil we have ever seen where nations states have done terrible things to one another. I call it hiding behind a strong conviction. People say this is not a deterrent. Life is life is a huge cost. It is easier once you get started. You have to be careful in some states now, because these deaths aren't even publicized. You don't have the protests. You talk about the borderline medical patients. I know the defense attorney said we are fallible. You may have problems with defense, but having lived in this century, my thought is I don't want to give the power to the state to kill in my name. I don't want to do that. That is the moral issue. Search what has happened in this century. Pick a country where the state has the power to kill in the people's name. I don't want that.

I had some other things to say, but I think they have been said. We had a lady who grew up in Germany in the early '40s. As she went out, her husband spoke to us. She came back and said, "Don't let the state kill in my name." I don't want to give the power to that collection of people to kill in my name. We had

some literature given to us for various writers who talked about this that went back to Thomas Jefferson and back to the Constitution. They talked about life and limb and cruel and unusual punishment and how those things got into the documents.

I would like to leave you with one quote. It is a classic American skeptic once defying justice as revenge in which the state imitates the criminal. I do not want to imitate the criminal. Thank you.

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

Representative **WATERHOUSE**: Mr. Speaker, Ladies and Gentlemen of the House. Just a few things, I have the same feelings that Representative Tobin had, having sat on the Criminal Justice Committee in the 117th Legislature and listening to some of the victim's stories. I want to back up a little bit to respond to the Representative from Ellsworth. Quoting from a study of how many people were innocent on death row and how many people were put to death, I have looked at all those studies over the years. All those claims have been disputed and disputed quite convincingly to me. It is the case of one person's statistics and looking how we arrived at those and a number of other things. I agree with the prime sponsor of this bill, the fact that technology now is so advanced. We are looking at things retrospectively in how things were looked at back before we had this technology. Let me just present two things to you. I was on a special committee looking at violent sexual offenders. The commissioner of corrections, Marty Magnusson, gave a number of us a printout of some of the profiles, criminal histories, of some of these people we are talking about. I am not going to read them all, there are quite a number of them. I have two in particular.

One, that was very, very gut wrenching to me when I listened to the story of the mother as she told what this person had done to her daughter. The next case, very briefly, is going to make the argument against the so-called life sentence in Maine as a sentence of death. There are no names on these for good reason. Subject number one on this profile, presently a 40 year old man who has been involved in the criminal justice system since the age of 21. In 1979 he broke into a home at random at 2 a.m. and assaulted and raped a woman while her infant, the only other person in the residence, lay sleeping in the other room. The woman was beaten and warned not to tell. In 1979, while the subject was on bail, he attacked and raped another woman. He chose at random. This subject received a 10-year sentence for the first rape and a 15-year sentence for the second rape to be served concurrently, straight release on both with no probation supervision at the completion of incarceration. While incarcerated, the subject refused any and all counseling. He was released from the corrections system in 1990. In 1991, he raped, stabbed and cut the throat of a teenage girl and left her for dead after he buried her body in leaves. He randomly spotted her riding her bicycle and intentionally bumped her with his vehicle to stop and knock her to the ground. In 1992, he was sentenced to 40 years for kidnapping and gross sexual assault and a 40-year sentence to follow for attempted murder. In 1993, he was indicted for a murder of woman in 1990, that they found he had committed through modern technology, DNA, which occurred after his release from prison, but before his 1991 offense. He was not discovered to have committed the 1990 offense until after he was caught in the 1991 offense. In 1995, for the 1990 murder,

he received a life sentence to be served after his previous conviction, 40 plus 40. These are the kind of people we are talking about folks.

This is a little bit of a shorter one, but this goes right to the heart of what the good Representative from Ellsworth was telling us. In Maine, a life sentence is a sentence of death. Subject number three, presently a 51 year old man who started his criminal career by stabbing a 15 year old school mate to death. He was 16 at the time and committed to the Augusta Mental Health Institute where he escaped three times. He escaped three times, you understand what that means, escaped. He was released in 1972 and in 1974 he committed a rape. He was convicted and sentenced to 10 to 20 years. He was paroled in 1982, but returned to prison in a month for misconduct with female employees where he worked. In 1983, with only a few weeks remaining on his sentence, he escaped from a work release program and proceeded to kidnap and restrain three women, but left the house when someone came to the door. Subsequently while on this escape, again, I stress the word escape, he committed a murder. He stabbed a woman and two assaults with a knife. None of the victims were known to the subject and all were woman. For these crimes, he received a life sentence.

I would submit to you, ladies and gentlemen, a life sentence is not a death sentence. These people escape and kill other people. That is what I look at when I would like to give a death sentence to some of these people. It is not the cost. Certainly if one of these people escaped and did one of these things to your loved ones, you would think the cost was worth it. Thank you.

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

Representative **BOUFFARD**: Madam Speaker, Men and Women of the House. I can't believe what I am hearing this afternoon. I can tell you, two wrongs, don't make one right. Do we want to put ourselves in the position of being the killers of the killer? Are we going to do the same act as what the killer is doing? Are we going to do the same thing to him? The good Lord says, "Judge not, lest ye be judged." To me, it is up to the creator to judge these criminals. It is equally up to him to make sure that he is the one who is going to take their lives, no matter how long it takes. It could be their lifetime, 99 years or 20 years. It is up to the Lord to undo what he has created. It isn't up to us to try to make two wrongs be one right. Representative Povich is right. It isn't a deterrent in today's age. It is expensive. There is bias in doing this. The people seem to feel that it is better to give life sentences. I feel that too. My goodness gracious, this wonderful day to be locked up in a prison and not be able to enjoy it. I think this is a heck of a lot more of a penalty than killing someone. Once you have killed them, it is over with. He is at peace. He doesn't have the privilege of enjoying every day of his life that he could. Please, let's not put ourselves in the position where we are going to be the judges here on something that we don't have any business to do. Please accept the Majority Ought Not to Pass Report on this.

The SPEAKER PRO TEM: The Chair recognizes the Representative from York, Representative Andrews.

Representative **ANDREWS**: Madam Speaker, Men and Women of the House. I am a cosponsor of this bill. I rise in support of it. I have been accused by the newspapers of perhaps being a little bit too passionate about it. Ladies and gentlemen, if you haven't worn the shoes, if you haven't walked

the mile, you can't understand what a victim survivor feels. I am here today to represent all the victim survivors who cannot speak for themselves. It has been said that putting someone to death for committing murder does not deter crime. I am here to tell you that one of the two men involved in the robbery in which my husband gave his life, had killed before. This was not an accidental killing. My husband was shot five times. I am not asking you to make the decision. I am asking you to give the voters the right to make the decision. We talk about how the prisoners are in the prison for life in a small room. These prisoners sometimes get benefits that the victim survivors do not get. They get a free college education, quite often, if they so desire to pursue their education. Many of the victim survivors do not have that option. It has been said that this is cruel and unusual punishment. I am telling you as a victim survivor, that we suffer through cruel and unusual punishment and that I am now serving a life sentence. My pain is as great today as it was in 1964.

I would like to tell you about some of my cruel and unusual punishment. It is different from other victim survivors, but all victim survivors go through this. I consider it cruel and unusual punishment that in 1964 I turned on the radio to hear that my husband had been shot and killed in a bank robbery when he wasn't even on duty. He just happened to have to go to court that day. I consider it cruel and unusual punishment that at 27 years of age and nine months pregnant, I am buying a casket with my mother in law and planning a funeral. I consider it cruel and unusual punishment to have to tell a five year old son that they will never see their father again. I still live with this memory in my mind for about a year and a half of watching my middle son every time he saw a state trooper running up and claspng that trooper around the leg and hollering, "Daddy." I consider it cruel and unusual punishment that I went through the birth of a child without the most important person in my life. This child was born with a physical defect. I consider it cruel and unusual punishment that I have had to seek psychiatric first aide for my children because they could not accept the loss of their father. I consider it cruel and unusual punishment that I read in the newspaper that sometime, whether it was seven and half years or ten and half years, I cannot give you the actual date, because I was not notified, but this person had been released from prison. I only read it in the paper when he violated his parole. I do not know when he was released from prison. I consider it cruel and unusual punishment that my children still feel that their father gave his life in vain. They will carry this until the end of their days. His mother, when this bill was heard, called me and said, "Mary, you have to speak for us, the victims." I consider it cruel and unusual punishment that I had to attend that ceremony last year. All the bad memories are brought up to the front again. I have to testify here today.

Yes, prisoners supposedly have a life sentence, but you make the laws and you can change them. I am serving a life sentence that will never go away, as are many of the other victim survivors. Thank you.

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

Representative O'BRIEN: Madam Speaker, Ladies and Gentlemen of the House. It is often very difficult to stand and follow previous speakers, as impassioned as they are. I personally respect all of those on both sides of the aisle. This is a very difficult issue. Being on the Criminal Justice Committee for the last three years, this is the second time that I have heard

this bill. The hearings are impassioned. They are long. They are very difficult. I can tell you that that is the word. They are very, very difficult. They are heart wrenching. We have to look at this as logically as we can without the passion, with all due respect to previous speakers. In response to some of the reasons that Representative Povich, the Representative from Ellsworth gave, some of those I don't buy. I don't buy the fact that there is racial bias in this. I don't buy the fact that many, many innocent people will be put to death. I do agree with Representative Plowman that there is enough technology now that this is not going to happen. It has been said repeatedly that the death penalty is not a deterrent. However, having said that, I stand to say that I cannot support the death penalty.

There are several reasons and I would just ask your indulgence for a few moments. I know this is a long afternoon. It is getting longer by the minute. I am not trying to speak for the victims. I am not a victim survivor. The last thing I would want to do is to speak for them. I asked them during this hearing and the hearing of two years ago, listening to very, very difficult testimony. I asked them if their grief would be lessened if they knew that the perpetrator, the person that caused the death of their family member, had been put to death? The people that I asked said no. It wouldn't help my hurt. It wouldn't help my grief. I cannot say that that is the same for Representative Black Andrews. I don't know that and I can't speak for her. I would never intend to do that. I do know that those I asked said no. It would help if I knew this person would be put away for life. I pledge to you from standing here as a member of the Criminal Justice Committee that I intend on working very diligently to make sure that when it is life, it means life. There will be, if I have anything to say about it, no plea-bargaining if there is a murder conviction. No parole.

I want to relate a story. Those of you who were here before heard this. This person has gone public with this. I do have her permission to say this story. I will try to be as brief as I can. This is another very, very tragic situation. A friend of mine had four children. She had a lot of marital problems and domestic abuse. She decided, finally, to leave her husband after a long, long horrendous battle. She left the two older children with him. There had been no abuse of the children. She felt the children were safe. She left the two older boys, 9 and 11, at the time, with her soon to be ex-husband and moved to get her life in order. She would then call for the other two children. The younger two were still very young. She received a call one day that her nine year old had been killed. He had fallen out of a tree. Come to find out, to make a long story short, I attended the trial of her ex-husband. He had indeed killed the nine year old. He had kicked him in the stomach and hit him with a baseball bat. It was a death that took two days to occur. He then, the perpetrator, the gentleman, the animal, then proceeded to send the 11 year old up to find him. He knew he was dead. He concocted a story that he fell out of the tree. I attended this trial. It was the most heart-wrenching thing that you could ever see, to see this 11 year old on the stand testifying against his father. His father is now in Thomaston. He will be there, hopefully, for the rest of his life.

I want to say something. This 11 year old boy feels tremendous guilt about putting his father away. No matter what his father did to him, not matter what his father did to his 9 year old brother, he feels tremendous guilt about putting his father away. If we have the death penalty, as it is stated in here, this man would be killed. What guilt would he feel then knowing that

he killed his father? I asked my friend, would it make you feel better to know that your ex-husband did the ultimate deed, the ultimate horrendous deed? I can imagine nothing worse. Would it help you to know if he were dead? Do you want him dead? Would it help your grief? Would it help your sorrow? She said that it wouldn't take this away. It is always going to be here. It is not going to help.

I can't support the death penalty. I understand, appreciate and respect those who do support it. I feel that it is God who brings life and God who takes life. There is a reason for everything. I can't be the one to pull the switch and I am not going to ask anybody else to do the same thing. Thank you.

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

Representative MCALEVEY: Madam Speaker, Ladies and Gentlemen of the House. Do we have people in prison who deserve to die for what they have done because of their crimes being so horrendous? I can name a few. Do we have a perfect system? No, we don't. I have lost two colleagues who died in the line of duty. One, was struck and run over by a drunk driver while he was stopping the car. The day the person who was driving that car plead guilty to a misdemeanor, he was given nine months in the county jail, all but 30 days suspended. The person behind him was found guilty of shooting a moose out of season and was given six months in jail and \$1,000 fine. Is that perfect? No. Three times in my career that I know of, I have come close to death. The last time I thought I had died when I lost consciousness. I suspected the lady that was there was going to shoot me with my revolver after I passed out. Four times in my career I came very close to killing somebody, justifiably in the line of duty. In fact, the hammer was coming back on the revolver one night. Yes, I would have the authority because you gave it to law enforcement in a situation where deadly force is projected. We do have a death penalty in jail, prison. I don't care how many three meals a day they get and how many hands of cards they play. They are told when to get up. They are told what to eat. They are told when to go to bed. The only discretion they have is when they choose to go to the bathroom. By the way, at least half of the people in Thomaston are there either serving a life sentence or because of the age and length of the sentence, they will die in prison. We do have a death penalty and we exact it day by day and hour by hour. Yes, they get up and they have life. They can rejoice that they are alive today. Let me tell you, the quality of their life is greatly diminished. We do have the death penalty. We just exact it over the length of that individuals remaining natural lifetime.

I would like to think I am a pretty hard-boiled cop. I am getting kind of soft on the edges having been here for five years. I echo the words of the Representative from Augusta. I am not going to ask something of somebody else to do, if I am not willing to do it myself. I am not willing to send somebody to death, directly or indirectly, through this process. I have great respect for the people who believe that the death penalty should go to the people. I respect their point of view and their opinions, but it goes right back to what the good Representative from Ellsworth said to one of the people who spoke to the committee. That decision of death rests with God, not with us. We are holding them there until we do die.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Danforth, Representative Gillis.

Representative GILLIS: Madam Speaker, Men and Women of the House. I am a little bit disappointed this afternoon

to see all the empty seats. It seemed to be more important when we were talking about jet skis. I think this is a very important issue, whether you agree or don't agree, I think it warrants you sitting here listening to what everybody has to say. I am disappointed to see the empty seats.

Let me bring up a couple of points. I want you all to think about this. Your family members are sitting up front here and a person comes and is going to shoot them, execute them in front of you. I want to tell you there is a death penalty in the State of Maine because you have the right to protect your family members. I doubt very much that very few of you would stand by and let that person kill your family in front of you. You would probably kill that person. If you didn't, there is probably something wrong with you. I would choose to believe that you would stand up for your family. There is a death penalty in the State of Maine. It is called protecting your family if someone intrudes in your home. You don't go to jail for that.

On the other hand, everybody has been talking about, who is going to throw the switch? This bill before us is not for us to decide that. It is to give the people to decide. We were sent down here to represent the people. It is only fair that we vote for this so that we can let the people decide. Leave your own emotions out of it. Let the people vote. They are the ones who brought you here.

I would like to finish up by saying that we all have a death sentence. We are all going to die someday. To let a person stay in prison and think that is a death penalty, I don't believe it. Probably the right thing to do would be the person who is a victim who loses a loved one through a murder, as the Representative said, people don't want to be called a killer. Let the victim make that decision if that person is found guilty, whether they have life in prison or they die through the electric chair or whatever.

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

Representative FRECHETTE: Madam Speaker, Ladies and Gentlemen of the House. I rise today to support the Majority Ought Not to Pass Report. This is the second time in three years that the Criminal Justice Committee has had the death penalty bill before it. This bill would send the death penalty out to referendum, but there would be no option for life imprisonment, with no possibility of parole. I would like to read a few brief excerpts from testimony from the public hearing. I promise they will be brief. This one is from the Maine Council of Churches. "The goal of the criminal justice is to maintain a level of trust in our government, our court and our communities. We do not believe that the death penalty achieves this goal." The second one is from Mr. Scott Baxter from Brewer, Maine. "In Maine we can sentence a person to life imprisonment with no possibility of parole. This is effectively a sentence of death with God serving as the executioner." It would be very easy for us to sit here and take every issue that is very, very difficult to deal with and send it out to the public to vote on in referendum. That is what the constituents have sent us here to do. We take the tough issues everyday and we deal with them. This was not an easy issue for the Criminal Justice Committee this time around. It was not an easy one a couple years ago when we had a similar bill. The most compelling testimony I felt was when Mr. Magnusson, the commissioner of the Department of Corrections, testified. He had to think, would he be able to do it if he was in charge of having to provide the death penalty? Would he be able to do it. I know, myself, if I would be put into that situation, I would not be

able to do it. I can't imagine anybody right now being able to do it. I am sure there are people in our communities, our society that could probably find a way. I don't think this is the answer.

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

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

Representative **PIEH**: Madam Speaker, Men and Women of the House. I rise in support of this Majority Ought Not to Pass Report, not because I am against the death penalty. Actually, I am for the death penalty. I think our system lacks in accountability. I think people get out to do it again. I don't think life in prison is an adequate reward for somebody who does murder. I don't think this is an appropriate issue to send to referendum. I think it is our job and I encourage you to support the Majority Ought Not to Pass Report.

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

Representative **SNOWE-MELLO**: Madam Speaker, Men and Women of the House. It is very, very difficult for me to stand here before you today and speak on this subject. I am a cosponsor on this piece of legislation. I agreed to sign onto this legislation only after receiving the results of a survey that I received from my constituents where it shows 57 percent of their results of the questionnaires returned showed that people favor the reinstatement of the death penalty. I think many of us don't realize the type of individuals and criminals we are dealing with here. Many of these criminals who commit these crimes could very well be psychopaths and sociopath. These personalities simply do not have a conscience. They live by their own rules. These are truly evil people, in my opinion, who do not deserve to live. That is my opinion. They do not love and they do not know how to care about one another or another human being.

We are always worrying and fretting over the rights of criminals. We even give them the vote. Imagine giving a person that kills another person the right to vote. That is another subject. What about innocent people who have lost their loved ones. They will never ever see their loved ones again, mother, child, sister, brother or friend, ever on earth again. In my belief, people are sending a strong message to say that we will not tolerate violence in this society and the kills that are so prevalent in today's society. Please let the people in this state speak out. Let them be the judge. 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. 241

YEA - Ahearne, Bagley, Baker, Belanger, Berry DP, Berry RL, Bolduc, Brennan, Brooks, Bruno, Bryant, Bull, Cameron, Chick, Chizmar, Cianchette, Clark, Colwell, Cote, Cowger, Davidson, Davis, Desmond, Dudley, Duncan, Dunlap, Duplessie, Etnier, Fisher, Frechette, Fuller, Gagnon, Gerry, Goodwin, Gooley, Green, Hatch, Jabar, Jacobs, Jodrey, Kane, Kneeland, LaVerdiere, Lemoine, Lindahl, Madore, Mailhot, Martin, Matthews, Mayo, McAlevey, McDonough, McGlocklin, McKee, McKenney, McNeil, Mendros, Mitchell, Norbert, Nutting,

O'Brien JA, O'Brien LL, O'Neal, O'Neil, Peavey, Perkins, Perry, Pieh, Povich, Powers, Quint, Richard, Richardson E, Richardson J, Rines, Rosen, Samson, Sanborn, Savage W, Saxl JW, Saxl MV, Sherman, Shiah, Sirois, Skoglund, Stanley, Stanwood, Stedman, Stevens, Sullivan, Tessier, Thompson, Tobin D, Townsend, Tracy, Tripp, Twomey, Usher, Volenik, Watson, Weston, Williams, Mr. Speaker.

NAY - Andrews, Bowles, Bragdon, Buck, Bumps, Campbell, Carr, Clough, Collins, Cross, Daigle, Dugay, Foster, Gagne, Gillis, Glynn, Heidrich, Honey, Jones, Joy, Kasprzak, Labrecque, Lemont, Lovett, MacDougall, Mack, Marvin, Murphy E, Murphy T, Nass, Pinkham, Plowman, Schneider, Shields, Shorey, Snowe-Mello, Tobin J, Trahan, Treadwell, True, Waterhouse, Wheeler EM, Wheeler GJ, Winsor.

ABSENT - Bouffard, Muse, Savage C, Tuttle.

Yes, 103; No, 44; Absent, 4; Excused, 0.

103 having voted in the affirmative and 44 voted in the negative, with 4 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.

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

The **SPEAKER**: The Chair recognizes the Representative from Lewiston, Representative Bouffard who wishes to address the House on the Record.

Representative **BOUFFARD**: Mr. Speaker, Men and Women of the House. I would like the record to show that had I been here to vote for the death penalty, I would have voted yea.

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

UNFINISHED BUSINESS

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

An Act to Amend Law Enforcement Powers of Maine Forest Rangers

(S.P. 397) (L.D. 1188)

(H. "A" H-326)

TABLED - May 17, 1999 (Till Later Today) by Representative PIEH of Bremen.

PENDING - **PASSAGE TO BE ENACTED**.

On motion of Representative McALEVEY of Waterboro, the rules were **SUSPENDED** for the purpose of **RECONSIDERATION**.

The same Representative moved that the House **RECONSIDER** its action whereby the Bill was **PASSED TO BE ENGROSSED**.

Representative PIEH of Bremen **REQUESTED** a roll call on the motion to **RECONSIDER PASSAGE TO BE ENGROSSED**.

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

Representative **PIEH**: Mr. Speaker, Ladies and Gentlemen of the House. It would be unusual for me to object to a request for reconsideration. I do it only for the gravest philosophical reasons. The request to reconsider involves bringing an amendment to the floor of the House that is not germane to the content of the bill.

The **SPEAKER**: The Chair recognizes the Representative from Waterboro, Representative McAlevey. For what purpose does the Representative rise?

Representative **MCALLEVEY**: Mr. Speaker, Men and Women of the House. With all due respect, Mr. Speaker, to the good Representative, I did not speak to my amendment. I don't think it is germane to this issue. The amendment, yes, but the specifics are not.

The same Representative **WITHDREW** her request for a roll call.

Subsequently, the House **RECONSIDERED** its action whereby the Bill was **PASSED TO BE ENGROSSED**.

Representative McAlevey of Waterboro **PRESENTED** House Amendment "C" (H-589) which was **READ** by the Clerk.

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

Representative **MCALLEVEY**: Mr. Speaker, Ladies and Gentlemen of the House. I thank the Representative from Bremen, Representative Pieh. When we last discussed this issue there was a question about the duties of forest rangers that were enacting civil laws of light of entry for inspection purposes. I had articulated some concerns I heard about marrying the two authorities that they have. The authority to enforce the criminal code as well as the authority they have as conservation officers to do civil work. This amendment clarifies this. It doesn't change anything in the law because the law is very clear. It does make a policy statement from this chamber about what we expect of both the landowner, as well as the forest ranger, whether they are acting as a sworn law enforcement officer or as a conservation officer. What the amendment says is, if you are going to inspect some property, which you have the right to do, we give them the right to do by entry of premises, if the landowners says, I don't want you there and says or does nothing other than that, they cannot be arrested for that statement.

Our conservation officers are trained, not to arrest unless there is probable cause or the elements of a crime are there. All we are doing is we are restating in law that is what our intent is legislatively. If the landowner threatens or tries to use force, that person could be charged with assault, criminal threatening or obstructing government administration. The problem with obstruction government administration is it has become misused and too often used as disorderly conduct is. To have obstruction, you have to have the threat of force or the use of force to prevent a government entity from performing their legal duties. All this amendment does is says it is the intent of this legislation that a forest ranger has the right of entry to inspect civilly commercial property lands. We don't take away that right. The landowner has to respect that. What we are saying policy wise is if the landowner simply says, no, I don't want you here. That person cannot be charged. All we are doing is restating that position and the intent of the Legislature.

If the person commits a crime during this discussion, threatens, tries to intimidate or actually physically assaults the forest ranger, then they should be charged. We are very simply taking a very, very narrow scope of this issue and if these limited issue happen, we are enforcing your policies by saying you are

not going to arrest a landowner by simply saying, no, I don't want you here.

I have talked with the department. They have policies and procedures on how they can affect this without having a whole problem of traveling down that road to an illegal charge or arrest. I think we, as a body, the Legislature has a duty to make it known when we pass legislation what our legislative intent is. There are no limitations on their right of entry. There are no limitations on their ability to perform their duties as a forest ranger. There are no limitations placed on them as a sworn law enforcement officer. We are saying in this one tiny limited scope that we are not going to marry the two. Thank you Mr. Speaker.

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

Representative **PIEH**: Mr. Speaker, Ladies and Gentlemen of the House. I don't stand before you to say whether this amendment would be a good idea, ultimately, or a bad idea. I stand before you to say this amendment is a substantial amendment. It is being added on the floor of the House. It has had no public input. I believe that when we make public policy we should have a public hearing before we go and change aspects of a bill. I will point out that LD 1961, "An Act to Amend the Right of Entry Clauses" presented by the Representative from Poland, Representative Snowe-Mello. It is a bill before Judiciary. It has been carried over. It addresses the specific aspect of law that the good Representative McAlevey has presented to you. I believe that is a much more appropriate place to be offering this amendment. In that way, there will be able to be public input on it, whether it has merit or not. It is a philosophical objection that I have. I don't believe in making public policy. I don't believe that this amendment is germane to the content of the bill before you that we did have a lot of public input on as those of you who attended the hearings know. I ask for your support in voting against adopting House Amendment "C" (H-589). Thank you.

Representative **PIEH** of Bremen **REQUESTED** a roll call on the motion to **ADOPT House Amendment "C" (H-589)**.

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 Waldoboro, Representative Trahan.

Representative **TRAHAN**: Mr. Speaker, Men and Women of the House. Let me commend the Representative from Waterboro for a brilliant amendment. I just wish I had thought of it.

I would like to first address what the good Representative from Bremen just stated. If we couldn't bring amendments to the floor, if we had to worry about their germaneness and took them apart piece by piece to see if they were related to the bill, we would spend all of our time doing that. We might just as well do away with our system of bringing amendments forward. It is related directly to the bill. You remember my testimony on the solemn occasion on this bill it is directly related to it. It was my concern and he came up with a brilliant amendment. He has clearly defined for landowners what forest rangers can do on their land. He has clearly stated what they can do off their land. There is no longer a question mark. If the landowner doesn't want them there and they haven't done anything wrong, they can legally object. That is my biggest concern. We didn't want to take away their voice to object to people on their property, did we? I don't believe we did. He has come up with a brilliant plan to do just that, to allow landowners to understand their rights.

Forest ranger's powers are changing. We don't even know what they are going to be until after we debate the guns and their powers. This offers us a window for those landowners and forest rangers to be safe. Everyone understands. We are going to have a long and important debate about forest ranger powers in the very near future. When that is done, we will understand at that point exactly the role of forest rangers. We can then explain it to the people. We can have a media blitz. People will understand all of their rights and forest rangers will understand all of their rights. It was that window in between when we gave sheriff powers to forest rangers and we took away landowners right to protest. That was my greatest concern. It is taken care of in this amendment. I ask you to support this. I think you will have overwhelming support and appreciation from the people you represent. It puts the power back where it belongs with the individual. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is Adoption of House Amendment "C" (H-589). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 242

YEA - Andrews, Belanger, Berry DP, Bowles, Bragdon, Bruno, Buck, Bumps, Campbell, Carr, Chick, Cianchette, Clough, Collins, Cross, Daigle, Davis, Dugay, Duncan, Foster, Gerry, Gillis, Glynn, Goodwin, Gooley, Heidrich, Honey, Jodrey, Jones, Joy, Kasprzak, Kneeland, Labrecque, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, Marvin, Mayo, McAlevy, McKenney, McNeil, Mendros, Murphy T, Nass, Nutting, O'Brien JA, Peavey, Perkins, Pinkham, Richardson E, Rosen, Schneider, Sherman, Shields, Shorey, Snowe-Mello, Stanwood, Stedman, Tobin D, Tobin J, Tracy, Trahan, Treadwell, True, Waterhouse, Weston, Wheeler EM, Wheeler GJ, Winsor.

NAY - Ahearne, Bagley, Baker, Berry RL, Bolduc, Bouffard, Brennan, Brooks, Bryant, Bull, Chizmar, Clark, Colwell, Cote, Cowger, Davidson, Desmond, Dudley, Dunlap, Duplessie, Etnier, Fisher, Frechette, Fuller, Gagne, Gagnon, Green, Hatch, Jabar, Jacobs, Kane, LaVerdiere, Lemoine, Mailhot, Martin, Matthews, McDonough, McGlocklin, McKee, Mitchell, Norbert, O'Brien LL, O'Neal, O'Neil, 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, Tripp, Twomey, Usher, Volenik, Watson, Williams, Mr. Speaker.

ABSENT - Cameron, Murphy E, Muse, Plowman, Savage C, Tuttle.

Yes, 72; No, 73; Absent, 6; Excused, 0.

72 having voted in the affirmative and 73 voted in the negative, with 6 being absent, the motion to **ADOPT House Amendment "C" (H-589) FAILED.**

Subsequently, the Bill was **PASSED TO BE ENGROSSED as Amended by House Amendment "A" (H-326)** in concurrence.

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

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

An Act to Amend the Laws Governing Secession

(H.P. 1433) (L.D. 2056)
(C. "A" H-410)

TABLED - May 14, 1999 (Till Later Today) by Representative AHEARNE of Madawaska.

PENDING - **PASSAGE TO BE ENACTED.**

On motion of Representative AHEARNE of Madawaska, the rules were **SUSPENDED** for the purpose of **RECONSIDERATION.**

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

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

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **Committee Amendment "A" (H-410)** was **ADOPTED.**

The same Representative presented **House Amendment "A" (H-608)** to **Committee Amendment "A" (H-410)** which was **READ** by the Clerk.

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

Representative **AHEARNE**: Mr. Speaker, Ladies and Gentlemen of the House. This amendment merely adds on another requirement to the secession bill. I believe it further enhances the bill and provides for additional information regarding those who wish to see that they submitted a written report at the public hearing process that describes the impact of the proposed secession and the property taxes for the municipality as well as what impact they would have on the secession territory. I believe that will provide additional guidance to the committee when it has its deliberations on any bill that comes before State and Local Government.

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

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

The SPEAKER: The Representative may pose his question.

Representative **MACK**: Thank you Mr. Speaker. To the good chairman from Madawaska or anyone who may care to answer, if the people circulating the petitions for secession are not able to get accurate numbers on the property tax and the tax impact, what would then happen? Having gone through the secession process with Frye Island in my own town, I know it took us quite a while to get those numbers. We didn't finally get the numbers until we were a good deal into the secession process. Thank you.

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

Representative **AHEARNE**: Mr. Speaker, Ladies and Gentlemen of the House. To answer my good friend's question, I don't believe there would be a great and serious delay. I believe that these numbers could be easily obtained. I don't see that there is a big issue with this.

House Amendment "A" (H-608) to **Committee Amendment "A" (H-410)** was **ADOPTED.**

Committee Amendment "A" (H-410) as Amended by **House Amendment "A" (H-608)** thereto was **ADOPTED.**

The Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-410) as Amended by House Amendment "A" (H-608)** thereto in **NON-CONCURRENCE** and sent for concurrence.

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

Bill "An Act to Increase the Deer Hunting Day by 15 Minutes"

(H.P. 30) (L.D. 39)

TABLED - May 17, 1999 (Till Later Today) by Representative SHIAH of Bowdoinham.

PENDING - **ADOPTION OF COMMITTEE AMENDMENT "A" (H-568)**.

Representative CLARK of Millinocket moved that **Committee Amendment "A" (H-568)** be **INDEFINITELY POSTPONED**.

Representative DUNLAP of Old Town **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE Committee Amendment "A" (H-568)**.

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

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

Representative **PERKINS**: Mr. Speaker, Men and Women of the House. I just would like to share with you that I think this is a very good idea. I fully support it. What this does is take the half hour off. It leaves the 15 minutes, which was the original idea. I think it is a good compromise and I think very reasonable. Thank you.

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

Representative **TRUE**: Mr. Speaker, Ladies and Gentlemen of the House. I know that we had a long discussion about this, but we have compromised. I hope that you will support this. I wish someone would tell me why we can hunt bear for a half an hour afterwards and nobody objected. Also, I do think that bears are a little more difficult to see than the poor little deer. Thank you.

The **SPEAKER**: A roll call has been ordered. The pending question before the House is Indefinite Postponement of Committee Amendment "A" (H-568). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 243

YEA - Andrews, Belanger, Berry DP, Bolduc, Bowles, Bragdon, Brennan, Brooks, Bruno, Bryant, Bumps, Cameron, Carr, Chick, Chizmar, Clark, Clough, Collins, Colwell, Cote, Cross, Daigle, Davidson, Desmond, Duncan, Duplessie, Etnier, Foster, Gerry, Gillis, Goodwin, Gooley, Green, Honey, Jabar, Jacobs, Jodrey, Jones, Joy, Kasprzak, Labrecque, LaVerdiere, Lemoine, Lindahl, Lovett, MacDougall, Madore, Martin, Matthews, Mayo, McAlevey, McGlocklin, McKee, McNeil, Murphy E, Murphy T, Nutting, O'Brien JA, O'Brien LL, O'Neil, Peavey, Perkins, Pinkham, Richard, Richardson E, Richardson J, Rines, Rosen, Samson, Sanborn, Savage W, Saxl MV, Sherman, Shields, Shorey, Snowe-Mello, Stanley, Stanwood, Stedman, Sullivan, Tessier, Tobin D, Tobin J, Tracy, Treadwell, Tripp, True, Usher, Waterhouse, Weston, Wheeler GJ, Winsor.

NAY - Ahearne, Bagley, Baker, Bull, Cowger, Dudley, Dugay, Dunlap, Fisher, Frechette, Fuller, Gagnon, Hatch, Kane, Mailhot, Mitchell, Norbert, O'Neal, Pieh, Shiah, Sirois, Skoglund, Stevens, Thompson, Townsend, Twomey, Volenik, Watson, Williams, Mr. Speaker.

ABSENT - Berry RL, Bouffard, Buck, Campbell, Cianchette, Davis, Gagne, Glynn, Heidrich, Kneeland, Lemont, Mack, Marvin, McDonough, McKenney, Mendros, Muse, Nass, Perry, Plowman, Povich, Powers, Quint, Savage C, Saxl JW, Schneider, Trahan, Tuttle, Wheeler EM.

Yes, 92; No, 30; Absent, 29; Excused, 0.

92 having voted in the affirmative and 30 voted in the negative, with 29 being absent, **Committee Amendment "A" (H-568)** was **INDEFINITELY POSTPONED**.

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

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

Representative **DUNLAP**: Mr. Speaker, Men and Women of the House. I don't want to take up any more of your time on this, but I am a little bit interested in the turn of events on this particular bill considering how hard of a floor fight we had on this last week. That was a fight that I lost. It was basically over the bill as it was drafted with the amendment. I would like to remind you where this bill came from. It is a SAM bill, but it came from a special commission of SAM called the Commission to Simplify and Clarify Maine Hunting Laws and Rules. What we have just voted for, I would ask you to listen to this bill and ask yourself if this is clarifying or simplifying anything? A person is guilty of twilight hunting if that person hunts wild animals, except raccoons as provided in Chapter 701 to 721, between 15 minutes after sunset and one half hour after sunset during the open firearm season on deer. If you can understand that, you probably can because we have talked about it a lot, visualize that printed up in a law book that the average hunter out there is going to have to try to interpret that, what it is supposed to mean. Night hunting is outlawed except for that 15 minutes when it is twilight hunting and then the 15 minutes before that, which is okay to hunt. It is a little bit confusing. This clarifies or simplifies nothing. I was against the half hour because I think it is a safety factor. I think the 15 minutes is a safety factor. I am a bit surprised by this vote how it has turned out. We did have a lengthy floor debate and a very hard battle over the half hour. Everybody has jumped off the half hour and is now saying that 15 minutes is more palatable. To me, 15 minutes is no more palatable than a half hour. I am not going to vote to sustain the 15 minutes. I hope that you would vote against this bill because I think it is time that we just backed away from the whole thing and tried it again another time. Mr. Speaker, I would respectfully request the yeas and nays when the vote be taken.

Representative **DUNLAP** of Old Town **REQUESTED** a roll call on **PASSAGE TO BE ENGROSSED**.

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 Engrossment. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 244

YEA - Andrews, Baker, Belanger, Berry DP, Bolduc, Bowles, Bragdon, Brooks, Bruno, Bryant, Bumps, Cameron, Campbell, Carr, Chick, Chizmar, Cianchette, Clark, Clough,

Collins, Colwell, Cote, Cross, Daigle, Davidson, Davis, Dugay, Duncan, Duplessie, Foster, Frechette, Fuller, Gagne, Gillis, Glynn, Goodwin, Gooley, Heidrich, Honey, Jacobs, Jodrey, Jones, Joy, Kasprzak, Labrecque, LaVerdiere, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, Martin, Marvin, Matthews, McAlevey, McDonough, McGlocklin, McKee, McNeil, Mendros, Murphy T, Nass, Nutting, O'Brien JA, Peavey, Perkins, Pinkham, Plowman, Richardson E, Rines, Rosen, Samson, Sanborn, Savage W, Schneider, Sherman, Shields, Shorey, Snowe-Mello, Stanley, Stanwood, Stedman, Sullivan, Tobin D, Tobin J, Tracy, Trahan, Treadwell, True, Waterhouse, Weston, Wheeler GJ, Winsor.

NAY - Ahearne, Bagley, Berry RL, Bouffard, Brennan, Bull, Cowger, Desmond, Dudley, Dunlap, Etnier, Fisher, Gagnon, Gerry, Green, Hatch, Jabar, Kane, Lemoine, Mailhot, Mayo, Mitchell, Murphy E, Norbert, O'Brien LL, O'Neal, O'Neil, Pieh, Powers, Richard, Richardson J, Saxl MV, Shiah, Sirois, Skoglund, Stevens, Tessier, Thompson, Townsend, Tripp, Twomey, Usher, Volenik, Watson, Williams, Mr. Speaker.

ABSENT - Buck, Kneeland, McKenney, Muse, Perry, Povich, Quint, Savage C, Saxl JW, Tuttle, Wheeler EM.

Yes, 94; No, 46; Absent, 11; Excused, 0.

94 having voted in the affirmative and 46 voted in the negative, with 11 being absent, the Bill was **PASSED TO BE ENGROSSED** and sent for concurrence.

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

COMMITTEE OF CONFERENCE REPORT - On Resolve, Regarding Legislative Review of Chapter 5: Standards for Continuing Professional Education for Acupuncturists and Naturopathic Doctors; Chapter 6: Standards Relating to Prescriptive Authorities and Collaborative Relationships; and Chapter 9: Fees, Section 1, Major Substantive Rules of the Department of Professional and Financial Regulation (EMERGENCY)

(H.P. 20) (L.D. 30)

TABLED - May 17, 1999 (Till Later Today) by Representative HATCH of Skowhegan.

PENDING - **ACCEPTANCE OF COMMITTEE REPORT**.

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

The House voted to **RECEDE**.

Committee Amendment "B" (H-97) as Amended by House Amendment "A" (H-195) thereto was **INDEFINITELY POSTPONED**.

Committee of Conference Amendment "A" (H-601) was **READ** by the Clerk and **ADOPTED**.

The Resolve was **PASSED TO BE ENGROSSED** as Amended by Committee of Conference Amendment "A" (H-601) in **NON-CONCURRENCE** and sent for concurrence.

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

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

An Act to Amend the Maine Health Data Organization Statutes (EMERGENCY)

(H.P. 1003) (L.D. 1401)

(C. "A" H-483)

Which was **TABLED** by Representative KANE of Saco pending **PASSAGE TO BE ENACTED**.

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

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

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

SENATE PAPERS

The following Joint Resolution: (S.P. 831)
JOINT RESOLUTION TO COMMEMORATE THE 200TH ANNIVERSARY OF KENNEBEC COUNTY

WHEREAS, Kennebec County was the 6th of the 16 counties in the State of Maine to be established, and it is now celebrating, with justifiable pride, its 200th anniversary of incorporation; and

WHEREAS, Kennebec County, the first county in Maine to assume an Indian name, was named after the mighty river that flows across its entire length, which has been instrumental in the success and growth of the entire area; and

WHEREAS, Kennebec County has 4 cities, 25 towns and one unorganized area, a population of over 115,000 people and 879 square miles of land and exemplifies all the diverse and natural beauty and heritage of our State; and

WHEREAS, Kennebec County is home to the capital of the State of Maine and, as the center of government, has a rich and noble history that interests all Maine people; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Nineteenth Legislature, now assembled in the First Regular Session, take this occasion to recognize the Bicentennial of the Incorporation of Kennebec County, and to commend its inhabitants and officials for the success that they have achieved together for 2 centuries, and to extend to each our sincere hopes and best wishes for continued achievement for the future; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to town, city and county officials of this proud county in honor of this occasion.

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

READ.

The **SPEAKER:** The Chair recognizes the Representative from Gardiner, Representative Colwell.

Representative **COLWELL:** Mr. Speaker, Men and Women of the House. As chairman of the Kennebec County Delegation, I want to have you all join in celebrating our 200th birthday. Two hundred years ago this county was brand new. This great country of ours was brand new. The State of Maine was merely an idea in the minds and hearts of the rugged men and women who scratched out a living in this beautiful place. We in the

Kennebec Valley are very proud of our heritage and of the fact that this is the seat of our county government and the seat of our state government. We welcome you all here in our county. This summer we will be having an anniversary celebration. I want to extend an invitation to every member of this body to please come and be part of the barbecue and the festivities. I thank you very much Mr. Speaker.

ADOPTED in concurrence.

ORDERS

On motion of Representative McNEIL of Rockland, the following Joint Resolution: (H.P. 1586) (Cosponsored by Senator GOLDTHWAIT of Hancock and Representatives: BAGLEY of Machias, ETNIER of Harpswell, HONEY of Boothbay, PIEH of Bremen, PINKHAM of Lamoine, STANWOOD of Southwest Harbor, VOLENIK of Brooklin, Senator: PINGREE of Knox) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 214)

JOINT RESOLUTION MEMORIALIZING THE ATLANTIC STATES MARINE FISHERIES COMMISSION TO MAKE FISHERIES MANAGEMENT DECISIONS BASED ON INTEREST IN THE FISHERY

WE, your Memorialists, the Members of the One Hundred and Nineteenth Legislature of the State of Maine now assembled in the First Regular Session, most respectfully present and petition the members of the Atlantic States Marine Fisheries Commission, as follows:

WHEREAS, lobster is the largest and most important marine resource in the State of Maine; and

WHEREAS, Maine fishermen catch 55% of the lobsters caught in the United States; and

WHEREAS, 7,000 Maine fishermen, their communities, the tax base and local businesses and resources are dependent upon continuous income from the lobster resource; and

WHEREAS, Maine has the strongest conservation laws in the nation regarding lobsters; now, therefore, be it

RESOLVED: That We, your Memorialists, respectfully call upon the Atlantic States Marine Fisheries Commission to apportion voting rights for each fishery managed by the commission based upon a state's proportional interest in that fishery and to hold meetings on species in the geographic region where most fishermen who catch that species reside; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Atlantic States Marine Fisheries Commission, each member of the Oceans and Fisheries Subcommittee of the Senate Standing Committee on Commerce, Science and Transportation and each Member of the Maine Congressional Delegation.

READ.

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

Representative **MCNEIL**: Mr. Speaker, Ladies and Gentlemen of the House. This Joint Resolution is a unanimous effort of the Committee on Marine Resources. Lest you think we squabbled the whole time, I am here to inform you that we didn't. We felt much frustration over many of the bills that dealt with rules of the Atlantic States Marine Fisheries was sending back to me. We all agreed that our representation at the Atlantic States Marine Fisheries Commission is not equal to that of the landings of our lobstermen.

The Committee believed that after listening to Senator Goldthwait, many of these places are difficult for our fishermen to get to. Our vote was not equal. Many of these state have absolutely no landings in the lobster industry and yet, they have the same amount of votes that we, here in Maine, have. Senator Goldthwait believes that this resolution would be very helpful as we continue on in the Atlantic States Commission. It will send a message from those of us here in the Legislature to the commission that we feel very strongly about our lobstering industry and that we wish to receive a larger share of the stake in this industry. I hope that you can all support it and think about these issues as they come before you in the next few sessions. Thank you.

ADOPTED.

Sent for concurrence.

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

SENATE DIVIDED REPORT - Majority (9) **Ought to Pass as Amended by Committee Amendment "A" (S-269)** - Minority (3) **Ought to Pass as Amended by Committee Amendment "B" (S-270)** - Committee on **LABOR** on Bill "An Act to Require That Workers' Compensation Coverage Be Equitably Applied to the Timber Industry"

(S.P. 248) (L.D. 670)

Which was **TABLED** by Representative HATCH of Skowhegan pending her motion to **ACCEPT** the Majority **Ought to Pass as Amended Report.**

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

Representative **MACK**: Mr. Speaker, Right Honorable Men and Women of the House. This is a bad bill. This is a bill that this body had killed in the 118th Legislature. What this bill would do is to force a new group of people to buy workers' comp insurance, a group that does not now buy workers' comp insurance. That group is independent loggers. There are a few different reasons why this is a bad bill. The biggest one is that this bill is corporate welfare. This bill would help the big logging firms at the expense of the independent logger. What it would do is make the independent logger buy workers' comp insurance. The independent logger is the sole proprietor, an independent contractor. There are no other sole proprietors in any of the workers' comp act that are required to get workers' comp insurance.

There are a couple of flyers coming across your desk. The small logger who is independent and has not gotten the certified logging professional designation has to spend \$9,000 a year on workers' comp insurance. The big company only has to spend \$2,300. By forcing the small logger to buy workers' comp, you are going to put him out of business. The small logger is a Maine tradition, a disappearing Maine tradition. These are good people who work hard trying to make ends meet and feed their families. They are not rich. They can't afford another \$9,000 a year for workers' comp insurance. What would happen is if these independent loggers are either going to go out of business because they can't afford it, a lot of them are part time. They are fishermen or have some other occupation and log a bit on the side, they will have to go to work for one of the big companies or they will have to work alone without anyone watching them, which is very unsafe.

Another reason to vote against this bill, as I just touched on, it is bad for safety. There are a few exemptions in this bill. If an independent logger were working directly with the landowner, that happens sometimes, they would be exempt from this bill. If they were working with anybody else, they would need to get the comp insurance. If these loggers are still in business, you are going to force them to work alone without anybody else around, which is very unsafe when you are out in the woods with a chainsaw. It is a lot better to have someone else around. This is going to lead to more accidents.

This is also bad for the environment. This is going to lead to more clear-cutting. Bear with me for a second on this, it takes a second to understand. Because you have less loggers a small guy going out in the woods with his chainsaw, you are going to have them going to the bigger logging companies. The bigger logging companies tend to have more mechanization. Those machines are expensive. They run in the tens of thousands to hundreds of thousands of dollars to have one of the mechanized logging operations. In order to make these profitable to pay for them and to make them pay for themselves, they need to cut a massive volume of wood. You can't go in and selectively cut like one guy with his chainsaw with this mechanization. The only way to make this mechanization profitable is by cutting large amounts of wood. When you cut large amounts of wood, you are going to get more clear-cutting. That is one of the reasons we have the clear-cutting problem that we do now is the large amount of mechanization. During the last clear-cutting debate a lot of people said that if you have more jobs, more people going in the woods, you are going to have less clear-cutting. They were right about that point. People themselves with their chainsaw are not going to clear-cut, but with the mechanization it will. Also, this bill is an awful precedent. We are opening up a Pandora's box.

This doesn't change the workers' comp system, per say. We are not changing how the benefits are paid or how much you have to pay. This will open up a new can of worms saying that an independent contractor, sole proprietor, will have to buy workers' comp for himself. This is the first time we have done that. It is a very bad precedent. The big companies with lots of employees, they already have workers' comp insurance. The little guy doesn't. He is going to go out of business paying \$9,000 more. This is a bad bill. It is bad for the environment. It is bad for safety. It is a bad precedent. It sets up corporate welfare and helps the big companies at the expense of the little guy. I urge you to vote against the pending motion. Mr. Speaker, when the vote is taken, I request the yeas and nays.

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

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

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

Representative MARTIN: Mr. Speaker, Members of the House. Let me just indicate that perhaps this bill, if enacted, will finally provide a level playing field. Let me explain it to you. If you are a landowner, we have just been through three years of cutting in our own land, if you are not smart enough to get workers' compensation requirements filed with you before the cutting begins, you are subjecting yourself to the potential of lawsuits that will divest you of any assets you have. Under present law, it is so-called deep pocket, you will be responsible

for what takes place if someone gets injured on your land and that employee is working on your land. That is point one.

Point two, it will provide an equal playing field in the sense that those people who are competing, the cutters, that have to provide workers' comp versus the one that is not providing it, is going to end up earning less money, because, in fact, they have to pay the workers' comp premium.

Third point to remember is if there is no workers' compensation on that employee and that employee gets injured and there are no assets to take care of injuries that result as a result of that injury, who do you think is going to pay for taking care of the children in that family or everyone else? That will be society through Medicare, Medicaid and other benefits, because they haven't got coverage. It is you and I that will pick up the hospital bills and the doctor's bills through our tax process.

The fourth point to remember about this bill is a rather simple one. It is that of money. I have just heard and I have just read that it costs \$9,000 a year for a small logger to get workers' compensation. That is incorrect. There are two ways in which you can get workers' compensation. One, create a company of your own, that is to incorporate. That is based on the salary. The second way is for you to determine what your salary is and to base the workers' comp premium on that rate. If you are using a chainsaw, the rate is about \$28 per \$100 dollars of payroll. If you are using machinery, the rate will drop as close to \$12 per \$100 dollars of payroll. The amount of salary that you take as an employee is based entirely on the amount of money that you are taking for salary. It is not based on \$9,000 a year. It is based on the volume of money that you are going to receive as salary in the course of that year. Of course, the rate will go down if you happen to be a certified logger. That is true whether or not it is a corporation or a non-corporation, whether or not it is a large company or a small company.

You may wonder why I know something about this. It is because I have done it. We have had people work on our lands. I have family members who have been in the forestry business prior to my birth and probably will continue after. Let me tell you, bottom line here, if you want to drop the rate of workers' compensation for the logging industry in this state, you make sure that everyone who cuts trees and logs pays. What that will do, for those of you in the insurance industry know, you spread the risk. At the same time, what you are doing is decreasing the cost of society bearing the burden, because if lack of insurance. It is the tax dollars that ill pay through Medicaid, AFDC and everything else that takes place. Rather than this bill being a detriment to business, it is the best thing that can happen, not only for business, but for every logger in Maine. I don't think there is anyone in this room, frankly, that represents, except the Representative from Lincoln, that represents as many loggers and people that work in the wood industry, as I do.

I know that if you are an employer the last thing that you want is this bill. It means that that extra money stays in your pocket and doesn't go to pay workers' compensation. That is where the rub is going to come. I understand those people that want to keep that profit rather than protecting their employees. I understand that as a businessperson, because the more that you put in the bottom-line to take home with you, the better you are. If you want to protect everyone, this is the bill to do it. Thank you Mr. Speaker.

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

Representative WATERHOUSE: Mr. Speaker, Ladies and Gentlemen of the House. In the first place, what this bill is going to require is not workers' comp for employees. We already have that and state law requires it. What we are talking about is requiring the employer, the person who has the workers, to have workers' comp on themselves. This is a classic case of the big guy wanting to shut the little guy out. I am getting up and speaking on this bill because in the 118th this very same piece of legislation, or pretty close to it, was on the consent calendar. It was a unanimous committee report. I flagged it and took it off the consent calendar because I knew it was a problem for the little guys in my area. They approached a previous member of this body who spent 60 years in the woods, probably more than that now, not walking in the woods, but working in the woods. That was Representative Eddie Dexter. He thanked me for flagging that. We worked together on that with some other people and debated the very same issues. We defeated that piece of legislation.

It is interesting some of the comments that I heard from the good Representative from Eagle Lake. It seems as though the government likes to create a crisis and then take away the freedoms. Government will take care of you so we will restrict those freedoms. Society decides we are going to give people some kind of benefits whether it is healthcare coverage or workers' comp. Therefore, we are going to require you to do this and that. We talked about a level playing field. I call this no playing field because that is what it will be for some of these small people, small contractors, individuals who can't afford another \$10 out of their pockets, not to cover the workers, but for expense for themselves.

Small logging people in my area don't have \$5,000 of money to cram into their pockets as a profit. Some of them are barely eking out living.

With the indulgence of the House, I want to read from some testimony from that previous Representative who worked 60 years in the woods on this bill. He commented on it in the 118th. "I will tell you what it is going to do. I was planning on hiring my two men this summer. If this bill passes, I will work alone because I don't mind paying workers' comp on men, but this little amendment here, which becomes the bill says, anybody engaging in harvesting of wood that severs and removes standing trees from a forest comes under this. That means that if I get off my bulldozer and cut two or three trees, while my men a quarter of a mile away, I have to have workers' comp. It is pure and simple. That is what it says right here." I will stop this briefly and tell you that Representative Dexter went on to give his save the kitten speech. Those of you who were here to hear him might remember. "Quite a few years ago I had a visitor, a young lady, with a small child that came to my house. This was back when my twins were little girls. They had a kitten they were quite fond of. This young kid took the kitten by the throat and was squeezing her. She began to get limp and her eyes bugged out. I said something to the visitor's mother, she said she is just loving that kitten. I rescued the kitten, but I can't rescue people like me. We are just a small minority without your help. In other words, we are loving people to death. I sometimes wonder, I will be 75 in a little while, how I lived so long without somebody taking me by the hand from the time I was born. I guess I am begging the House to leave this old man alone and let me cut wood for another year and maybe, just maybe, I might hire one or two young fellas and teach them how to work and get along in this world."

I hope you remember that speech, the save the kitten speech, and save these small contractors who are not pocketing a lot of money. They are just trying to make a living. Thank you.

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

Representative TRAHAN: Mr. Speaker, Honorable Members of the House. As you know, I am a small logger. I work by myself in the woods for 15 years. I have seen a lot of changes in the wood business in those 15 years. I have seen the timber industry divide itself and fight amongst itself over different issues, forestry referendums. The real issue here is not workers' comp. It is licensing. Let's cut to the chase. The problem is the big operators what all of us small operators to be licensed. There is resentment toward us because we are independent.

Let me explain how workers' comp is connected to licensing. If I am forced to get workers' comp, if I am not licensed, it costs me \$40 on \$100 for workers' comp. If I am licensed, it costs me \$18. The problem is that I only work in the woods now for four months out of the year. I make \$7,000 or \$8,000 a year. If I have to get certified, it costs me \$1,000 and it takes me four days to take the course. I figure I lose around \$2,000. Do you see where this is going? I might as well go paint houses. We are destroying our small loggers. We are regulating them to death.

When I started in the logging business 15 years ago, I happened to work with a man who is probably one of the finest loggers in southern Maine. He taught me on the first day that I was on the job to respect everything in nature. We were sitting in a pickup truck and I was drinking a Pepsi. I popped the cover and I threw it out the window. That man made me get out of truck and pick the cap up. He said, "Leave the land better than when you got here." Do you think men in mechanized machines cutting on hundreds of thousands of acres are going to get out and pick up the bottle cap? We need to continue these small loggers and the heritage that they can pass on to the next generation. When we pass laws like this, they will be extinct. Why is it I can't go logging year round? I will explain. International Paper and Champion demands that I stop cutting in the spring for six weeks. You know why? They don't trust me to have the ingenuity to cut on land that isn't muddy. They don't let us my initiative to save land for that time of year. They simply shut down buying wood from me for those six weeks. What do they think I am going to do for six weeks? These big contractors want to see guys like me disappear, because they can't compete with me. They can't go into a woodlot and pick a tree here and pick a tree there. There have been days I have worked in the woods and only cut a cord and half of wood, because I was doing neat work. I don't want to damage other trees. I want to pass that on to somebody some day. I can't do it if I have to buy workers' comp. I am too independent to be certified.

I believe I could teach that certification course. I don't like to be extorted into taking that course. I have been threatened twice that if I don't take the course, that I won't be able to sell my wood to International Paper. I have the documentation to prove that. Do they want me out of the industry? Yes, they do. I am here to fight for every single one of those individuals across the state that every day go out and practice good forestry. They are the people that are legends in this state. We are trying to destroy them. Sure, work out a way that landowners will not be liable. Work out a contract of some kind, but don't stifle them through their pocketbook. Thank you.

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

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

Representative FOSTER: Mr. Speaker, Ladies and Gentlemen of the House. I must differ with my good friends, Representative Trahan, Representative Mack and Representative Waterhouse. I have been in the business of dealing with mostly small loggers for close to 40 years. Currently, loggers have been working alone in the woods in southern Maine for many, many years as a result of federal and state legislation, which has affected them. The most recent one is workers' comp. It is dangerous work. It is dangerous to work alone. However, not all the small loggers are without workers' compensation. What has made that possible to these people is in the last few years has been the reform in the workers' comp laws. That has been the key to allow these people to buy the insurance. I have personally helped several of these people to get the training, which is a certified loggers course, which is a week. Since they have the training, it reduces the cost of their workers' comp even more. It has allowed these people to go about their business as if they were a large corporation as some have mentioned. I don't see the extinction of these loggers because the opportunity is there providing that we don't take the workers' comp laws that we have now and make them stiffer or more difficult for these guys to deal with them.

If the cost of the workers' comp laws continues to drop, you are going to see more of these small loggers be able to afford it. Many of them are working alone now. If they want to continue to work, all they have to do is apply for independent contractor status at the board of workers' comp. They can get that and they can work. What it does is it protects the landowner from a lawsuit in case they get seriously hurt, which is probably the biggest part of this. Otherwise, if you are out there without insurance, without any independent contractor status, you are putting the landowner at risk and yourself at risk when you do this.

As far as the size of the equipment and the volume you have to cut, at least in southern Maine, there is so much difference between the size and species of trees that grow here that you can't do it all with mechanized equipment. You have to use a chainsaw to do it because of size, species and the products that you can get from those trees. The argument that the big equipment is necessary to be able to stay alive is not true. I find it not true anyway. The key to most of these people is to try to take the week certification course, which will reduce the cost of the workers' comp that they have and it will put them in a safer position for themselves and also protection for the landowner. I would urge you to pass the Majority Report. Thank you.

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

Representative HATCH: Mr. Speaker, Ladies and Gentlemen of the House. I just want you to know that the committee looked long and hard at this issue. Yes, this is a re-hash of two years ago, but the amendment is completely new. Why I say that is not only did we really look in depth at this issue, but we had a study commission that was out on it over the last

year or so. I would like to give you an idea of just who was on that commission. I think you will find it pretty interesting. There were the following people from the Workers' Comp Board: Director, Susan Pinette; Director, David Gobin; John Jollicker; Jan Lasitor; Steven Mincowski and John Rose. From the Legislature: Senator John Nutting, Representative Steven Stanley and Representative Clifton Foster. From the Maine Forest Service: Charles Gadzik, Don Mansir and Cathy Nitchick. From the Bureau of Insurance: Frank Kimball, Eric Chopper and Dick Johnson. From the Small Woodlot Owners Association of Maine: Everett Toll and Jeff Ramano. From the Maine Forest Products Council: Pat Sirois. From the Professional Logging Contractors of Maine: Sheryl Russell. From the logging industry: Andy Aris and Ari Login. From the Forestry Industry: Andy Schultz who was contacted through International Paper and Harry Dwyer of Go Forestry.

We started processing this bill in committee. We had some people who came in and testified against, but mostly for. We had an independent contractor as well as a professional contractor working on this bill with us. I think that we came up with a good Majority Report.

It is difficult because I love to be independent. It is difficult for someone to take and say that we care about you enough that we think the laws ought to cover you, but under the Majority Report we did specify what an employee was and we did specify who was accepted from being an employee. I would just like to go through that for you. I think it is an issue that we really have to deal with. "Accepted the following persons as long as they meet the criteria for obtaining a certificate of independent status or a predetermination of independent contractor status. A person who contracts directly with the landowner, if the person is (a) performs all the wood harvesting alone, (b) performs all the wood harvesting alone or with the assistance of one or more of the following persons whose relationship with the person is that of a spouse, parent, sibling, child, niece or nephew, (c) performs all the wood harvesting alone or with the assistance of one or more other person all covered by workers' comp insurance or (d) performs all of the wood harvesting alone or with the assistance of a partner when a legal partnership exists and neither partner acts as a supervisor of the other." If you had a brother and he was in a partnership, go for it. "(2), a spouse, parent, sibling, child, niece or nephew of a person who contracts directly with a landowner to perform all the wood harvesting alone or with the assistance of one or more of the following: the person's spouse, parent, sibling, child, niece or nephew or (3) a partner of a person who contracts directly with the landowner to perform all of the wood harvesting alone or with the assistance of a partner when a legal partnership exists and either partner acts as a supervisor of the other."

I think that is pretty clear. I think that leaves most independent contractors off on their own to do their own thing. I want you to know that also think it is very important that if you are going to hire a contractor, that you make sure that he is certified. I think that this is a good bill and it has been a long time in coming. I think that we to the umpteenth degree. I really do have a problem with anyone saying that they will hire a couple of kids. Can you imagine going into the woods with a couple 16 year old boys who have never been in the woods, teaching them forestry, cutting down some trees and having that child get in an accident? If you had no insurance, what happens then? If you have nothing, I guess they can't sue you. The

parents are going to pay a long time for that industry and society is going to pay, too.

I think it is time that we looked at this issue. I think it is a good bill. We have done a lot of work on it. I want to thank the independent contractors who came in and shared all his time with us in working out this amendment until we felt that it was good. I also want to thank the professional contractors who made every effort to bend over backwards. It is interesting to note that if you go through this professional course, which I assume just takes a few hours, maybe a day or two, that your rates on workers' comp drop from \$28 to \$9 per hundred. I think that is quite drop. Thank you very much.

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

Representative DAVIS: Mr. Speaker, Men and Women of the House. I am on the Labor Committee. I listened to several hours of this testimony. I was very impressed by the Hannigan Brothers. They are contractors and they said it is unfair competition if they have workers' compensation, which they do and nobody else has it. I am not going to repeat myself, but I agree with everything Representative Foster said and Representative Martin of Eagle Lake said. I think they have covered it. It was in the testimony. I took a lot of notes. I was impressed by the testimony. I think this is a good bill, the Majority Report. Thank you.

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

Representative GOOLEY: Mr. Speaker, Men and Women of the House. The previous speakers have covered this issue very well, Representative Foster and Representative Hatch. Being a consulting forester, myself, and having worked in the field of forestry over the last 40 years, like Representative Foster, I, too have come up against the same problems that he has. I agree with what he has said.

I just wanted to add a few things. Back 10 or 20 years ago, the workers' comp rates were as high as \$55 per \$100. That was the highest in the country. Since then, with the certified logging program, which has come into existence in the last five years, the rates, as has been mentioned, have been reduced tremendously. The CLP Program is a good program for loggers. Actually, it is a one-week program that loggers have to go through. That has been a big difference in bringing down the injury rates. First, when I talk with the logger, I am a consulting forester, I will tell you it is not easy being a consulting forester because we have to deal with a lot of different things. The first thing I talk about with the logger is insurance. That is paramount, very, very important. Working with these logging companies, it is tough work. We have to talk about economic issues, environmental issues dealing with the Maine Forest Service and the DEP and we have to talk about liability. Liability is a big, big issue. I am not sure any owners have been sued because of injured loggers. I am not sure. The other thing that should be mentioned is we have roughly 4,000 logging contractors in the State of Maine. That is down from about 9,000 even 10 or 15 years ago. The number of loggers out there has been dropping, but they are getting bigger.

Lastly, what I want to mention is about the amendment. I do favor the Majority Report and with the amendment it is very good. At the present time, these small independent operators when they are going to operate on the land of another, they have to file with the Workers' Compensation Board for every logging job that they do. It is called the rebuttable presumption. It is

something that the loggers have to go through to show that they have their workers' comp or that they are independent operators. What they have to say is they will not hire anyone to work for them unless they are covered under workers' compensation. I like the amendment here because it really helps the logger out. It will call for an annual certificate of independent status for the contractor so that the logger will only have to file once a year with the Workers' Comp Board. That is a far cry from having to file 15 or 20 different times, if you have 15 or 20 different logging jobs. I know the Workers' Comp Board gets these returns back to the loggers as quickly as possible. It takes a couple of weeks sometimes or maybe even more. That does waste time, especially if a logger is ready to go onto a woodlot.

Those are some of issues. This is a good bill and I hope you will vote for the Majority Ought to Pass Report.

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

Representative VOLENIK: Mr. Speaker, Men and Women of the House. I am a little confused here. It says that employee includes any person engaged in harvesting forest products except the following, which has been mentioned. That says unless employed by a private employer a person considered an employee under this paragraph shall obtain personal coverage in the same manner, etc., etc. If I may, may I pose a question? If a logger is an independent logger and he is working alone for a contractor on a third party's land or industry land, under Report "A", must purchase workers' comp? If so, is forcing him to buy workers' comp a way for large contractors and industry to avoid workers' comp premiums?

The SPEAKER PRO TEM: The Representative from Brooklin, Representative Volenik 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 good Representative from Brooklin's question, yes and sort of. In the first situation he described where the independent contractor or the independent logger is working through someone else on a third person's land, he would need workers' comp insurance. He would either need to buy it himself or the company he was working for as an employee would have to buy the workers' comp for him. As the law currently stands, you do need to buy employee's workers' comp.

If he is working, the only exemption is if the individual is working directly with the landowner. That is the exemption. If the independent person is working with the landowner directly, he will not need workers' comp. The problem is, as the good Representative in his scenario explained, you do work through a third party or you do work with somebody else. These are the situations that will affect you. These independent people are out there working and will need the workers' comp insurance. As I had said before, this will be a first for workers' comp. There is a level playing field now. It is on every industry in the State of Maine, not just workers' comp where this exists.

If you are a large company and you and you have employees, you must buy workers' comp. If you are an independent contractor or sole proprietor, you do not need workers' comp. This is not just the logging industry. This is every industry in the State of Maine. This logging exemption would be the first setting a bad precedent where we are requiring the independent contractor to buy workers' comp. As you can

imagine, the independent contractor does not like this new imposition on him. The large companies, as the Representative from Farmington said, are growing and they will be growing even more if this passes.

Also, it was mentioned that the \$9,000 is not an accurate number. Nine thousand dollars is an annual average. It is based on the amount of payroll. Let's look at what it is per \$1,000 of payroll. If you are one of the big guys, a certified logging professional, your rate according to MEMIC, Maine Employers Mutual Insurance Company, as of January 1st is \$10.54 a \$1,000. If you are the little guy, like the good Representative from Waldoboro, workers' comp insurance will cost you three and a half times as much. It will cost you \$35.73 a \$1,000. That will be three and a half times as much for the little guy to buy the same insurance as the big company. The certification, as has been said, is a weeklong course. Not only do you have to pay a lot of money to take it, but you lose a week's worth of wages, which many families cannot afford.

I also wanted to mention that there were two reports. There are two Ought to Pass as Amended Reports. We are debating Report "A" right now. There is also a Minority Report which I am on, Report "B." Before I tell you the differences to the two reports, I wanted to let you know where we came with our idea for Report "B." The Right Honorable Representative from Skowhegan, Representative Hatch, was kind enough to point out a report that came to our committee. It was a report from the Workers' Comp Board. A report on the Workers' Comp Board regarding workers' compensation laws pertaining to the wood harvesting industry and there are some more stuff in the title that I won't go on with now.

That group that she had talked about and listed all the good members of, I am going to read you their recommendations. One, an annual pre-determination process. That annual predetermination that the good Representative from Farmington had stated cuts out red tape and simplifies things. That is in the Minority Report, the annual predetermination. Re-examine landowner liability under 39 MRSA. We did that in our report. It has been said that if someone gets hurt cutting wood on your land, you may be liable. I didn't think that made sense and the report that came to our committee didn't think that made sense. The Minority Report has something the Majority Report does not. If you are an independent contractor and you are out cutting on someone's land and you hurt yourself, the landowner is not liable for your injuries. You are out as an independent contractor taking your own risk working the woods. Unless there were some other laws where the landowner intentionally harmed the logger by spiking a tree or some other act of sabotage. The landowner, under the Minority Report, would not be liable. The worker would be working at his own risk as far as injuries go. That is one of the recommendations of this report. That report's other recommendation was leave the system as it is, but increase enforcement and education efforts. We are leaving the system as it is. That report that has been mentioned did not say to force workers' comp and the high, high cost on the independent logger. With those other few changes, it said to leave the system as it is. That is exactly what the Minority Report does. I urge you to vote against the pending motion so that we may adopt the Minority Report that has been so eloquently stated by the good Representative from Waldoboro, Representative Trahan; the good Representative from Bridgton, Representative Waterhouse and the former Representative Dexter. What he said about that kitten that got squeezed with its

eyes bugging out, don't love that kitten anymore, can't afford it. Please, don't love these loggers anymore. They can't take it. Thank you.

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

Representative **WATERHOUSE**: Mr. Speaker, Ladies and Gentlemen of the House. I really apologize. I mean that from the bottom of my heart. It has been a long day. A lot has been said. I would just like to interject something towards the end here and tell you why I feel so strongly about this. This is a bill that is in my committee. I had nothing to do with cosponsoring it. I feel so strongly about this issue because I have small loggers in my area that are constantly contacting me about different bills that affect their livelihood. I don't know any large logging companies. I don't think I have any in my district. In fact, I know I don't. I have little family logging outfits. Make no mistake, if we don't save that little kitten that Representative Dexter was referring to in the 118th, when it is all said and done, if you pass this Majority Report, there will be people who won't be in business. They will be out of work. That is why I feel so strongly about this.

I talked earlier about the crisis situation. This is a real crisis for these people here. We always talk about the workers and how we want to help the workers. I don't know anybody and I work pretty hard in my line of work, I have said this many times to people who work in the woods, loggers, to me, are the hardest workers on the face of the earth. It is a hard, hard job. It takes its toll. I hope you will vote against the pending motion and go on to the Minority Report. Remember all the debates we have had on workers in this session. Remember that these people will be out of work. Thank you.

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

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

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

Representative **PERKINS**: Mr. Speaker, Ladies and Gentlemen of the House. Could somebody in a handful of words please tell me what the problem is that we are trying to solve with the Majority Report? Apparently, from what I can hear, it is already law that all employees in the woods are covered today. I believe that is true. So, what is the problem we are trying solve? I hear we are trying to protect the landowner. Are we trying to protect the fella with the skidder who already has his employees covered? What is the problem we are trying to solve by this?

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

Representative **HATCH**: Mr. Speaker, Men and Women of the House. Mr. Speaker, Men and Women of the House. Actually we do clarify in the law what an employee is. What I gave as a definition was what an employee wasn't. An employee includes any person engaged in harvesting forest products. That is what an employee is and then we had the exception, who is not classified. If you are a certified contractor, then you are not considered an employee. That is about it.

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

Representative **MARTIN**: Mr. Speaker, Members of the House. Just to continue the answer to the question, I would perhaps like to use for my example what is presently going on in Northern Maine. Assuming, as you may know, that BoWater sold a substantial amount of acreage, close to a million acres, to the Irving Company now known as Allagash Woodlands. They are not into the big contractors. They are moving away from that. What they are doing is having little contractors, basically, in most instances, three people or maybe four. They are the harvester, the slasher operator and one skidder. That is about the operation. They have about three people. Assuming that Irving wanted to, which they, in fact, have done, each one of them is a contractor. They are not a big operation anymore. You are now going to have, in most instances, on what you have for BoWater large contractors maybe 10 contractors that BoWater had, you are probably going to have 30 or 40 of these kinds of operations. It is potentially possible, if they so desired, to label everyone a contractor and, therefore, have no workers' compensation. All these people could well be at the mercy.

Irving is not going to be doing that, to my knowledge. I am just saying potentially they legally could under present law. What this bill does, in effect, would prevent that from happening. That is why the Professional Loggers Association and the Contractors Association in Maine, quite frankly, are supporting this. This is the same type of mode of operation that McDonald who bought some of the Great Northern Land on the other side beyond Baxter, will be doing the same kind of operation. In northern Maine, what used to be the large contractors will be almost nonexistent. You are going to be potentially putting all these people at risk. That is why, to answer the question, a lot of this is being done, the fear. As opposed to what you had two years ago, a great deal of support for this legislation, which, frankly, in my area did not exist before now. I believe that answers the question. That is really what, in part, is driving this piece of legislation.

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

Representative **TRAHAN**: Mr. Speaker, Members of the House. I would like to address a few things that I have heard today. Less accidents, because there are less people in the woods, technology, people are working giant machines in an enclosed environment. We are going to mechanization. Of course there will be less accidents. Chainsaws are getting safer. The chains themselves are being designed for less kick back. There are fewer accidents because of the safety equipment. It is \$10.54 if you are CPS. It is \$35.73 if you are not. When I started in the wood business 15 years ago, the first cord of wood that I sold was a cord of hardwood. I sold it for \$40. I sold some this spring for \$38. It has been 15 years and the price of wood has dropped by \$2. I sold a cord of pine back 15 years ago for \$30. a cord. The last cord of pine I sold was for \$28. You bring these expenses down on me as a small operator, I will go be a carpenter for \$15. an hour and make more money. Business is like that. You have a bottom line that is called profit. If you can't meet that profit line, if you can't pay your bills, you will find something else to do. All I suggest to you is that we find a better way. I am not saying that guys shouldn't be insured so that landowners are protected. Yes. We have to find a better way than the CLP Program.

There are guys out there that are terrific safe loggers. They don't want to take the CLP Course. I will tell you why. I don't think the things they teach in their safety courses are safe. You

think, where did he come up with that? Let me tell you. They want you to wear a face shield. I wore one for about a week. I was cutting hemlock. I cut a tree. It pulled a branch down and I couldn't see it because of the facial screen. It had never happened in my life in the wood business. I cut that branch off and it nearly took my head off. I have worn safety glasses and I have worn them ever since. They are safer than that mandatory face shield. Under the CLP Program you are supposed to go into a woodlot and cut all the dead trees before you enter the woodlot. Do you think that is safe? You cut a fir tree with a dead top and that top will fall down on you every time. When I cut a dead tree like that, I run for my life. If I am able to work the woodlot, I can work into that tree and take my skidder and push it over. If I have to go into a thick woodlot and cut all those trees down, my life is in danger.

The reason I don't take that course is because I don't believe in it. You need to work with loggers to develop a program where everyone is involved so that all of these little issues like what I just brought out can be addressed. There are 4,000 loggers and are disappearing fast. Where are they going? Canada. Why? They supplement Canadian income. They pay for their healthcare. You can bring Canadian workers over here and work for a lot cheaper. Every time we do something to one of these little guys, they are just going to go to Canada for their employees.

Big operations, why are they shrinking? Why are they getting smaller? Spruce bud-worm, that is why. They needed big operations to salvage these hundreds of thousands of acres of spruce bud-worm that died. They needed massive operations to salvage them. Now we are going to thinning wood. We are going selective cutting. That is why it is going to smaller operations.

I am not saying I have all the answers on what we should do in this situation, but I can tell you right now that there is something we can do better. We need to take into account that not everyone is going to be CLP certified. We need to find a way to get those people insured that is cheaper than \$40 on \$1,000. Their profit margin is just not there. That is the bottom line. Thank you.

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

Representative **FOSTER**: Mr. Speaker, Ladies and Gentlemen of the House. Mr. Speaker, Ladies and Gentlemen of the House. I am not going to apologize for standing up here again. There are a few things that have been said that really aren't quite right. The CLP course, I know of no one who has taken that course that has not come back and said that I found out a lot of things that I didn't know. People have worked in the woods for 25 or 30 years and have learned something from taking that course. The emphasis on safety, the best part of the course is on safety. It doesn't make any difference if you have worked in the woods for one year or one hundred year, I can guarantee anybody who takes the course that they are going to learn something from it. They are going to be safer in the woods because of it. The course is a week. It costs \$500. They have to take another week off. It is probably going to be another \$500. It is going to be at least \$1,000 for a logger. I can tell you that in the long run it is going to be worth it, whether you are a large operation or a small operation. The CLP course brings the cost or workers' comp down so that the logger can afford. I deal with logger who have workers' comp and who do not have workers' comp. Some prefer to work alone. They have to file for

a predetermination of independent contractor status and when they do, that is fine. They have to answer a bunch of questions. If you are going to work for another contractor, you have to answer those questions. If you don't answer them right, then the contractor is going to have to insure you, not yourself.

There are some things that have been said here, which are really not correct. The positive part about this is it is going to do two things. It is going to make people who work in the woods safer, whether they like it or not. It is going to give some of these guys the opportunity to continue their work, whether it is full time or part time. It is still worth it to take the course and to get the insurance. Thank you.

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

Representative GOOLEY: Mr. Speaker, Men and Women of the House. I just wanted to make a couple of closing comments here about comments that have been made here earlier. Representative Trahan mentioned about his problem with the face shield. I also do cut a little wood on the side and I find that a face shield has helped protect my eyes. I feel strongly about that particular issue. The other issue that he mentioned was about cutting all the dead trees before entering a woodlot. This sounds foreign to me. I can understand cutting down trees that are hazards, but to go into a woodlot, which may be 100 acres and to have to cut down all the dead trees, that doesn't sound like a very good thing to me. I haven't seen the writing that goes along with the CLP Program, but it does sound a little strange.

The other thing is about loggers going into Canada to work. The reason for the changes over the years is it is a very dangerous business. There are a lot of loggers that go into carpentry and other fields. There are reasons for everything. The logging professional today, it still is a viable profession and I know that some of my constituents are loggers and they have been loggers all their lives. They like doing that. They are happy in what they are doing. I also feel that under the Majority Report that landowners are protected. I am a landowner myself. I felt quite comfortable with dealing with the logger that I had. I highly recommend that we pass the Majority Report.

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

Representative STANLEY: Mr. Speaker, Ladies and Gentlemen of the House. I happen to think that this piece of legislation is a good piece of legislation for the people that are employed in the woods product industry that do the cutting of the trees. The reason why I say this is that by the wood contractors themselves, this will enable them to be on a level playing field with everybody else because they will have the option to certify their employees or the CLP or not. That is their choice and nobody is trying to tell them you have to. Nobody is trying to tell them they don't have to. It is up to the loggers and contractors to do that. Also, it protects the little guy, the father and son that want to run a woods operation and go on somebody's land. All they have to do is file a status of independent contractor and there is no problem at all. They know what they are doing and they are taking that risk. Also, I think it protects the landowner. That is the main thing here. We all have little people that own 25, 30 or 40 acres that are cutting wood. They have put the land out to wood. This is protecting them from any liability if that person declares he is an independent contractor. It takes the liability away from the woodlot owner so he won't be responsible

in case someone gets hurt or killed on his lot. I think that one part of the thing that is really important is the education.

I served on the study committee and one of the main things we talked about was the education of the landowner, contractors and independent contractors on the different things that they could do to keep the workers' comp down. Also, to do the different things declaring how they are an independent contractor so they can run their business the way they have been running it for years and years without we, the state, not really doing anything about it. The only thing we are asking is you declare that you are an independent contractor so that you know the responsibility you are taking when you declare that. To me, this is a good bill. It is a bill that is good for the forest products industry. Puts a little stability into it and gives a good education to the people. I would also like to say it protects the landowner. I think that is a major part of the whole thing we have to do here. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Lincoln, Representative Carr.

Representative CARR: Mr. Speaker, Men and Women of the House. I will be very brief. I know we are all ready for that. I do have some information that I would like to offer. The Representative from Eagle Lake, Representative Martin, really covered a lot of that information. I thank him for doing that. There is a real problem in the northern woods right now with the situation that he previously discussed.

This weekend I had a long discussion with Cheryl Russell who is the executive director of the Professional Logging Contractors, who is also part of the study. Much of the information that she offered me really changed my mind on this. I really wasn't lined up with this type of thinking until I had a chance to discuss this with her. The Professional Logging Contractors of Maine represent 46 percent of all the wood that is harvested annually in the State of Maine. They represent 1,600 logging jobs. She brought to my attention that in 1998 there were three logging fatalities. As near as we can tell, all of those were small loggers. OSHA was not involved in any of the investigations because they did not have workers' comp apparently. One of the things that she brought up to me was when there is an injury or when there is a fatality involved in one of these small operations, who takes care of their family? It seems to me that in this particular case, in such a hazardous job that it is, that anyone would really want to have some type of insurance coverage. The information that she supplied me, and I am not sure if this is true or not, but I think she certainly is in the right position to know. The rates in safety programs have allowed a CLP logger to buy workers' compensation coverage for as little as \$22 per week. It appears that all of these fatalities were loggers working alone. This had to do with the three fatalities in 1998.

It really bothers me to stand and speak in opposition to the Representative from Waldoboro simply because of how he feels on this. Certainly it affects him and his working conditions. I do think this information is necessary to be out so that we can all digest it. Everybody has to vote the way they see it. In this particular case, I will be voting for the Majority Ought to Pass. Thank you.

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

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

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

Representative **VOLENIK**: Mr. Speaker, Men and Women of the House. If large contractors who formerly provided workers' comp for their employees are being eliminated forcing individual loggers and small contractors to be called employees, but yet still have to purchase their own workers' comp. How much more income are these smaller operators earning to allow them to pay for workers' comp out of their increased profits or are all of the profits going to the large landowners and the industry?

The SPEAKER PRO TEM: The Representative from Brooklin, Representative Volenik 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 Right Honorable Representative from Brooklin, Representative Volenik's question, the independent logger will not be getting any extra revenue unless they cut more wood. I also wanted to answer the question from the good Representative from Penobscot, Representative Perkins. I wanted to expand also that this is going to be bad for safety because that independent logger, in order to earn the money to pay for this, is going to have to cut more wood. In order to cut more wood and to keep his predetermination the way the law exists, he is going to have to make sure that he fits in all those loopholes in the law. What that means is you are going to have these loggers out in the woods alone without other people around them. That is very unsafe and this will lead to more safety problems. More specifically, the good Representative from Penobscot's question, about what is the problem in this bill. The problem this bill addresses is that the big companies don't like competition. They want to drive the little guy out of business. This bill will drive the little guy out of business so they can get a bigger market share and then raise their prices on that bigger market. One more quick comment to clarify something that has been said by the good Representative from Medway, Representative Stanley, it is the Minority Report that will exempt the landowner from liability if the logger hurts himself. That is on the Minority Report, not the Majority Report. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Gray, Representative Foster. Having spoken twice now requests unanimous consent to address the House a third time. Is there objection? Chair hears no objection, the Representative may proceed.

Representative **FOSTER**: Mr. Speaker, Ladies and Gentlemen of the House. In the first place, if you are an employee, someone else has to buy the workers' comp for you. If you are buying wood from a landowner, then you have to do one of two things. If you are working alone, you apply to the Workers' Compensation Board for independent contractor status. Having done that, you can go to work on his property. If you have an employee that is working with him, he has to provide the employee workers' comp to legally work on that person's land.

The question of profit has come up. If somebody buys workers' comp, the statement has been that they will lose money and will not be able to stay in business. I guess I could debate that. I have dealt with loggers who both have it and don't have it. I have not seen a great deal of difference between the two. I can tell you the reason. Number one, there are efficient loggers and

there are inefficient loggers. There are also different products that you cut in the woods. In this part of Maine in the south we have some products are very, very expensive. The more expensive the product they cut, the bigger profit they make. Unless you are cutting just spruce and fir with a machine with a little narrow profit margin that is one thing. If you are cutting red oak veneer or yellow birch veneer or oak saw logs or white birch veneer, the profit margin gets wide. That is the reason these guys are not going to go out of business because they are going to buy workers' comp. That is going to be taken into consideration when they buy their next stumpage or whatever lot it is. If anything is going to happen and these people are going to stay in business, it is going to be at the expense of the landowner, unless they want to go out of business. Thank you.

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

ROLL CALL NO. 245

YEA - Ahearne, Bagley, Baker, Belanger, Berry DP, Berry RL, Bolduc, Bouffard, Bowles, Bragdon, Brennan, Brooks, Bruno, Bryant, Bull, Bumps, Cameron, Carr, Chick, Chizmar, Clark, Collins, Colwell, Cote, Cowger, Cross, Daigle, Davidson, Davis, Desmond, Duncan, Dunlap, Etnier, Fisher, Foster, Frechette, Fuller, Gagnon, Gillis, Gooley, Green, Hatch, Heidrich, Honey, Jabar, Jodrey, Kane, Labrecque, LaVerdiere, Lemoine, Lemont, Lovett, Mailhot, Martin, Matthews, Mayo, McAlevey, McDonough, Mitchell, Murphy E, Nass, Norbert, Nutting, O'Brien JA, O'Brien LL, O'Neal, O'Neil, Peavey, Pieh, Powers, Richard, Richardson J, Rines, Samson, Sanborn, Savage W, Saxl JW, Saxl MV, Sherman, Shiah, Sirois, Stanley, Stevens, Sullivan, Tessier, Thompson, Townsend, Tripp, True, Twomey, Usher, Watson, Williams, Mr. Speaker.

NAY - Andrews, Buck, Cianchette, Clough, Dudley, Dugay, Duplessie, Gagne, Gerry, Glynn, Jacobs, Jones, Joy, Kasprzak, Kneeland, Lindahl, MacDougall, Mack, Madore, Marvin, McGlocklin, McNeil, Mendros, Murphy T, Perkins, Pinkham, Plowman, Richardson E, Rosen, Schneider, Shields, Shorey, Skoglund, Snowe-Mello, Stanwood, Stedman, Tobin D, Tobin J, Tracy, Trahan, Treadwell, Volenik, Waterhouse, Weston, Wheeler GJ, Winsor.

ABSENT - Campbell, Goodwin, McKee, McKenney, Muse, Perry, Povich, Quint, Savage C, Tuttle, Wheeler EM.

Yes, 94; No, 46; Absent, 11; Excused, 0.

94 having voted in the affirmative and 46 voted in the negative, with 11 being absent, the Majority **Ought to Pass as Amended Report was ACCEPTED.**

The Bill was **READ ONCE. Committee Amendment "A" (S-269) was READ** by the Clerk and **ADOPTED.**

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

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-269)** in concurrence.

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

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

SENATE DIVIDED REPORT - Majority (9) Ought to Pass as Amended by Committee Amendment "A" (S-216) - Minority (4) Ought Not to Pass - Committee on LABOR on Bill "An Act to Ensure Prompt Payment of Unemployment Compensation Benefits to Displaced Workers"

(S.P. 638) (L.D. 1805)

Which was **TABLED** by Representative HATCH of Skowhegan pending her motion to **ACCEPT** the Majority **Ought to Pass as Amended Report**.

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

Representative **TREADWELL**: Mr. Speaker, Men and Women of the House. This bill was prepared or drafted by the employee advocates of the Workers' Compensation Board. It was after deadline so it became an administration bill and was presented to the Labor Committee. We worked it and made a few changes. It was, I think, a very good piece of legislation. As a matter of fact, it came out of committee with a unanimous report. I think I am talking on the wrong bill. I am sorry.

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

Representative **HATCH**: Mr. Speaker, Men and Women of the House. We all lose our place at times. This particular bill is dealing with a problem that occurred rather recently, but it is an ongoing problem. Someone is laid off from work for a short period of time, even though they are a full-time worker, sometimes the company does not give them a slip. This slip is required so that you can apply for unemployment benefits. Sometimes when a mill is closing down, in the final weeks and what not, they have on again, off again employment. This is a good bill. It deals with those employers who do not give their employees a slip that allows them to apply for partial employment if they have worked a day or two in one week and haven't earned enough. I ask that you pass this bill. We worked quite a bit on this. We worked with the unemployment people. They said that this could work. It has been an ongoing problem with them having people apply for unemployment, but they couldn't give it to them because they hadn't received the slip from the employer. This will help. It does put a little fine in there of \$25. It is more of a slap on the wrist to the employer just to let them know they need to take and give these to the employees when there is a work layoff or slowdown. I think it is just what we needed. It will tell employers that yes, we are watching. When employees come through the door and ask to file for unemployment, you will have to give them the slip. Thank you.

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

Representative **MACDOUGALL**: Mr. Speaker, Ladies and Gentlemen of the House. At the public hearing the department testified that they have experienced very few problems with this issue of employers failing to issue these claim forms in a timely manner. In fact, they testified to the fact that there was only one employer who was late with this issue. The department was able to rectify that with the employers help. Basically what is currently in the rules, we would put into statute and adding a \$25 fine. It is another little nick at business as far as I am concerned. I was quite comfortable that the department is comfortable with the current rule and it should be left that way. Thank you.

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

Representative **TREADWELL**: Mr. Speaker, Ladies and Gentlemen of the House. Having recollected my thoughts and found the right piece of legislation. The director of the Unemployment Compensation Commission spoke to the Labor Committee on this bill in opposition. She gave us several reasons why she was opposed to the bill. First, she said that the filing method that they are currently using was easier for the employee, employer and the department the way it is being done now. The bill puts the requirement to issue the claim forms into law where it is now being done by rule. The other change is it imposes a \$25 per day fine if the employer fails to comply with the law. There was only one case in the past year where there was a problem with the employers not issuing these forms in a timely manner. The department resolved the issue by processing the affected employee claims without the forms. The employer is now in compliance. That was the only case. It only happened within the past year where there was a problem with compliance. The department prefers to leave it alone. They are satisfied with the way things are working. They said that they have not experienced any problems whatsoever other than the one that I just mentioned. They feel that the change in the law is unnecessary. Thank you Mr. Speaker.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Gardiner, Representative Colwell.

Representative **COLWELL**: Mr. Speaker, Men and Women of the House. This bill is another of the series of legislation that came out of my work and Senator Treat's work on the Carleton Woolen Mill Task Force of which we did a piece the other day in the peer support workers. I thank the body for that strong message on that vote. I suppose it is true that there was only one case in the past year that this problem arose, but it was not simply one incident. It was an ongoing problem that affected hundreds of workers in the Carleton Woolen Mill situation. Actually, through our work we worked with the department. Although it is correct that at the time they testified in opposition, halfhearted opposition, to the bill at the public hearing. While we were experiencing this problem, I met, as did Senator Treat, with the department and we discussed ways that we could make this a better situation for these employees. I have a memo here from the department that was also copied to the Senator and myself in which they outlined the concerns that current statute, although it gives them rulemaking ability, actually had no teeth. They could not enforce the rule because there were no teeth.

The fact is the current statute requires such information immediately. Immediately is not defined in the statute and hence this very modest piece of legislation which is before you today. The requirement of this bill, if you would pass it, is modest because it truly is. I will read from the bill if the chair would indulge me, very briefly.

"Each employing unit, no later than the day following the day on which the payroll is processed for a week during which an individual who is customarily employed by that unit and worked less than full time." In other words, there is actually not an additional burden to the employer. They are already doing the payroll. All this piece of legislation would require is that the day after they did their payroll, they would make this information, this green slip, that allows these workers to collect their unemployment benefits. They would need to make that available to the department so that these folks who are on again, off again employed don't have to go weeks and weeks without any sort of paycheck.

I guess the statement was made that it would be easier for the employee, employer and the department to leave things the way they are. I guess it would be easier. If you were the employee and you had a family of four and you were counting on getting that \$150 unemployment check to buy food, oil and electricity for your family. All this bill does is simply put a time limit and a little teeth into the current statute. I see it in no way of being burdensome to our employers. Thank you Mr. Speaker.

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

Representative HATCH: Mr. Speaker, Ladies and Gentlemen of the House. There was a point brought up by one of the other members of the committee. They said the DOL was against the original bill. They certainly were. They came back and they were rewriting the amendment to it and said that they were not opposed to it. I think that we did substantial work in committee and we were addressing an issue that is ongoing. That is all I wanted to say. Thank you.

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

Representative MENDROS of Lewiston **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: 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. 246

YEA - Ahearne, Bagley, Baker, Berry RL, Bolduc, Bouffard, Brennan, Brooks, Bruno, Bryant, Bull, Bumps, Cameron, Carr, Chick, Chizmar, Cianchette, Clark, Collins, Colwell, Cote, Cowger, Daigle, Davidson, Desmond, Dudley, Dugay, Dunlap, Duplessie, Etnier, Fisher, Frechette, Fuller, Gagne, Gagnon, Gerry, Gillis, Goodwin, Gooley, Green, Hatch, Jabar, Jacobs, Kane, Kasprzak, Kneeland, LaVerdiere, Lemoine, Lemont, Madore, Mailhot, Martin, Matthews, Mayo, McAlevey, McDonough, McGlocklin, McKee, McNeil, Mendros, Mitchell, Murphy E, Norbert, O'Brien JA, O'Brien LL, O'Neal, O'Neil, Perkins, Pieh, Plowman, Powers, Richard, Richardson J, Rines, Rosen, Samson, Sanborn, Savage W, Saxl JW, Saxl MV, Sherman, Shiah, Shields, Shorey, Sirois, Skoglund, Stanley, Stanwood, Stevens, Sullivan, Tessier, Thompson, Tobin D, Townsend, Tracy, Tripp, Twomey, Usher, Volenik, Waterhouse, Watson, Weston, Wheeler GJ, Williams, Mr. Speaker.

NAY - Andrews, Belanger, Berry DP, Bowles, Bragdon, Buck, Campbell, Clough, Davis, Duncan, Foster, Glynn, Heidrich, Honey, Jodrey, Jones, Joy, Labrecque, Lindahl, Lovett, MacDougall, Mack, Marvin, Murphy T, Nass, Nutting, Peavey, Pinkham, Richardson E, Schneider, Snowe-Mello, Stedman, Tobin J, Trahan, Treadwell, Winsor.

ABSENT - Cross, McKenney, Muse, Perry, Povich, Quint, Savage C, True, Tuttle, Wheeler EM.

Yes, 105; No, 36; Absent, 10; Excused, 0.

105 having voted in the affirmative and 36 voted in the negative, with 10 being absent, the Majority **Ought to Pass as Amended Report** was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (S-216)** was **READ** by the Clerk.

Senate Amendment "A" (S-267) to **Committee Amendment "A" (S-216)** was **READ** by the Clerk and **ADOPTED**.

Committee Amendment "A" (S-216) as Amended by **Senate Amendment "A" (S-267)** thereto was **ADOPTED**.

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

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED** as Amended by **Committee Amendment "A" (S-216)** as Amended by **Senate Amendment "A" (S-267)** thereto in concurrence.

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

The Speaker resumed the Chair.
The House was called to order by the Speaker.

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

UNFINISHED BUSINESS

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

Resolve, to Establish the Commission to Study Bulk Purchasing of Prescription Drugs and Medical Supplies (EMERGENCY)

(H.P. 144) (L.D. 206)

(C. "A" H-493)

TABLED - May 14, 1999 (Till Later Today) by Representative KANE of Saco.

PENDING - **FINAL PASSAGE**. (Roll Call Ordered)

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 Resolve was **PASSED TO BE ENGROSSED**.

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

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **Committee Amendment "A" (H-493)** was **ADOPTED**.

The same Representative presented **House Amendment "A" (H-613)** to **Committee Amendment "A" (H-493)** which was **READ** by the Clerk.

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

Representative KANE: Mr. Speaker, Men and Women of the House. This amendment reduces the size of the commission to 12 members. It changes the deadline of the first meeting to July 30, 1999. It removes authority to hire consultants and restricts per diem and expense reimbursement to legislators. The amendment also changes the appropriation to \$3,000. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Raymond, Representative Bruno.

Representative **BRUNO**: Mr. Speaker, Men and Women of the House. The other day I had some real concerns on this bill. The good Representative from Old Orchard Beach, Representative Lemoine, was very gracious and approached me to work out the concerns I had. We came up with this amendment. I urge you all to vote for the amendment and pass this as an emergency. Thank you.

House Amendment "A" (H-613) to Committee Amendment "A" (H-493) was **ADOPTED**.

Committee Amendment "A" (H-493) as Amended by House Amendment "A" (H-613) thereto was **ADOPTED**.

The Resolve was **PASSED TO BE ENGROSSED** as Amended by Committee Amendment "A" (H-493) as Amended by House Amendment "A" (H-613) thereto in **NON-CONCURRENCE** and sent for concurrence.

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

MATTER PENDING RULING

Bill "An Act to Allow Workers' Compensation Board Advocates to Prioritize and Decline Cases"

(S.P. 741) (L.D. 2100)
(C. "A" S-268)

TABLED - May 14, 1999 by Speaker ROWE of Portland.
PENDING - **RULING OF THE CHAIR**.

The **SPEAKER**: With respect to House Amendment "B" to LD 2100, the chair finds that the amendment is germane to the bill using Section 402 of Masons Legislative Manual as a guide. The Chair finds that the amendment is germane to the main purpose of the original proposal. It relates to the same subject as the bill, the representation of employees and workers' compensation cases. The process proposed in the amendment follows from a decision of an advocate to decline the case or to terminate assistance to an employee. The amendment is relevant, appropriate and in a natural logical sequence to the subject matter stated in the bill.

Subsequently, the Chair **RULED** that **Committee Amendment "B" (H-584)** was germane to the Bill.

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

Representative **TREADWELL**: Mr. Speaker, Ladies and Gentlemen of the House. Amendment "B" is a means of getting the prevail attached to a bill that was a very good bill to begin with. By putting Amendment "B" onto the bill, it makes it far different than the bill that came out of the committee with a unanimous report. I would encourage all of my colleagues here in the House to vote against Amendment "B" and let's go ahead and pass the bill without the amendment. Thank you Mr. Speaker.

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

Representative **HATCH**: Mr. Speaker, Ladies and Gentlemen of the House. When this bill was first mentioned, or the thought of it, I cringed. Two years ago we had a pretty massive fight on this House floor about advocates and attorneys. The advocates won. They were going to represent the workers in the workers' comp system. To that point the employees had no one.

Since 1992, if you wanted an attorney, you had to pay for him. Many of these people were in the system for a long length of time had no income and the insurance carriers continued to contest the claim. The number of employees in the system over the last two years has declined mainly because of the training programs and safety programs. We have nine advocates and they have huge caseloads. We brought a bill before you just recently to give them some help. I thank those members who thought they needed a couple of paralegals in the busiest office in the state.

When this bill came before us, this chair had no input into that bill whatsoever. They didn't ask me to cosponsor it. I am not saying that I should have been involved because, believe me, the thought of it gives me nightmares. Someone on the workers' comp system is back to the same old game of being denied access to the system. They are trying to make it themselves. Yes, I voted for this bill and for several nights I didn't sleep before it got here. I will not be a party to it at this point on the floor. Should this amendment be stripped off, as the chair of the committee, I will no longer be on the bill.

It says that the Workers' Comp Board put this forth. That is not true. This came from the Executive Office. At no time has any of my committee members on this side of the aisle been involved in this issue, except they brought in a couple of attorneys to discuss what they could do to make this bill better and more palatable. In their discussions they decided that maybe if they added on the other end that an employee who went through the system and had their claim contested and at the end the hearing officer found that they should receive their pay, which sometimes can take 18 months to go through the system, then they would get a 25 percent interest payment along with their payment. It sounds like a lot, but what about the guy that got left out on the front end.

I can honestly tell you that there has been no legislation that has come before this body that I have felt as strongly about as I do this. If you strip the amendment, I would hope that you would Ought Not to Pass the whole bill. I think it is a terrible situation to leave anybody out. I don't know if an advocate who has no legal training should be able to drop someone out of the system completely.

I put in the amendment and the amendment states that should an employee be declined by the advocate, and they could find an attorney to take their case and they should prevail, then the insurance company will pay the attorney fee that they owe the injured worker. I don't think that is too much to ask. I hope that the advocates turn down very few. If there is a problem with the system, instead of giving the \$350,000 back to the insurance carriers, why not keep that money and put enough advocates on so they can address the injured workers needs? Even in the judicial system, we give people attorneys when they cannot afford to pay. If they don't have enough advocates, then hire some more. Don't deny anybody due process. We know in the judicial system that mistakes are mad everyday. There are not many of them, but even one is too many. I expect better for the injured workers of Maine. I would ask that you follow my light and accept House Amendment "B." I did not intend to come to the House floor and beg for the injured workers of Maine, but that is exactly what I am doing and I am proud of it. I will sleep at night because I will vote against this if this amendment is dropped. Thank you.

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

Representative **DAVIS**: Mr. Speaker, Men and Women of the House. The bill is "An Act to Allow Workers' Compensation Board Advocates to Prioritize and Decline Cases." There were 2,100. We worked this in committee very hard for several hours. There was no amendment when it came up. This was sort of a surprise a couple days ago. The amendment changes the bill, because you have the prevail system back, where the lawyers are back in the system. I would urge you to vote against this. I had come here wanting and willing to vote for this. If the amendment is dropped, I will still vote for it. I will not vote for it with the amendment on it. The amendment puts the lawyers back in the system, rather than the advocates. Thank you.

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

Representative **SAMSON**: Mr. Speaker, Men and Women of the House. Last year we had some bills that would help injured workers. One of the bills that we had in place was that when an injured worker won his case in front of the Workers' Comp Board and had he hired or she hired a lawyer, that lawyer's fees would be paid by the workers' comp insurance. That went down in flames and to replace it was the Advocate Program. I believe I must have voted for the Advocate Program because that was all that was left for the injured workers. Now we have a bill that says that these advocates that were supposed to represent the injured worker, the advocates that are employed by the workers' comp system now can decline cases. They can say there is no merit to this case. If that happens, the injured worker has one or two things that he can do. That is go at it by himself against lawyers that the insurance companies have or he or she can hire an attorney to represent him or her in that case. What this bill says is if the advocate declined to help that injured worker, that injured worker has to go out and decide to hire an attorney to help him or her through the system and wins because there was merit to the case and he or she should have got benefits from day one, it says that the lawyer will be paid out of the worker's insurance.

Yesterday I heard somebody on the floor say, as a doctor, that he should be paid the full fee for taking care of somebody that is injured under the workers' comp system and no attorney's fees should be taken out of it. Here we are saying it is okay to take attorney's fees out of the injured worker's part of the settlement. The two don't jive. If it is okay that a doctor gets all of his money for medical care to an injured worker, then shouldn't it be okay for the injured worker to receive all the benefits due him or her for her or his injuries. It makes sense to me.

You have to decide for yourself what you think is right. If you are fair-minded, I think you will vote yes for this amendment.

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

Representative **TREADWELL**: Mr. Speaker, Ladies and Gentlemen of the House. A little earlier I started to describe a bill. I am going to continue now to describe that bill. The original draft of LD 2100 came from the Workers' Comp Board. The Workers' Comp Board is a balanced board with four labor representatives and four management representatives. They all endorse the bill. It became an administration bill because it was past the deadline for filing. It came to the Labor Committee. We did work it extensively. I think that we had a very good piece of legislation when it left the Labor Committee with a unanimous vote. Since then it has turned into something that I couldn't vote

for. Let me just go over some of the points of the bill without the amendment.

It is intended to give the advocates some discretion and screening cases and the screens have some criteria before an advocate can screen a case and refuse to handle it, there are some criteria that have to be met. There is nothing in LD 2100 that promotes case dumping. The system estimates that by eliminating those cases that don't have merit or for other reasons, should not be heard by the hearing officers. If those are eliminated from the process, it is going to save about 15 percent of the cases that are now in the backlog before the Workers' Comp Board. I think that we have a very good piece of legislation here that is going to streamline and help the worker's advocates. It is going to streamline the system. It is not going to penalize the truly worthy injured worker. It is going to help him get his case through the system a lot sooner and get the benefits that he is entitled to. I would urge you to vote against the amendment and for the bill.

The **SPEAKER**: The Chair recognizes the Representative from Raymond, Representative Bruno.

Representative **BRUNO**: Mr. Speaker, Men and Women of the House. Well, here it is. This is where the rubber meets the road. This is the bill we have all been waiting for on workers' compensation in this amendment. Going back to the prevail standard that completely crippled the workers' compensation system and sent us down into a recession that was awfully hard to get out of. This was what caused the shutdown of state government, ladies and gentlemen. I don't agree with the Speaker that this is germane, but this is another issue. He has already made his ruling. All of you that run and say that you are for small business and you are for business in this state, this amendment will completely hurt business. The prevail standard is what killed the workers' compensation system. How can you have business and labor negotiating in good faith and come out with a unanimous bill and then try to kill it with an amendment? That is the whole ploy here. Ladies and gentlemen, this is where it meets the road. I urge you to defeat this amendment and vote for the bill, a unanimous committee report that was negotiated in good faith. That is what it is all about. There is no reason to be contentious on this. All of a sudden we have to bring up prevail all over again every session knowing that is what hurt the workers' compensation system.

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

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

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

Representative **SAXL**: Mr. Speaker, Men and Women of the House. To anyone who might answer, how many advocates were hired last year as a result of our work on workers' compensation? How many injured workers applied or attempted to utilize the advocates?

The **SPEAKER**: The Representative from Portland, Representative Saxl 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, Men and Women of the House. To answer the good Representative from Portland's question, nine advocates were hired. I would say and I don't have a definitive number, just about all the injured workers use the advocates at this point.

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

Representative **SAXL**: Mr. Speaker, Men and Women of the House. I rise today in support of this amendment. I also want to take a moment to ask everybody to take a deep breath and to take out this amendment and to read it for themselves one time. I share the Representative from Raymond's concerns about bringing back the full-blown prevail standard. I, too, am very concerned about maintaining and keeping down workers' compensation costs in the State of Maine. That is a critical, critical goal for each and every one of us here in the Maine Legislature. We have done a great job so far. Workers' compensation costs are coming right down. I think that is great.

I have said this many times before on the floor of the House and I will say it again to remind people what workers' compensation is. It is a social compact which balances the interests and needs of employers to protect them from TORTS, liabilities from huge lawsuits that would drive business out of the State of Maine, while at the same time, making sure that injured workers are made whole. Keep that in mind as you think about this. What this amendment does is it adds a very good part to a very good bill.

The Advocate Program is a well thought out idea to take out the contention or the cost of the prevail system in the workers' compensation costs. What this amendment does is it doesn't allow an injured worker to go directly out and hire a lawyer and no matter what their legal fees are going to be paid for and added to the workers' compensation system. That is the old prevail system. That is not what this amendment does. This amendment says that if an injured worker goes to that advocate pool and is refused council or assistance in the advocate pool in pursuing their workers' compensation case, then and only then, can they go out. If they can find an attorney, which there are not a lot of attorneys out there who would take this for such a small fee. Only then can they go out and get a counsel. That attorney is not paid at all unless that case has merit.

It says in this amendment that this has to be prompt, just and an expedient resolution of claims under this act. It is not saying that it has to be drawn out. It is not saying it has to be a huge battle of what we call the battle of champions. There are nine advocates for all the injured workers in the State of Maine today. Many of you don't know, but about half of those advocates, I think four or five of them, are not attorneys. While I have a great deal of respect for lay advocates, not everyone has the training to assess the merits of each and every legal case. This amendment would only allow attorney fees in the case where the advocate turns down the injured worker and then that injured worker is able to identify an attorney and then that attorney is successful to promptly, expediently and justly resolving the case. That is all. What we are seeing today is there should be a balance in the workers' compensation system. We are struggling to find that balance. We don't want to be back in '90 and '91. We don't want cost going out of control. On the other hand, we also don't want injured workers not to be made whole. We want to make sure that the working people in the State of Maine have an opportunity to have access to council whether it is through the Advocate Program, which is a great program in which we should continue to support and continue to put people in or whether it is through an alternative means such as this one. Thanks.

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

Representative **DAIGLE**: Mr. Speaker, Ladies and Gentlemen of the House. It must be very trying to work on the Labor Committee. Some of the most contentious bills we have had this session have been from that group. I can understand coming from industry how frustrating it is to feel that they have come up with a unanimous agreement on anything compared to all the other bills we had and all of a sudden have an amendment like this reach the floor. I understand the arguments I have heard in favor of this amendment, but it is flawed. It is flawed because it didn't go through the committee process like it should have been. I can understand why this is going to just make everybody believe that the true intent is to tear down this level of agreement and bring back the prevail status. Let me give you an example of why I think it is flawed. The previous speaker, Representative Saxl, refers to the worker being refused by the advocate and then retaining the service of an attorney and then that attorney being successful. This amendment doesn't discuss why that worker may have been refused by the advocate. Do you suppose that it has ever happened in the history of the workers' compensation case that the injured employee wasn't completely forthcoming about what happened. If they sat down with an advocate and was less than forthcoming and the advocate felt that that position wasn't something that could be substantiated and may decline that case. You get an attorney and tell the complete story, as Paul Harvey says, and then prevails. There is no provision for that in this. If this type of an amendment had been brought before the committee, I believe they would have worked it and uncovered that flaw. It is not in here. It doesn't have any qualification to why the advocate may have turned down that employee.

I can imagine the scenario where employees who seek to go outside the system will find a way to have that exact situation happen. I don't know if it will happen a lot. Do you think it will happen ever? Will one case be more than one case? I know there are situations where there are people who are not forthcoming. This is an example. If we sat down here and we talked another couple of hours like we have on other issues tonight, we would probably find more examples. This amendment is flawed. Standing as it is right now in writing, that is one example of why and why I urge you to defeat this motion so we can perhaps have one bill coming out of the Labor Committee that everybody can say moves the issue forward. If this issue merits legislative change, let a bill be presented that addresses this. Let it be worked in committee. Let these problems like this particular flaw and the others get flushed out and addressed in language and it can come to the floor and then I can vote for it too. I can't like this. Thank you.

On motion of Representative BRENNAN of Portland, **TABLED pending ADOPTION of Committee Amendment "B" (H-584)** and specially assigned for Wednesday, May 19, 1999.

On motion of Representative CIANCHETTE of South Portland, the House adjourned at 9:01 p.m., until 10:00 a.m., Wednesday, May 19, 1999.