

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
55 Legislative Day
Thursday, May 20, 1999

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

Prayer by Reverend Susan LeSueur, St. Anne's Episcopal Church, Calais.

National Anthem by Martin Swinger, Augusta.

Pledge of Allegiance.

Doctor of the day, Sydney Sewall, M.D., Hallowell.

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

SPECIAL SENTIMENT CALENDAR

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

In Memory of:

Patricia A. Bailey, of Windsor, a senior at Erskine Academy who was an honor roll student all 4 years. She was a recipient of the Irene Jones Award for Community Service and a silver medal for the VICA competition in law enforcement in the Capital Area Technical Center in Augusta. She maintained high honors in her law-enforcement studies. Patty loved to laugh, talk on the phone, play softball with her father, shop with her mother, sister and grandmother and spend time with her family and friends. She will be missed by all those who knew her;

(HLS 416)

Presented by Representative TRACY of Rome.

Cosponsored by Representative RINES of Wiscasset, Senator KILKELLY of Lincoln.

On **OBJECTION** of Representative TRACY of Rome, was **REMOVED** from the Special Sentiment Calendar.

READ

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

Representative **TRACY**: Mr. Speaker, Ladies and Gentlemen of the House. I rise today with great pleasure to honor a young lady, Patricia A. Bailey, daughter of Berry and Terry Bailey, and sister of Ann Marie Bailey and granddaughter of Connie Tracy and yes, niece of the Representative from Rome, Representative Dick Tracy, but Patricia was know to most people as Patricia, or Trisha, but only to Uncle Dick as Patty. I remember Patty as she was growing up. Patty never seemed to gain much height so every time I would see her, I'd say, aren't you ever going to grow. Tell your mother and father to take those binders off your ankles. She would just laugh. Patty was always bubbly and she had a smile you would never forget. One of Patty's favorite sayings was, whatever. Patty had great aspirations and dreams in which to succeed in life. She lived life to its fullest. She packed more into her 17 ½ short years of life than most people accomplish in a lifetime. She couldn't wait to get into the Criminal Justice Program at the Capitol Area Vocational Technical Center. Patty was totally dedicated to her law enforcement studies, achieving high honors in these studies. For you must understand there was only one thing that Patty really wanted to be and that was to be a lady in blue. Not just any lady in blue, but one of Maine's finest, a Maine State Trooper, hoping one day to work in the detective division. We are here today to help her achieve her dream, with the help of

the Department of Public Safety, along with Colonel Malcolm T. Dow, Chief of the Maine State Police and Lieutenant Colonel David D. Viels, Deputy Chief of the Maine State Police, Patty will have achieved her dream. She will posthumously become one of Maine's finest in blue, a honorary Maine State Trooper, the true lady in blue. Three weeks prior to her death, Patty had hit a deer on her way home. She was saddened when the deer had died, but Patty had a sense of humor, Patty said, she should have just arrested the deer for jay walking. Thank you.

Was **ADOPTED** and sent for concurrence.

The SPEAKER: At this time on behalf of members of the Maine House of Representative, I would like to present to you the flag of the State of Maine and the certificate. This is to certify the accompanying Maine State Flag was flown in honor of Patricia A. Bailey at the Maine State Capitol on May 20, 1999 at the request of the Maine House of Representatives and the Maine State Senate.

PRESIDENT LAWRENCE: On behalf of the members of the Maine Senate and the staff of the Maine Senate, we'd like to present this flag to you, the U.S. Flag. The loss of a person is very tragic and the loss of a person so young is very tragic and they live on through our thoughts and our deeds and the deeds of the people who love them and we present this to you on behalf of the Senate.

CHIEF MALCOLM DOW: It is a privilege for me as Chief of the Maine State Police to hofmustley present the honorary lady trooper recognition to Patricia Bailey for her unselfish dedication in law enforcement studies in which she aspired to be a lady trooper in blue to help make Maine a safer and better place to live. Maine State Police is blessed to have top notch people but out of an authorized strength of 356 we have only 22 women. That's not enough and we're in hopes, we're confident that through this recognition and others, her family and her fellow students and members of this area can keep her memory alive so that she can continue to serve as an inspiration to other females to seek a career in public service and hopefully the Maine State Police.

DEPUTY CHIEF DAVID VIELS: On behalf of the State Police, it is my privilege to present you with shoulder patches of the Maine State Police uniform and also a Stetson worn by a state trooper. We're sorry.

SENATOR MARGE KILKELLY: There are never enough words and there are never the right words and all we can hope is that your knowing that we share in your loss can make a difference.

The members all stood while the Sergeant of Arms escorted the family out of the chamber.

The Journal of yesterday was read and approved.

SENATE PAPERS

Non-Concurrent Matter

Bill "An Act to Amend the Freedom of Access Laws"

(H.P. 1296) (L.D. 1857)

Majority (7) **OUGHT NOT TO PASS** Report of the Committee on **JUDICIARY READ** and **ACCEPTED** in the House on May 17, 1999.

Came from the Senate with the Minority (6) **OUGHT TO PASS AS AMENDED** Report of the Committee on **JUDICIARY READ** and **ACCEPTED** and the Bill **PASSED TO BE**

ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-479) in NON-CONCURRENCE.

On motion of Representative CHICK of Lebanon, the House voted to **RECEDE AND CONCUR**.

Non-Concurrent Matter

Bill "An Act to Establish a Lobster Trap Tag Freeze to Limit Effort in the Lobster Fishery"

(H.P. 1385) (L.D. 1982)

Report "B" (2) **OUGHT TO PASS AS AMENDED** of the Committee on **MARINE RESOURCES READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-580)** in the House on May 18, 1999.

Came from the Senate with Report "A" (10) **OUGHT TO PASS AS AMENDED** of the Committee on **MARINE RESOURCES READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-579) in NON-CONCURRENCE.**

The House voted to **ADHERE**.

Non-Concurrent Matter

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)

Minority (4) **OUGHT TO PASS AS AMENDED** Report of the Committee on **JUDICIARY READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-478)** in the House on May 18, 1999.

Came from the Senate with the Majority (9) **OUGHT NOT TO PASS** Report of the Committee on **JUDICIARY READ** and **ACCEPTED** in **NON-CONCURRENCE**.

Representative SHIELDS of Auburn moved that the House **INSIST** and ask for a **COMMITTEE OF CONFERENCE**.

Representative THOMPSON of Naples moved that the House **RECEDE AND CONCUR**.

Representative WATERHOUSE of Bridgton **REQUESTED** a roll call on the motion to **RECEDE AND CONCUR**.

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 to Recede and Concur. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 251

YEA - Bagley, Berry RL, Bolduc, Bouffard, Brennan, Brooks, Bryant, Bull, Bumps, Chick, Chizmar, Colwell, Cote, Cowger, Davidson, Desmond, Dudley, Dunlap, Duplessie, Etnier, Fisher, Frechette, Gagne, Gagnon, Goodwin, Green, Hatch, Jabar, Jacobs, Kane, LaVerdiere, Lemoine, Mailhot, Martin, Matthews, McDonough, McGlocklin, Mitchell, Norbert, O'Brien LL, O'Neal, Perry, Pieh, Powers, Richard, Rines, Samson, Savage W, Saxl JW, Saxl MV, Shiah, Sirois, Stanley, Stevens, Sullivan, Tessier, Thompson, Townsend, Tracy, Tripp, Twomey, Usher, Volenik, Watson, Williams, Mr. Speaker.

NAY - Ahearne, Andrews, Baker, Belanger, Berry DP, Bowles, Bragdon, Bruno, Cameron, Campbell, Carr, Clark, Clough, Collins, Cross, Daigle, Davis, Dugay, Duncan, Foster, Fuller, Gerry, Gillis, Glynn, Gooley, Heidrich, Honey, Jodrey, Jones, Joy, Kasprzak, Kneeland, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, Marvin, Mayo, McAlevey, McKee,

McKenney, McNeil, Mendros, Murphy E, Murphy T, Nass, Nutting, O'Brien JA, Peavey, Perkins, Pinkham, Plowman, Richardson E, Rosen, Sanborn, Savage C, Schneider, Sherman, Shields, Shorey, Skoglund, Snowe-Mello, Stanwood, Stedman, Tobin D, Tobin J, Trahan, Treadwell, True, Waterhouse, Weston, Wheeler EM, Wheeler GJ, Winsor.

ABSENT - Buck, Cianchette, Labrecque, Muse, O'Neil, Povich, Quint, Richardson J, Tuttle.

Yes, 66; No, 76; Absent, 9; Excused, 0.

66 having voted in the affirmative and 76 voted in the negative, with 9 being absent, the motion to **RECEDE AND CONCUR FAILED**.

Subsequently, the House voted to **INSIST** and ask for a **COMMITTEE OF CONFERENCE**. Sent for concurrence.

Non-Concurrent Matter

Bill "An Act to Ensure Adequate Nutrition Services for Maine's Elderly and to Create the Senior One-stop Program"

(S.P. 518) (L.D. 1552)

Majority (11) **OUGHT TO PASS AS AMENDED** Report of the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-141)** in the House on May 5, 1999.

Came from the Senate with that Body having **INSISTED** on its former action whereby the Minority (2) **OUGHT TO PASS AS AMENDED** Report of the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** was **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (S-142)** in **NON-CONCURRENCE**.

On motion of Representative TOWNSEND of Portland, **TABLED** pending **FURTHER CONSIDERATION** and later today assigned.

Non-Concurrent Matter

Bill "An Act to Minimize the Harmful Effects of Lead"

(H.P. 625) (L.D. 875)

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-566) in the House on May 14, 1999.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-566) AS AMENDED BY SENATE AMENDMENT "A" (S-298)** thereto in **NON-CONCURRENCE**.

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

COMMUNICATIONS

The Following Communication: (S.C. 272)

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

May 19, 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 Minority Ought Not To Pass Report from the Committee on Taxation on Bill "An Act to Eliminate the Lodging Tax on Long-term Rentals" (H.P. 892) (L.D. 1249), 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:

Travis C. Wade, of Turner, a member of Boy Scout Troop #187, who has attained the high rank and distinction of Eagle Scout. We extend our congratulations to Travis on this accomplishment;

(SLS 128)

On **OBJECTION** of Representative JACOBS of Turner, was **REMOVED** from the Special Sentiment Calendar.

READ.

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

Recognizing:

Stacy Pickering, of Cape Elizabeth and a senior at Cape Elizabeth High School, on achieving national recognition by receiving the 1999 Prudential Spirit of Community Award. This prestigious award honors young volunteers across America who have demonstrated an extraordinary commitment to serving their communities. We congratulate Stacy on her outstanding record of volunteer service, peer leadership and community spirit and extend our best wishes for her continued success;

(HLS 220)

Presented by Representative MARVIN of Cape Elizabeth. Cosponsored by Representative CIANCHETTE of South Portland, Senator AMERO of Cumberland.

On **OBJECTION** of Representative MARVIN of Cape Elizabeth, was **REMOVED** from the Special Sentiment Calendar.

READ.

The **SPEAKER**: The Chair recognizes the Representative from Cape Elizabeth, Representative Marvin.

Representative **MARVIN**: Mr. Speaker, Ladies and Gentlemen of the House. I'm proud today to recognize Stacy Pickering of Cape Elizabeth for her extraordinary commitment to community service. Stacy is a young woman who saw a problem, domestic violence, and went to work to educate people in an attempt to raise awareness of this issue. Stacy was not motivated in hopes of gaining some sort of recognition, but rather a deep seated commitment to public service and a need to put her values into action.

Next year Stacy will be studying nursing at the University of Maine. The people of Cape Elizabeth will miss her tireless work on the Cape Elizabeth Rescue Squad and in restoring nature trails within our community. Stacy, it is a privilege to represent such a creative, charming and just all around good citizen. Congratulations and best wishes in all your future endeavors.

Was **PASSED** and sent for concurrence.

Recognizing:

Erin Campbell, of Hampden, who was named as a top youth volunteer for 1999 in The Prudential Spirit of Community Awards, a nationwide program honoring young people for outstanding acts of volunteerism. Erin, an 8th grade student at Reeds Brook Middle School, has volunteered at a local shelter for homeless and troubled youth;

(HLS 222)

Presented by Representative CAMPBELL of Holden.

Cosponsored by Representative PLOWMAN of Hampden, Senator MITCHELL of Penobscot.

On **OBJECTION** of Representative CAMPBELL of Holden, was **REMOVED** from the Special Sentiment Calendar.

READ.

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

Representative **CAMPBELL**: Mr. Speaker, Men and Women of the House. On your desks, a bright yellow sheet, I've passed out to you the Prudential Spirit of Community Awards, 1999, it tells a little bit about the award. Both these students, Erin and Stacy, competed with over 20,000 high school and middle school students across the nation for this Spirit of Community Award. I'm especially proud and honored to recognize Erin Campbell for this award. Erin, while working on a clothing drive for the shelter noticed that there was no stove in the shelter for food and recognized that these people were eating through microwave and relying on people bringing in warm meals, so decided along with a friend to purchase and cook a home cooked meal and take it into the shelter. All these students were involved in the community activities and were asked to do a narrative on their activities and the significance of these community spirited activities to them. At this time I really want to recognize Erin and as many of you know, and have recognized Erin is my niece and I'm extremely proud to honor her today.

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

Representative **PLOWMAN**: Mr. Speaker, Men and Women of the House. Erin, welcome today. I've known the Campbell family for quite a few years and I've watched from about this high and she has not disappointed anyone in Hampden, she has turned out to be a lovely young lady and is continuing to be a leader in our community. We appreciate her. We appreciate the family that guides her, this just doesn't happen by itself and I want to honor Erin and her parents for receiving this award. Thank you.

Was **PASSED** and sent for concurrence.

Recognizing:

Raymond R. Bussiere, of Bangor, who has been named Maine's Assistant Principal of the Year by the Maine Principals' Association. The recognition is based on Mr. Bussiere's willingness to take risks helping students, his ability to anticipate and solve problems and his success in improving the school's learning environment. We extend our congratulations and best wishes to Mr. Bussiere;

(HLS 417)

Presented by Representative SAXL of Bangor.

Cosponsored by Representative SAXL of Portland, Senator MURRAY of Penobscot, Representative BAKER of Bangor, Representative PERRY of Bangor.

On **OBJECTION** of Representative SAXL of Bangor, was **REMOVED** from the Special Sentiment Calendar.

READ.

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

Representative **SAXL**: Mr. Speaker, Men and Women of the House. This time is really reserved for people who are very special and are worthy of our notice and have done something very special. It's Mr. Bussiere's commitment to education that brought him to be Assistant Principal of the Year. That's not usually a very popular title in the school, because that's usually the one that's responsible for discipline and for keeping youngsters in line. That's usually a very tough person, but in this instance this is a very special person who works with the young people, who encourages them, who opens his heart to them. I first knew Mr. Bussiere when he was working in adult education and that also was a very special population, which needs encouragement and guidance. When the award was given, they mentioned Ray Bussiere's willingness to rise to take risks to help students, his ability to anticipate and to solve problems and his work and effort to improve the school environment. It's a rare man who earns this and who earns the affection and commendation of his peers in this position and I hope you will all join with me and welcome his family and extend our congratulations to them. I thank you for this opportunity to speak about him.

The **SPEAKER**: The Chair recognizes the Representative from Bangor, Representative Bragdon.

Representative **BRAGDON**: Mr. Speaker, Ladies and Gentlemen of the House. Although I am not a cosponsor on the sentiment, I just wanted to rise and express my sincere congratulations to Mr. Bussiere as well and thank him for the fine job that he does in helping to educate the students of Bangor.

Was **PASSED** and sent for concurrence.

In Memory of:

Clement H. Smith, a lifelong resident of Monmouth and a well-known, third-generation dairy farmer who, along with his sons, was named Maine Farm Family of the Year in 1995. He was a charter member of the Maine Farm Bureau and served as its Vice President and State Director. During his career, he served as a member of DHIA, ASCS, Maine Guernsey Breeders Association, Kennebec Extension Association and the Kennebec County Farm Bureau. He was a member of the Alpha Gamma Rho fraternity and belonged to Masonic Lodge #110 in Monmouth. He was also an active member of the United Church of Monmouth, serving as the Sunday School Superintendent for 40 years and most recently serving as a Lay Leader. He was a 60-year member of the Grange and was a member of the Lions Club, the Monmouth Fair Association and the Monmouth Historical Society. Mr. Smith will be greatly missed by his family and many friends;

(HLS 415)

Presented by Representative GREEN of Monmouth.

Cosponsored by Senator TREAT of Kennebec.

On **OBJECTION** of Representative GREEN of Monmouth, was **REMOVED** from the Special Sentiment Calendar.

READ.

The **SPEAKER**: The Chair recognizes the Representative from Monmouth, Representative Green.

Representative **GREEN**: Mr. Speaker, Ladies and Gentlemen of the House. It was barely a year ago that we honored the Smith family as the farm family of the year and that Clem Smith was a patriarch of a long standing farm tradition. Today we honor that tradition that Clem has left for his family and his community. He was truly a son of Maine.

Was **ADOPTED** and sent for concurrence.

In Memory of:

Perle R. Pollack, beloved wife of Gerald M. Pollack. Perle served her country during World War II, selling United States War Bonds while her husband was in the service. Together, they later founded Rogers Jewelry Store, which later became G.M. Pollack and Sons Jewelers. She was a life member of Shaarey Tphiloh Sisterhood and Hadassah and was devoted to her family. She will be greatly missed by her loving family and many friends;

(HLS 418)

Presented by Representative BAKER of Bangor.

Cosponsored by Representative SAXL of Bangor, Representative STEVENS of Orono, Representative SAXL of Portland, Senator MURRAY of Penobscot, Senator CATHCART of Penobscot.

On **OBJECTION** of Representative SAXL of Bangor, was **REMOVED** from the Special Sentiment Calendar.

READ.

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

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

Expression of Legislative Sentiment recognizing Travis C. Wade, of Turner.

(SLS 128)

Which was tabled by Representative JACOBS of Turner pending **PASSAGE**.

The **SPEAKER**: The Chair recognizes the Representative from Turner, Representative Jacobs.

Representative **JACOBS**: Mr. Speaker, Men and Women of the House. On behalf of the House of Representatives, I would like to congratulate Travis Wade on his distinctive achievement of Eagle Scout. Travis is the son of Steven and Mary Wade and is a sophomore at Leavitt Area High School and lives in Turner. As his project, Travis laid out an orienteering course on the game preserve that exists along the Androscoggin River between Green and Turner. There are only two other orienteering courses, as I understand, in the State of Maine. One of them L.L. Beans, and I can't remember the other one, but I'm sure that Travis could tell us. Travis has also made a book to go along with the course that he laid out, which Mrs. Wade is holding. I would like to have you know that I had a little bit of a difficult time getting Travis here because he didn't want to miss school, now that's what I say we've got responsible kids in the State of Maine and most of them are. It makes me very proud, Travis, to congratulate you on your achievement.

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

Representative **SNOWE-MELLO**: Mr. Speaker, Men and Women of the House. I've gotten to know Travis over the years, we both have attended High Street Congregational Church and

his family and Travis are members of this church. I have watched Travis grow up, you know as a little guy, all the way up to now and I have to say that his parents have had a lot to do with this, they've given him a lot of support and encouragement. He's a super fellow and even though, hopefully, he'll hear my voice, wherever he is. Congratulations Travis on your achievement and I love you and I think this is super.

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

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

Report of the Committee on **TAXATION** on Bill "An Act to Amend the Sales Tax Exemption for Prosthetic Devices"

(S.P. 494) (L.D. 1479)

Reporting **Ought to Pass As Amended by Committee Amendment "A" (S-294)**.

Came from the Senate with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-294) AS AMENDED BY SENATE AMENDMENT "A" (S-299)** thereto.

Report was **READ** and **ACCEPTED**. The Bill **READ ONCE**. **COMMITTEE AMENDMENT "A" (S-294)** **READ** by the Clerk. **SENATE AMENDMENT "A" (S-299) TO COMMITTEE AMENDMENT "A" (S-294)** **READ** by the Clerk and **ADOPTED**. **COMMITTEE AMENDMENT "A" (S-294) AS AMENDED BY SENATE AMENDMENT "A" (S-299)** thereto **ADOPTED**.

TOMORROW ASSIGNED FOR SECOND READING.

Divided Report

Majority Report of the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** reporting **Ought Not to Pass** on Bill "An Act Regarding Complementary Health Care Providers"

(S.P. 533) (L.D. 1595)

Signed:

Senators:

KONTOS of Cumberland
MackINNON of York

Representatives:

O'NEAL of Limestone
SIROIS of Caribou
TRIPP of Topsham
USHER of Westbrook
BOLDUC of Auburn
MARVIN of Cape Elizabeth
BOWLES of Sanford
CLOUGH of Scarborough
SHOREY of Calais

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (S-304)** on same Bill.

Signed:

Representative:

MENDROS of Lewiston

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

READ.

On motion of Representative O'NEAL of Limestone, the Majority **Ought Not to Pass** Report was **ACCEPTED** in concurrence.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH** with the exception of matters being held.

Majority Report of the Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-302)** on Bill "An Act to Create the Capital Riverfront Improvement District"

(S.P. 760) (L.D. 2136)

Signed:

Senators:

PENDLETON of Cumberland
GOLDTHWAIT of Hancock
DAVIS of Piscataquis

Representatives:

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

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

Signed:

Representatives:

KASPRZAK of Newport
GERRY of Auburn

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-302)**.

READ.

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

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

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

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

Representative **GERRY**: Mr. Speaker, Ladies and Gentlemen of the House. As you can see, I'm on the Minority **Ought Not to Pass** Report. The reason I'm on the **Ought Not to Pass** Report is, one, I didn't like how this bill came forth in the beginning negotiation with the state office building planning and the City of Augusta. They had worked out a deal and come to terms before it was even presented to our committee. It was also put in the Governor's budget and it was put in as a done deal. I have to commend my committee for working hard to come out with this bill. They've worked hard on a lot of my objections to the bill.

I'm not against us giving the City of Augusta money to help them with their development of the arsenal or of the river front project. What I'm against is creating an independent quasi, I'm not sure what to call it, an entity that's made up of the state office building as well as the City of Augusta which supposedly is not

going to pledge the faith of the state or the City of Augusta, it's this entity that's going to be right in between the state and the city with no end. Originally the bill had no cap on how much this entity could borrow for its projects. The committee did see fit to limit it to \$5 million for the first year and \$10 million in subsequent years and they have to come back to us for more approval. I feel funny about allowing this body to have so much bonding capability when the City of Augusta is limited to what they can borrow without going back to the people.

While we're in the work session, between public hearing and work session, I had taken about 20 copies of the proposed bill and went amongst the district. I followed the border and I talked to whatever business was open. Nobody had a clue with what was going on. City Council Representatives said that they had had meetings, but I felt it was strange that these people that were in the district that was proposed for this capital river front improvement district had no clue what was going on. I had objections with the bill that there's nothing in the bill that says that this entity will help existing businesses get loans and grants. All it talks about is for them to buy and to sell and to do stuff.

Basically what we're doing is setting up a potential for a huge non-profit to monopolize one area of the downtown. I'm afraid it's going to set bad precedent. Also there's nothing in the bill that says that the residents of the City of Augusta should have a vote on this matter. I feel that they have a right to decide for themselves whether they want to enter in on this deal. It was brought up at the public hearing that the City of Augusta could enter into this deal without this becoming law. I'm not going to ask you to vote one way or the other. I'm just trying to get on record why I feel uncomfortable about the bill. There's still too many unknowns in the factor. Thank you.

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

Representative **AHEARNE**: Mr. Speaker, Ladies and Gentlemen of the House. I would hope you vote to accept the pending motion. What this bill does is creates a whole new partnership between the State of Maine and it's host capital city. This bill is a great deal of discussion with a great deal of work, for those involved was the Augusta delegation, the city officials, representatives of Augusta's business community, the Bureau of General Services, the Governor's Office, and the State Planning Office. They all worked together to try to formulate this bill. To put it simply, the creation of a capital river front improvement district, this is a unique opportunity of a joint board of city and state officials to address problems and to create opportunities. It will create an opportunity to preserve improvements that will help to reach the state's goals in historic preservation, the downtown revitalization, and the continued economic tourism in this Kennebec corridor. This is just a great opportunity for the state and the City of Augusta to create a mutual working relationship and I believe that this bill is quite sound. We had lengthy discussion and work sessions longer than most bills we had and I believe it is a worthy compromise and I ask you for your support.

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

Representative **BUMPS**: Mr. Speaker, Men and Women of the House. Anyone who has followed this issue knows that I might not have been the strongest supporter at the beginning of the process, however, this bill, as it is presented to you this morning, is evidence that the committee process in this Legislature works. The suggestion that this bill was a done deal,

I think is not a fair characterization of the legislation before you. The Legislature did ask the administration, the State Planning Office, to negotiate with the City of Augusta for the removal of the Edwards Dam. In the course of those negotiations, the State Planning Office suggested to the City that the Capital Riverfront Improvement District may be a possible piece of the compensation necessary to compensate the City for the lost property tax revenue that will last for ages with the removal of the dam, but the State Planning Office was very clear to the City that this would require legislative approval. Accordingly, a bill was submitted and the bill was not complete, in my opinion, but the Committee on State and Local Government worked on this piece of legislation, perhaps longer than any other this session. We devoted enormous amounts of time and energy. Many of us worked all hours of the day and into the evening and into the early morning on making revisions, making amendments to this piece of legislation. I'll be specific. The original legislation did not require that a master planning effort be undertaken before the bonding authority was extended to the district. The bill now requires that a master plan be completed and submitted to the Legislature before a single bond can be issued. There was no bonding limit as Representative Gerry suggested in the original legislation, the amended version of the bill, which is before you this morning caps the total bonding authority at \$10 million and limits the bonding authority in the first year to \$5 million, again only after the master plan is complete. The City has come to the Legislature in good faith, the Legislature has responded appropriately by suggesting amendments to the bill before you. I think that the legislation here is timely. I think that it is well written, if changes need to be made an opportunity for that will occur next January before any bonding can take place. This is an act of good faith and I encourage you strongly to take it by voting for the Majority Ought to Pass Report.

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

Representative **TWOMEY**: Mr. Speaker, Men and Women of the House. I, too, urge you to support this Ought to Pass motion. We did work very, very hard on this and my personal point of view was that in my town I was not having such a windfall, if you will, but after listening to everyone and working really with both sides, opponents and proponents, my major concern was this is our capital. This is where we come. I am proud to drive in here every day and I truly believe this is a beautiful place to come. I was very concerned, however, about bicycle paths and access for the public. That was a key, really what turned me around on this, was that they assured me that we would save these buildings historically, which really has a lot of meaning for Augusta and for the whole State of Maine and they assured me that there would be bicycle paths, there would be parks for the public to go and have their picnics, to go fishing and they would not charge and I was very concerned about public access, if we're going to do this, I want to make sure that everyone enjoys it.

A few weeks ago when I went to my car there were some people visiting this capitol. They were from China, a group of women and I went over to them, because I was really impressed that they had come that far and I spoke with them and they were so thrilled to have the opportunity to come to the state capitol and I feel the very same way. When I go to Boston, I feel proud to go to Boston, there's so much to do there, there's so much to see. They've put an investment in their capital and I think that

we need to do the same thing here, so I urge all of you to support this. Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative TOBIN: Mr. Speaker, Men and Women of the House. Have the city officials of Augusta reviewed this and voted on this?

The SPEAKER: The Representative from Windham, Representative Tobin has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from China, Representative Bumps.

Representative BUMPS: Mr. Speaker, Men and Women of the House. In answer to the question, yes, the city council has reviewed the proposal extensively. The City Manager has been involved in all the negotiations. The City Council has taken a vote of support and one of the other pieces of compromise was building in opportunities for public input, public hearings and public participation in the master planning effort, which will go forward between now and January, so certainly the City Council has been involved and is supportive and the public will be involved between now and January if they haven't been already. Thank you.

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

ROLL CALL NO. 252

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

NAY - Bryant, Cameron, Carr, Foster, Gerry, Gillis, Glynn, Joy, Kasprzak, MacDougall, Mack, Marvin, Mendros, Snowe-Mello, Stedman, Tobin J, Trahan, Treadwell, Waterhouse.

ABSENT - Belanger, Buck, Green, Jabar, Labrecque, LaVerdiere, McAlevey, Muse, Povich, Richardson J, Tuttle, Usher, Wheeler EM.

Yes, 119; No, 19; Absent, 13; Excused, 0.

119 having voted in the affirmative and 19 voted in the negative, with 13 being absent, the Majority Ought to Pass as Amended Report was ACCEPTED.

The Bill was READ ONCE. Committee Amendment "A" (S-302) was READ by the Clerk and ADOPTED. The Bill was assigned for SECOND READING Friday, May 21, 1999.

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

Expression of Legislative Sentiment In Memory of Perle R. Pollack.

(HLS 418)

Which was tabled by Representative SAXL of Bangor pending ADOPTION.

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

Representative BAKER: Mr. Speaker, Men and Women of the House. I rise to honor the mother of my friends Lieva and Mashall Franco and the wife of Mr. G.M. Pollack. Perle Pollack was a patriotic American. While her husband fought in World War II, she did her part by selling war bonds across the country and received a special certificate award for the large number that she sold. She became part of the American dream by co-founding with her husband a chain of jewelry stores across Maine known as the G.M. Pollack Jewelry Stores. In Augusta, Bangor, Brunswick, Auburn, Sanford, Rockland, and the Bangor Mall, as well as Nashua and Portsmouth, New Hampshire. She loved jewelry and she loved selling it. She was dearly loved by her husband, her family and her friends. When a stroke felled her 12 years ago, she didn't give up, even though one side of her body was paralyzed. Attitude is everything, she would say, and she faced each physical challenge with strength, courage, dignity and optimism. As a patriotic American, voting was especially important to her. After rehabilitation from her stroke, one of the things she was most eager to do was to vote in her own precinct. When voting day arrived, however, she was turned away, because she was in a wheelchair. It was a heart wrenching experience for her and for all of those who loved her. Her daughter, Lieva Franco made a promise to her mother that she would not rest until all polling stations in Maine were handicapped accessible so that a person like her mother could go about the business of voting just like everyone else. Recently, the 119th Legislature allowed her to fulfill this promise. On behalf of all those in the future that will be able to vote in their own precincts, I say thank you to Perle Pollack and to her daughter for this lasting memorial. May our right to vote always remain as precious to us as it was and is to you.

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

Representative SAXL: Mr. Speaker, Men and Women of the House. Representative Baker from Bangor has described much of Mrs. Pollack's history and that of the family's success in business and of course, this most recent success in passing and just having come from the signing of this new legislation in memory of her mother. These are very dear friends of mine and I would be remiss if I did not stand up and tell you that to me perhaps the most remarkable thing about them is the love that they bear each other in that family. The romance between Mr. Pollack and Mrs. Pollack is really of legendary proportion. The kind and tender care that he has always granted his wife and the suda da vie that they approached life with, even after the stroke, Mrs. Pollack approached life with a twinkle in her eye and went at with first class. Now that love is not only true for them, but between their children and I remember many an occasion when Mrs. Pollack would be hospitalized and everyone would be feeling down in the dumps and certain that perhaps the end had come, but somehow she would spring back. She was there for Mindy's party, the shower before the wedding, and she was even

able to go down the aisle at the wedding it was very special moments. So her death leaves us with a sense of unreality, because she was always able to come back and one never expected her to finally be overcome by death, so to the family I send my love and my condolences.

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

Representative SAXL: Mr. Speaker, Men and Women of the House. I rise and share with the Representatives from Bangor in sending my love and my care for the Pollack and Franco families. I got to know the Pollack's through their children and their grandchildren, whom I grew up with in the City of Bangor and I remember going and knocking on doors in my first campaigns with Marshall Franco and with his daughter Mindy and Amy and Leiva and the family and knowing the legendary importance of participation in the democratic process to the Franco's and the Pollack's. I really cut my teeth on those political campaigns, but what I knew most about them and the spirit that was infused in them by Perle Pollack and by her husband was that each and every one of us makes a difference in this country and each and every one of us makes a difference in this state and in the City of Bangor and the City of South Portland and that the right to vote and the right for each of us to express ourselves is something that she cherished very much. She cherished it not just at the voting booth, but in touching the members of her family and the members of her community and folks like me who wandered through her life and I just want them to know that I share in sending my condolences but also my love to them.

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

Majority Report of the Committee on **CRIMINAL JUSTICE** reporting **Ought Not to Pass** on Bill "An Act to Protect Cemeteries"

(H.P. 817) (L.D. 1140)

Signed:

Senators:

MURRAY of Penobscot
O'GARA of Cumberland
DAVIS of Piscataquis

Representatives:

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

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

Signed:

Representative:

McALEVEY of Waterboro

READ.

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

Majority Report of the Committee on **CRIMINAL JUSTICE** reporting **Ought Not to Pass** on Bill "An Act to Modify the Laws on Negotiating a Worthless Instrument"

(H.P. 888) (L.D. 1245)

Signed:

Senators:

MURRAY of Penobscot
DAVIS of Piscataquis

Representatives:

POVICH of Ellsworth
CHIZMAR of Lisbon
PEAVEY of Woolwich
TOBIN of Dexter
SHERMAN of Hodgdon

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

Signed:

Representatives:

FRECHETTE of Biddeford
MUSE of South Portland
QUINT of Portland
McALEVEY of Waterboro
O'BRIEN of Augusta

READ.

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

Majority Report of the Committee on **JUDICIARY** reporting **Ought Not to Pass** on Bill "An Act Creating Offenses Against Unborn Children"

(H.P. 805) (L.D. 1128)

Signed:

Senators:

LONGLEY of Waldo
TREAT of Kennebec
BENOIT of Franklin

Representatives:

THOMPSON of Naples
BULL of Freeport
LaVERDIERE of Wilton
JACOBS of Turner
MITCHELL of Vassalboro
NORBERT of Portland
SCHNEIDER of Durham

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A"** (H-612) on same Bill.

Signed:

Representatives:

PLOWMAN of Hampden
MADORE of Augusta
WATERHOUSE of Bridgton

READ.

Representative THOMPSON of Naples 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 **JUDICIARY** reporting **Ought Not to Pass** on Bill "An Act to Provide for Suit Against Certain State Employees"

(H.P. 819) (L.D. 1142)

Signed:

Senators:

LONGLEY of Waldo

TREAT of Kennebec

BENOIT of Franklin

Representatives:

THOMPSON of Naples

BULL of Freeport

LaVERDIERE of Wilton

JACOBS of Turner

MITCHELL of Vassalboro

NORBERT of Portland

MADORE of Augusta

SCHNEIDER of Durham

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-611)** on same Bill.

Signed:

Representatives:

PLOWMAN of Hampden

WATERHOUSE of Bridgton

READ.

Representative THOMPSON of Naples moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

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

Representative **PLOWMAN**: Mr. Speaker, Men and Women of the House. I bring this bill before the body out of our committee in order to point out that we have some problems with the Department of Human Services and if that's a surprise to you then you're not listening to the phone calls that come across your answering machine.

This bill will provide that an employee of the Department of Human Services who for personal gain, vengeance, or other inappropriate personal motive seeks to deprive a person of rights under state or federal law with respect to a child protection action, or who collaborated with another by action or inaction to achieve such result. This would result in an act of bad faith and would strip the immunity that the employees are covered by under the Maine State Tort Claims Act.

My phone rings off the hook from people in my district and many other districts about how they are treated by employees of the Department of Human Services. How they are belittled, abused, manipulated, and then they lose their children. One parent told me that their children are now special needs children, they weren't before and in the Town of Houlton, the social worker who was responsible for removing the children from their home placed the two children with her parents, her own parents and they now care for these two children as wards of the state. To me, that's inappropriate, to me that's a conflict of interest and it borders on personal gain within a family. We heard many other stories before the committee as to how the Department of Human Services deals with my constituents and yours. Not all the bills have come forward yet, some of the bills are already dead, but it's time we started making the Department of Human Services accountable to us in the Legislature, to the citizens of the State of Maine and to the children of the State of Maine for the decisions that they make and if they make a decision based

on the fact that someone asserts their right under the Constitution. I had a grandmother lose her granddaughter because she refused to let a caseworker search her cupboards in her kitchen. The woman said, I have the right not to let you search my cupboard, it's my right, I know my Constitution. That was just the words that state worker needed to tick them off, move things along and take a child, only one child, by the way, the other child was already in the custody of the grandmother and done not by the state, but done by a private adoption, but this was the one that they could get at right away, obvious vengeance. That's just one or two of the stories. There are many more, you've heard them and I've heard them and until we make the workers, the social workers, and their supervisors responsible for how they're acting, they will continue to act without any accountability. We have no double check system. My constituents do, they now tape their conversations with their caseworker, as do many other people across the state, because they want to document how they're being treated and these cases will end up in court, if not in administrative proceeding, regarding how these people are treated, but I think it's time we took a little hand in helping to bring some accountability to the Department of Human Services and I would ask you to vote against the pending motion so we can go on to pass the Minority Report. Mr. Speaker when the vote is taken, I ask for the Yea's and Na's.

Representative PLOWMAN of Hampden **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 Naples, Representative Thompson.

Representative **THOMPSON**: Mr. Speaker, Men and Women of the House. You know its an interesting situation that the good Representative from Hampden, Representative Plowman, tries to put me in a position of saying this is a referendum on the Department of Human Services and it's not.

I ask you to look at this bill and see what it does. The section is in the Maine Torts Claim Act and its a section that is there to say when you can sue a member of state government and currently you are allowed to sue the member of state government, including a human service case worker for any intentional act or omission within the course and scope of employment that is found to be in bad faith. Now arguably the examples that Representative Plowman has given could rise to the level of bad faith and therefore the people are entitled to sue the caseworkers now. None of the people that we've had talk about this issue in front of our committee have said they've tried to sue and haven't been able to sue, not one case did anyone come forward and say, I tried to sue that caseworker and the courts wouldn't let it go forward because of this section. It hasn't happened. I won't say it hasn't happened, I will say that nobody has at least brought it to the attention of the Judiciary Committee.

Looking forward at the change in this, a section that applies to all state employees and we're putting a special provision for human services case workers and an interesting portion of it contains a section that is going to be very interesting to see how the courts might interpret. It sets out specific examples of what bad faith are only for Department of Human Services Caseworkers, this proposed bill was adamantly opposed by Drew Ketterer who sent the letter to the committee who found it

especially troubling that it singles out Department of Human Services Caseworkers in a way not otherwise found in the Maine Torts Claim Act and I have to tell you that there is no one on my committee that doesn't believe that there have been problems with the Department of Human Services and how they have handled cases, but changing the law in this manner is not the way to address those problems. Changing the law in this manner will not fix those problems. What will fix those problems is legislators keep pushing the Department to enforce the laws in the proper manner, number one, and for the people to sue if they have a valid claim. So I would ask you to join the 11 to 2 report of the Committee and join me in voting on the Ought Not to Pass Report.

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

Representative **PLOWMAN**: Mr. Speaker, Men and Women of the House. I'd like to thank the good Representative for reminding me of Attorney General Ketterer's letter. Attorney General Ketterer does point out that we do single out some very powerful people within our society and that is police officers. Well I submit to you a caseworker has as much power or more than a police officer, because a caseworker has the ultimate hostage, your child, has the ultimate penalty, the loss of your child and has the very power to make you start the process over. One gentlemen I spoke with last week or the week before told his caseworker that he had been taping the conservation and the caseworker said, buddy, if this tape gets in the wrong hands, you will start every single procedure over again and you won't see your boy for three years. Anybody that can say that and feel that they are not going to be punished definitely feels like they have the power that we're trying to rein in and if I'm setting aside DHS employees, it's because they are people that you and I cannot check up on, confidentiality. The parent can not see everything, confidentiality. The attorney cannot see everything, confidentiality. Confidentiality is a wonderful shield, especially if you are abusing people's rights. It's time that we said to DHS workers, you're not going to abuse the people of the State of Maine. Your job is to protect children, not abuse their parent's rights. If you can't do both at the same time then you shouldn't be doing that job and I feel this bill will send a very strong message that the Legislature is not going to condone what's happening right now and the reason I brought this this year is because last year we passed a bill, we had to, it was federal. We now expedite child protective cases through the courts. They are moving faster than ever before for the very good purpose of making sure that children are not left in limbo, but it also has the incredible result of parents getting the short end of the stick when it comes to defending themselves and the short end of the stick when it comes to trying to find some help when they're being abused, because the system does abuse parents and I would ask again that you not accept the Majority Ought Not to Pass Report.

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

Representative **THOMPSON**: Mr. Speaker, Men and Women of the House. Just a couple of points, confidentiality, sure it's there to protect the children and to protect the people who reported alleged abuse. Very valid reasons, I would suggest.

The second point I would like to make is, you want to talk about a standard of what should be in here and in the bill it says, the added language to the paragraph is an employee of the Department of Human Services who for personal gain,

vengeance, or other inappropriate personal motives, now there's no question in my mind that personal gain is already covered under bad faith. There's no doubt in my mind that vengeance is already covered under the current statute under bad faith, but I don't know what inappropriate personal motives means and we're going to have an awful lot of lawsuits in this state to try to determine what that is. It's not exactly a standard that you find in Maine law right now and if you think that people are going to be allowed to sue on that standard, you're going to find an awful lot of lawsuits in this state. It's a delicate balance right now in the law regarding child protective cases. We are charged with protecting these children. Yes, we also have to look out for the rights of the parents that may be losing their rights, but to say that because we are reviewing them faster means we need to change the law. The purpose of moving them faster is to get these children either reunited with their parents faster, or place them to adoptive situations so that they are not languishing in foster care. It's got nothing to do with this issue. The issue is whether or not you want to single out caseworkers as a group and use this standard that's in the bill, because I would ask for you to read this standard before you vote. Thank you.

The SPEAKER: The Chair recognizes the Representative from Hampden, Representative Plowman. 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 **PLOWMAN**: Mr. Speaker, Men and Women of the House. Briefly, it will only take one or two court decisions to determine what inappropriate personal motive means, that's the way case law develops in the State of Maine. It shouldn't be a hindrance to your vote. Thank you.

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

ROLL CALL NO. 253

YEA - Ahearne, Bagley, Baker, Belanger, Berry RL, Bolduc, Bouffard, Bragdon, Brennan, Brooks, Bruno, Bryant, Bull, Bumps, Cameron, Chick, Chizmar, Cianchette, Clark, Colwell, Cote, Cowger, Cross, Davidson, Davis, Desmond, Dudley, Dugay, Duncan, Dunlap, Duplessie, Etnier, Fisher, Frechette, Fuller, Gagne, Gagnon, Goodwin, Gooley, Green, Hatch, Honey, Jabar, Jacobs, Kane, Kneeland, LaVerdiere, Lemoine, Lemont, Lovett, Madore, Mailhot, Martin, Matthews, Mayo, McDonough, McGlocklin, McKee, Mitchell, Murphy E, Norbert, Nutting, O'Brien JA, O'Brien LL, O'Neal, O'Neil, Peavey, Perry, Pieh, Powers, Quint, Richard, Richardson E, Rines, Rosen, Samson, Sanborn, Savage C, Savage W, Saxl JW, Saxl MV, Schneider, Sherman, Shiah, Sirois, Skoglund, Stanley, Stevens, Sullivan, Tessier, Thompson, Townsend, Tracy, Tripp, True, Twomey, Volenik, Watson, Wheeler GJ, Williams, Mr. Speaker.

NAY - Andrews, Berry DP, Bowles, Campbell, Carr, Clough, Collins, Daigle, Foster, Gerry, Gillis, Glynn, Heidrich, Jodrey, Jones, Joy, Kasprzak, Lindahl, MacDougall, Mack, Marvin, McKenney, McNeil, Mendros, Murphy T, Nass, Perkins, Pinkham, Plowman, Shields, Shorey, Snowe-Mello, Stanwood, Stedman, Tobin D, Tobin J, Trahan, Treadwell, Waterhouse, Weston, Wheeler EM, Winsor.

ABSENT - Buck, Labrecque, McAlevey, Muse, Povich, Richardson J, Tuttle, Usher.

Yes, 101; No, 42; Absent, 8; Excused, 0.

101 having voted in the affirmative and 42 voted in the negative, with 8 being absent, the Majority Ought Not to Pass Report was **ACCEPTED** and sent for concurrence.

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

CONSENT CALENDAR

First Day

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

(S.P. 763) (L.D. 2155) Resolve, to Establish the Blue Ribbon Commission to Establish a Comprehensive Internet Policy (EMERGENCY) Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-303)**

(H.P. 964) (L.D. 1362) Bill "An Act to Allow the State to Initiate Default Proceedings in Order to Obtain Forfeited Assets When the Defendant Fails to Appear in a Court Proceeding" Committee on **CRIMINAL JUSTICE** reporting **Ought to Pass**

(H.P. 510) (L.D. 717) Bill "An Act to Amend the Election Laws" Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-622)**

(H.P. 718) (L.D. 1008) Bill "An Act to Require Labeling of Fruits and Vegetables to Identify Country of Origin" Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-615)**

(H.P. 797) (L.D. 1120) Bill "An Act to Amend the Uniform Health Care Decisions Act" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-616)**

(H.P. 1034) (L.D. 1456) Bill "An Act to Establish the Northern Maine Transmission Corporation" Committee on **UTILITIES AND ENERGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-617)**

(H.P. 1069) (L.D. 1500) Bill "An Act to Establish a Trust Fund to Provide Statewide Assistance to Low-income Electric Consumers" Committee on **UTILITIES AND ENERGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-618)**

(H.P. 1406) (L.D. 2011) Bill "An Act to Amend the Laws Regarding Asset Forfeiture" Committee on **CRIMINAL JUSTICE** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-619)**

(H.P. 1509) (L.D. 2154) Bill "An Act to Amend the Electric Industry Restructuring Laws" Committee on **UTILITIES AND ENERGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-620)**

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

CONSENT CALENDAR

Second Day

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

(S.P. 332) (L.D. 986) Resolve, Establishing a Commission to Study the Feasibility of Reestablishing a Brook Trout and Landlocked Salmon Hatchery in Northern Maine (C. "A" S-296)

(S.P. 718) (L.D. 2040) Bill "An Act to Amend the Charter of the Norridgewock Water District" (EMERGENCY) (C. "A" S-297)

(S.P. 776) (L.D. 2175) Bill "An Act to Amend the Maine Residents Property Tax Program" (EMERGENCY) (C. "A" S-293)

(H.P. 763) (L.D. 1086) Bill "An Act to Improve Snowmobile Trail Grooming"

(H.P. 361) (L.D. 486) Bill "An Act Regarding Fish Stocking" (C. "A" H-607)

(H.P. 1410) (L.D. 2015) Bill "An Act to Amend the Health Care Receivership Laws" (C. "A" H-610)

(H.P. 1549) (L.D. 2206) Bill "An Act to Implement an Atlantic Salmon Conservation Plan" (C. "A" H-606)

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

BILLS IN THE SECOND READING

Senate As Amended

Bill "An Act to Eliminate the Requirement That the Employment Rehabilitation Fund Reimburse Employers and Insurers for Benefits Paid pursuant to the Benefits Adjustments"

(S.P. 269) (L.D. 762)

(C. "A" S-239)

Bill "An Act Relative to Freedom of Employment in the Broadcasting Industry"

(S.P. 616) (L.D. 1781)

(C. "A" S-282)

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

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

ENACTORS

Emergency Measure

An Act to Improve Access to Residential Care in Rural Maine

(S.P. 717) (L.D. 2039)

(H. "A" H-562 to C. "A" S-222)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 115 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

Resolve, to Establish a Commission to Encourage Incorporations in Maine

(S.P. 697) (L.D. 1972)

(C. "A" S-215; H. "A" H-549)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-

thirds vote of all the members elected to the House being necessary, a total was taken. 110 voted in favor of the same and 9 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

Emergency Measure

Resolve, to Provide for the Implementation of a Maine Meat Inspection Program

(S.P. 780) (L.D. 2190)
(C. "A" S-274)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 109 voted in favor of the same and 3 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

**Resolve Pursuant to the Constitution
Public Land**

Resolve, Authorizing Certain Land Transactions by the Department of Conservation, Bureau of Parks and Lands

(S.P. 805) (L.D. 2218)
(C. "A" S-273)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. In accordance with the provision of Section 23 of Article IX of the Constitution, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 110 voted in favor of the same and 2 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

Acts

An Act to Strengthen the Child Care Licensing Laws

(H.P. 527) (L.D. 734)
(C. "A" H-533)

An Act to Create Quality Child Care Investment Incentives

(S.P. 359) (L.D. 1063)
(H. "A" H-583 to C. "A" S-237)

An Act to Establish the Early Care and Education Revolving Loan Program

(S.P. 362) (L.D. 1066)
(H. "A" H-588 to C. "A" S-223)

An Act to Require More Timely Court-ordered Psychological Evaluations

(H.P. 1092) (L.D. 1539)
(C. "A" H-534)

An Act to Increase the Penalties for Persons in Possession of Methamphetamine in Conformity with the Penalties for Similarly Dangerous Drugs

(H.P. 1129) (L.D. 1588)
(C. "A" H-535)

An Act to Amend the Maine Milk Laws

(S.P. 667) (L.D. 1889)
(C. "A" S-272)

An Act to Remove the Statute of Limitations for Unlawful Sexual Contact and Sexual Abuse of Minors

(H.P. 1412) (L.D. 2019)
(C. "A" H-536)

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

Resolves

Resolve, to Establish the Task Force on State Office Building Location and Other State Growth-related Capital Investments

(H.P. 226) (L.D. 304)
(C. "A" H-292)

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

An Act to Impose Stricter OUI Penalties on Operators of Watercraft, ATVs and Snowmobiles

(H.P. 209) (L.D. 287)
(C. "A" H-509)

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

On motion of Representative TRACY of Rome, was **SET ASIDE**.

The same Representative **REQUESTED** a roll call on **PASSAGE TO BE ENACTED**.

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

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

Representative **PERKINS**: Mr. Speaker, Men and Women of the House. I just want to quickly remind you what this does. It makes the penalties for OUI on ATVs and snowmobiles, even if you're in your own woodlot or wherever the same penalties as we have on the highways, which implies there's the same public risk and I maintain there isn't. It's already illegal to be OUI on these ATVs and snowmobiles, but this brings the penalty up to be the same as it is on the highways and I maintain it's way overdone and overreaching. 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 do want to remind members that we've had substantial debate on this issue. I would like to remind you that what my good friend from Penobscot, Representative Perkins, just said is absolutely true. It does raise those penalties, but it changes nothing else in current Maine statute. It simply makes the penalties across the board on OUI equal. Thank you.

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

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

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

Representative **MENDROS**: Mr. Speaker, Men and Women of the House. As I understand it driving on the road is a privilege, my question is, is being on your own land a privilege now, too, and that's why we need the same laws?

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

Representative **TRACY**: Mr. Speaker, Ladies and Gentlemen of the House. Representative Dunlap is absolutely

correct, we have debated this before, but I'd like to go on record why I'm opposing this bill. It's not because I believe in drinking and there should be stricter penalties, but I have a problem getting back to the private property issue. I do not believe that the state should tell me if I'm domiciled on my land and if I should happen to drink, by the way ladies and gentlemen, I keep emphasizing this that I do not drink, but if I should happen to sit on my ATV, or ATC, or snowmobile, or whatever, probably it could even be the lawnmower, or the chainsaw next, that any law enforcement official goes by that is in the public right-a-way sees Mr. Tracy domiciled on his own land, which he pays his taxes, has a right to come on and ask you how much you've been drinking and if you should refuse ask you for a sobriety test and if you don't take that, you automatically are fined and all of this stuff. I think this is bad policy for private landowners. Thank you.

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

Representative CAMERON: Mr. Speaker, Ladies and Gentlemen of the House. As Representative Dunlap has already said, we've talked about this a few times already. This is my bill. It has nothing to do with the right of somebody to come on your land and arrest you for drinking. It has nothing to do with that. That's present law, this bill doesn't change that, if that's an issue, put the bill in and let's deal with that issue. Don't deep six my bill over an issue that's not in this bill, please. Representative Dunlap was exactly right. This brings the fines to parity for OUI charges that occur on the roadways, the same fines will be imposed for OUI charges that occur on the trails. We've passed this already folks and I ask you please to stay with your vote. It is an important issue. Fortunately the last two years, we've not had many fatalities on the snowmobile trails because of alcohol, but we have had as many as a dozen in a year and any one is too many. This is a very, very simple bill and please don't be confused by some of the other issues. Thank you.

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

Representative PERKINS: Mr. Speaker, Men and Women of the House. I just want to answer the question that was asked by the Representative from Lewiston regarding privilege. Right now it seems to me that anything that is licensed is considered a privilege. I suppose before there were automobile licenses way back in the early part of the century, maybe that was a right. It's right now a right, for example, to go fishing in salt water. A lot of people are pushing for a license, then it would, in my opinion, it looks like then it would become a privilege that could be revoked. Right now ATVs, you can ride them apparently, you don't have to be licensed, so I would say that right now is a right, but once down the road, and I guess it will probably come licensure will be next and then it will be a privilege that can be revoked. Thank you.

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

Representative TRACY: Mr. Speaker, Ladies and Gentlemen of the House. The good Representative from Rumford, Representative Cameron, does not want to deep six his bill. I'm not standing here making any proposal to deep six his piece of legislation, I just wanted to put into the record why I'm opposing the increases on the fines and stuff, getting back to being domiciled on private property, but as far as public property, like I said before in previous debates, that I have no problem if they want to quadruple them, do what they want with them, but

leave us alone on our own private property where we domiciled. Thank you.

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

Representative TRUE: Mr. Speaker, Ladies and Gentlemen of the House. I am on the side, certainly, favoring passage of this bill. I think it's just common sense, which I speak about quite often and that is it certainly is a safety issue and I say in jest, and not trying to be a comic, and I've said this before, and that is that if you're drinking and you're on your land, you drink enough, I don't think you know where the lines are, so I would ask you to certainly follow our light. 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. 254

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

NAY - Bryant, Collins, Gillis, Joy, Kasprzak, Mendros, Perkins, Pinkham, Plowman, Richardson E, Rines, Rosen, Shorey, Skoglund, Snowe-Mello, Stedman, Tobin J, Tracy, Trahan, Treadwell, Waterhouse.

ABSENT - Buck, Labrecque, McAlevey, McDonough, Muse, Povich, Richardson J, Tuttle.

Yes, 122; No, 21; Absent, 8; Excused, 0.

122 having voted in the affirmative and 21 voted in the negative, with 8 being absent, the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

An Act Regarding Continuing Education for Professional Land Surveyors

(H.P. 917) (L.D. 1295)
(C. "A" H-232; H. "A" H-547)

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

On motion of Representative GOOLEY of Farmington, was **SET ASIDE**.

The same Representative **REQUESTED** a roll call on **PASSAGE TO BE ENACTED**.

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

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

Representative **GOOLEY**: Mr. Speaker, Men and Women of the House. Mr. Speaker, Men and Women of the House. Everyone has a yellow flyer on this issue in front of them, An Act Regarding Continuing Education for Professional Land Surveyors. There's a lack of any evidence or study that shows a positive relationship between mandatory continuing education as proposed by the Maine Board of Licensure for professional land surveyors and continuing confidence. Studies show no positive change. Under the requirements of the Maine Board of Licensure for Professional Land Surveyors mandatory continuing education ensures attendance without compelling learning, it mandates attendance, not those attributes of a successful program. Actually surveying is a very focused discipline. It's not like forestry. Forestry is a very, very broad based profession and it's not quite the same as surveying, so the mandatory continuing education scheme proposed by the Maine Board of Licensure for professional land surveyors is ill suited for both professional and adult learners and for that reason, I recommend that you vote against LD 1295. Thank you very much.

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

Representative **BROOKS**: Mr. Speaker, Ladies and Gentlemen of the House. When I go home this weekend, and I hope I can go home and spend the entire weekend in Winterport, I plan to look up my friend and constituent, Don Nelson. Don Nelson is probably someone you don't know very well. You may have heard his name mentioned by me last week. Don Nelson is a member of the Maine Land Surveyors Association. He's called me twice now. I hope that I can tell him that we had the wisdom to reject this legislation. It is not necessary and the Association is opposed to it. Thank you, Mr. Speaker.

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

Representative **USHER**: Mr. Speaker, Men and Women of the House. I recall at the public hearing there was only one person who spoke in opposition to this bill. This legislation was passed in the 117th Legislature to enact mandatory continuing education. Since then they have conducted surveys. They sent a survey out in 1998 to 643 licensees, 329 returned and there was 64 percent favored keeping it mandatory education. A person who does not include 12 hours of training in his two-year cycle of license should not be a surveyor. In regards to the previous item that we just had, perhaps the owner of the land that has the snowmobile would want a good surveyor and he would have to keep up with the present laws and that's part of the continuing education program that we have here.

The **SPEAKER**: The Chair recognizes the Representative from Calais, Representative Shorey.

Representative **SHOREY**: Mr. Speaker, Ladies and Gentlemen of the House. Mr. Speaker, Ladies and Gentlemen of the House. What is wrong with continuing education? In my mind and the committee mind, nothing, it is in the public's best interest that we ask the surveyors to be as well versed in their trade as they can be. A surveyor is not like a restaurant, where if you go there and you get a bad meal, you don't go back. Most people maybe have only one or two surveys done in their lifetime on their properties, so there is no second chance if they have a surveyor who may not be as qualified or as up to date in the latest methodologies. The public needs to have the confidence that the surveyors are properly trained in the latest methodologies. If I could read something here from Downeast Survey and Development, this is from Elwood Ellis. Surveying is

a profession that involves the law. Surveyors being independent to a fault still need to communicate with each other to keep abreast of current rules, laws and regulations. We do our clients in the public harm with ignorance. Again I say, we do our clients in the public harm with ignorance. I see this as a consumer confidence issue and a consumer protection issue. With this thought in mind, please support the Majority Report.

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

Representative **MENDROS**: Mr. Speaker, Ladies and Gentlemen of the House. What is wrong with mandatory education, you have a green sheet in front of you. It increases the cost that is passed on to consumers. This was passed as a bill that was to be sunsetted this year and the Department was suppose to come back showing that there was proof that there was benefit. There was no proof whatsoever that they could bring to us that there was any benefit for this except for the cost. Many people spoke in opposition at the public hearing. I was there as well. One person in particular, Dr. Knud Hermanson, Special Engineer from the University of Maine who teaches these continuing education courses, came forward and said, himself and all licensed surveyors within the surveying program at the University of Maine opposed this legislation as unnecessary and burdensome and costly to the consumer with no benefit. As for the argument that it increases communication skills, I attest to you, a used car salesman, or an accountant, who has better communication skills. It's obvious, the used car salesman, but who do you want doing something delicate and detailed, the accountant is taking care of your money. It about having skills at the trade you're applying.

My final point, people don't randomly pick surveyors, it's important. It's just like an attorney. You don't randomly pick an attorney, if you want to have something serious, you ask around. You get referrals. That's what surveyors do. This is lulling the public into a false sense of security that since they all had this mandatory education that doesn't work, they're all equal and you can just pick anyone. You need to pick one, you ask around. My final point, I mentioned attorneys and engineers do not have mandatory continuing education. They're professionals. They understand their field. They go and they get the training that they need where they see it's necessary. I urge you to oppose the pending legislation.

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

Representative **BOUFFARD**: Mr. Speaker, Men and Women of the House. Mr. Speaker, Men and Women of the House. I have a license that I am multi-line insurance agent. In order for me to maintain my license, I must have every two years 30 hours of continuing education and believe you me with the fast pace and changes in the world today, it is beneficial for me to have those 30 hours and keep up with my profession and I see nothing wrong with extending this to other professions as well. Please vote for this legislation. Thank you.

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

Representative **CLOUGH**: Mr. Speaker, Ladies and Gentlemen of the House. I would like to remind you that there is ample precedent for continuing education among professionals. This legislation does not break new ground and I urge you to support the decision of the Majority. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Topsham, Representative Tripp.

Representative **TRIPP**: Mr. Speaker, Men and Women of the House. We're talking 12 weeks of continuing education over a two year period to make sure the people are up to date on Maine law regarding this particular field. It seems to me that we're talking about common sense here, the protection of the Maine consumer and if you recall, just the other day, we passed a law to require training for a bar tender to get a license.

The SPEAKER: The Chair recognizes the Representative from Cape Elizabeth, Representative Marvin.

Representative **MARVIN**: Mr. Speaker, Ladies and Gentlemen of the House. LD 1295 is a unanimous committee report. The reason for this is six hours a year of continuing education is not an unrealistic or overly burdensome requirement for land surveyors. Our committee heard from many surveyors who indicated to us that they felt it was very appropriate to have these small education requirements. I don't know about you but I want to receive the most accurate survey possible. Like all industries computers and other forms of technology have changed how surveys are done. Why would we not want our surveyors held to a high standard that requires them to be up to date in their knowledge and expertise. Nearly every other industry in this state requires continuing education, as well they should. The consumers of the State of Maine deserve our protection. Continuing education is not a burden. All of the surveyors who spoke spoke in favor of continuing with the six hours of annual continuing education. I urge you to respect the unanimous committee report and follow my light. Thank you.

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

Representative **MENDROS**: Mr. Speaker, Men and Women of the House. I must rise again to point out, I don't know how this came out as a unanimous committee report, I remember voting against it. I voted against it. I'm on that committee and I also want you to know it might make common sense, you might think it's a good idea, but the fact remains the professors at the University of Maine who make money teaching this class are telling us it's not necessary. The only motivation would be to tell us to continue to do it so we can make more money. They know this better than I do, better than anyone does, they're the professionals that teach this course and they tell us it's not necessary and it's burdensome to the public. Thank you.

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

Representative **LOVETT**: Mr. Speaker, Ladies and Gentlemen of the House. I can't imagine that we're going to mandate continuing education for professional engineers and people of this nature. I'm married to a professional engineer and he is constantly taking and boning up on different subject matters that he needs to be more proficient in his career and I can't imagine us starting to mandate to professional people who are so ethical. Thank you.

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

Representative **BOWLES**: Mr. Speaker, Ladies and Gentlemen of the House. Before I start, I'd like to just correct the good Representative from Scarborough, this bill has nothing to do with professional engineers. It has only to do with surveyors. The next point I would like to make is, I'm particularly going to appeal to those of you who are school teachers and those of you who have had experience in education. I'd like to just quote briefly from this yellow sheet that was passed around. Mandatory continuing education insures attendance without

compelling learning. It mandates attendance not those attributes of a successful program such as learning motivation, desire and need of attitude, but we all know that. We all know that if we force kids to come to school and if they don't want to learn, they won't learn. There's no rocket scientist there, if a kid doesn't want to learn, that kid won't learn. What do we do, do we say nobody has to come to school. Well that's the logical progression of this, nobody has to come to school. Are we really directing our efforts in the school system so the 95 percent of the kids that want to be there and want to learn and all we're saying here to these surveyors is, come you take these courses, you sit there and you listen and you learn something and there will probably be five percent of them who don't want to learn anything either, so they'll go and they won't learn anything and it'll be a waste of their time, but 95 percent of them will benefit from the increased training and the increased learning.

Finally the last point, someone's mentioned here that doctors, lawyers, and engineers are not subjected to mandatory continuing education, that's probably true, but doctors, dentists, accountants, teachers, insurance agents, they're all professionals and they are subject to mandatory education requirements and there's a good reason for it, because technology changes, the law changes. All of us in our lifetime are experiencing change and we're continually growing. This is not an unreasonable requirement and I ask you to consider supporting it. Thank you.

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

Representative **LOVETT**: Mr. Speaker, Ladies and Gentlemen of the House. I would like to remind the good Representative from Sanford that professional engineers take extensive courses in surveying. Thank you.

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

Representative **MACK**: Mr. Speaker, Right Honorable Men and Women of the House. I urge you to vote against the pending motion. When I'm not here, I'm a real estate developer and as a real estate developer, I hire surveyors quite often. Whether we have a lot and we need to find the boundaries or we're doing a subdivision or whatever it is, hiring a surveyor is a common practice for me. When I hire a surveyor, I look for someone who I have worked with in the past that I have built a relationship with or if we're in a new area, I want to see what his business has been and what references he has. I have never once asked, is you government license in tact and have you taken the continuing education. I want to know that person's reputation. To be in the business in the first place, they have to jump through a lot of hoops, a lot of education, and a lot of red tape. So they have some knowledge when they are in the business, and once they're there it's their reputation and the work that they have done that I rely on, not some government certificate. It doesn't really bother me if they are using technology that might be a little older, if they don't have the latest gadget to find the property line. I care about that they are finding the property line accurately. Continuing education and other red tape that past cost along to the consumers will just give consumers a false sense of security. Like it has been said before, you can go to these classes, but it doesn't mean you're going to pay attention or learn anything. This will give consumers a false sense of security and there are plenty of different surveyors to choose from out there when you're shopping around. It's their reputation that matters, not the

government license. Thank you and I urge you to vote against the pending motion.

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

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

The SPEAKER: The Representative may pose his question.

Representative PERKINS: Mr. Speaker, Men and Women of the House. I haven't heard from any of my constituents that the land surveyors have been making a lot of mistakes and I would just like to ask anybody here if they've heard from constituents that there have been a lot of problems with mistakes by land surveyors.

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 Limestone, Representative O'Neal.

Representative O'NEAL: Mr. Speaker, Ladies and Gentlemen of the House. In response to the good Representative from Penobscot's question, the complaint department of the board was the gentleman that we have quoted from in our testimony. He said that continuing education helps eliminate the complaints because most of them are on items that deal strictly with communication skills. That's why the continuing education piece is so wide open, it's only 12 hours in two years.

Two quick points, the department and the board of land surveyors want this continuing education. There's someone that has called a Representative in this body complaining, I'd really suggest that we pass this legislation and that they put their name into the Chief Executive and be put on the board so that they can change the rules. I hope that you support the vote to pass this LD we've had, I think this is the fifth vote and I'd ask you to stay with your votes from before.

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

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

The SPEAKER: The Representative may pose his question.

Representative GOOLEY: Mr. Speaker, Men and Women of the House. The question, I think, is is there anyone out there who has had a complaint from surveyors for services not provided correctly? Thank you.

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

Representative MENDROS: Mr. Speaker, Men and Women of the House. I'll answer that question, there have been complaints, there were complaints before, there were complaints after, we were testified to, we had documentation approved that there has been no difference in the number of complaints since before this sunsetted law went into affect and now.

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

Representative KANE: Mr. Speaker, Men and Women of the House. I've had the privilege of being a licensed clinical social worker for over 30 years and I consider part of the public tradeoff of being a professional is to comply with continuing education requirements. We call ourselves a professional no matter what field it is. We convey to the public not only a level of confidence but also a commitment to assure ongoing continuing level of confidence, which implies some standard expectation for

continuing education. Any professional, whether there's a formal licensure board or not, conveyed by virtue of calling themselves a professional, a commitment to continuing education and if the board, department and particularly, if the board feels that this continuing education is essential to maintain a level of professional expertise, there ought not be hesitation to adopt this kind of a bill and I urge the membership of the House to support proposal. 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. 255

YEA - Ahearne, Bagley, Baker, Belanger, Berry DP, Berry RL, Bolduc, Bouffard, Bowles, Brennan, Bruno, Bryant, Bull, Bumps, Cameron, Chizmar, Clark, Clough, Collins, Colwell, Cote, Davidson, Davis, Desmond, Dudley, Duncan, Duplessie, Etnier, Fisher, Foster, Frechette, Gagne, Gagnon, Green, Hatch, Honey, Jabar, Kane, Kasprzak, Lemoine, Lemont, Mailhot, Martin, Marvin, Matthews, Mayo, McKee, McNeil, Mitchell, Murphy T, Nass, Norbert, O'Brien LL, O'Neal, O'Neil, Peavey, Perry, Pieh, Powers, Quint, Richard, Samson, Sanborn, Savage C, Savage W, Saxl JW, Saxl MV, Shiah, Shorey, Sirois, Sullivan, Tessier, Thompson, Townsend, Tripp, True, Usher, Volenik, Watson, Wheeler GJ, Mr. Speaker.

NAY - Andrews, Bragdon, Brooks, Campbell, Carr, Chick, Cianchette, Cowger, Cross, Daigle, Dugay, Dunlap, Fuller, Gerry, Gillis, Glynn, Gooley, Heidrich, Jacobs, Jodrey, Jones, Joy, Kneeland, LaVerdiere, Lindahl, Lovett, MacDougall, Mack, Madore, McGlocklin, McKenney, Mendros, Murphy E, Nutting, O'Brien JA, Perkins, Pinkham, Plowman, Richardson E, Rines, Rosen, Schneider, Sherman, Shields, Skoglund, Snowe-Mello, Stanley, Stanwood, Stedman, Stevens, Tobin D, Tobin J, Tracy, Trahan, Treadwell, Twomey, Waterhouse, Weston, Wheeler EM, Williams, Winsor.

ABSENT - Buck, Goodwin, Labrecque, McAlevey, McDonough, Muse, Povich, Richardson J, Tuttle.

Yes, 81; No, 61; Absent, 9; Excused, 0.

81 having voted in the affirmative and 61 voted in the negative, with 9 being absent, 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 Improve the Efficiency of Environmental Regulation in the Unorganized and Deorganized Areas of the State

(S.P. 574) (L.D. 1654)

(C. "A" S-261; H. "A" H-591)

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

On motion of Representative PIEH of Bremen, was **SET ASIDE**.

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

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

SENATE PAPERS

Bill "An Act to Amend the Laws Relating to the Location of Lobster Trap Escape Vents" (EMERGENCY)

(S.P. 835) (L.D. 2236)

Committee on **MARINE RESOURCES** suggested and ordered printed.

Came from the Senate, under suspension of rules and **WITHOUT REFERENCE** to a Committee, the Bill **READ TWICE** and **PASSED TO BE ENGROSSED**.

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

Representative **ETNIER**: Mr. Speaker, Men and Women of the House. I beg your indulgence on this supplement and this LD that's coming from our committee, basically. This is meant to augment a bill that we had going this year. It's probably the best bill we had, because it's my bill. LD 1624 that was passed unanimously and related to lobster trap escape vent locations. You're going to go away from this session knowing more about lobster trap escape vents than you probably care to know, lucky you. This problem arose, the bill was passed and signed but we didn't include additional language related to circular escape vents. My bill only related to rectangular escape vents. Nobody said a word about it at the public hearing or at the work session so we didn't include circular escape vents and it has turned out to be a problem because the public doesn't know that putting circular escape vents in the wrong location, we are amending existing law to allow them to put these circular escape vents in the same place that we just allowed them to put the rectangular escape vents in. The fishermen will be very grateful for this. It'll save some violations that are out there right now because of this incongruity. The previous law was an emergency. It has been passed and signed by the Governor and we couldn't back that up to make the change in it, hence this bill. Please bear with me and if you have any questions, I can gladly try to answer.

Under suspension of the rules and **WITHOUT REFERENCE** to a Committee, the Bill was **READ TWICE** and **PASSED TO BE ENGROSSED** in concurrence.

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:

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.

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)

- In House, 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** on May 12, 1999.

- In Senate, Senate **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**.

TABLED - May 18, 1999 (Till Later Today) by Representative **AHEARNE** of Madawaska.

PENDING - FURTHER CONSIDERATION.

On motion of Representative **AHEARNE** of Madawaska, the House voted to **RECEDE**.

On further motion of the same Representative, **Committee Amendment "A" (H-322) as Amended by House Amendment "A" (H-505)** thereto was **INDEFINITELY POSTPONED**.

On further motion of the same Representative, **House Amendment "A" (H-496)** was **INDEFINITELY POSTPONED**.

The same Representative **PRESENTED House Amendment "B" (H-614)**, 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. What this House Amendment will do, it will take in those two amendments that we passed, House Amendments, one of them which, if I can refresh your memory, was just a technical amendment making a recommendation of a change by the Bills in Second Reading. The other House Amendment was to address a concern that this Body adopted, but the disagreement came over the Report A and Report B between this Body and the other Body and so under the issue of a compromise, we did accept the other Body's position and that is what is incorporated as part of this amendment, that the Director of the State Planning Office will be appointed by the Governor and I ask you for your support on this amendment.

House Amendment "B" was ADOPTED.

The Bill was **PASSED TO BE ENGROSSED as Amended by House Amendment "B" (H-614)** in **NON-CONCURRENCE** and sent for concurrence.

Bill "An Act to Create a State House Citizen Participation and Lobby Center"

(H.P. 1447) (L.D. 2068)

- In House, Bill and all accompanying papers **COMMITTED** to the Committee on **STATE AND LOCAL GOVERNMENT** on May 17, 1999.

- In Senate, Majority (9) **OUGHT NOT TO PASS** Report of the Committee on **STATE AND LOCAL GOVERNMENT** **READ** and **ACCEPTED** in **NON-CONCURRENCE**.

TABLED - May 19, 1999 (Till Later Today) by Representative **AHEARNE** of Madawaska.

PENDING - FURTHER CONSIDERATION.

Representative **MCKEE** of Wayne moved that the House **Recede and Concur**.

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

Representative **MCKEE**: Mr. Speaker, Men and Women of the House. LD 2068 would have established a place here at the State House where ordinary citizens, our constituents, could come and receive assistance when they were coming here to testify or to lobby us on particular bills. It would have not only established a place, but would have supplied them with materials, a way of tracking legislation. It would have relieved

some of the frustrations that these citizens experience when they come here. As our State House is today, it is somewhat user friendly for these people, they've definitely on an uneven playing field with the paid lobbyist and frequently I feel that we make laws using only legislators and well paid lobbyists. And each day in newspapers across the state, we advertise the bills that we are going to hear that day and hopefully that some citizens will show up and when a citizen does show up, it probably means that he or she has taken a day off from work and driven some distance to be here only to find out that when he or she walks through the door that he has absolutely no idea where to go, how to go about it, and feels threatened and intimidated by the whole process. The process which when learned in school seems so friendly and seems so participatory. Since the bill was submitted and it was heard, I have some good news and that is that we may not have to pass such a bill, or we may not even have to continue with this bill because many, many people see that perhaps as we look at the renovations and what legislative information does, or can do, that it might be that we could provide this service to our constituents without passing a law. I'm hoping that that can be done and that's the reason for my motion today to go along with the other Body and to Recede and Concur and I hope that you will join me in the encouragement of this kind of help for our constituents. It's sorely needed and I'm hoping when the renovations are done that these citizens will be taken care of. Thank you very much.

On motion of Representative McKEE of Wayne, the House voted to **RECEDE AND CONCUR**.

Resolve, to Increase Reimbursement for Chiropractic Manipulation under the Medicaid Program

(H.P. 1313) (L.D. 1896)

TABLED - May 19, 1999 (Till Later Today) by Representative SHIAH of Bowdoinham.

PENDING - **ADOPTION OF COMMITTEE AMENDMENT "A" (H-602)**.

Representative CAMERON of Rumford **PRESENTED** House Amendment "A" (H-625) to Committee Amendment "A" (H-602), which was **READ** by the Clerk and **ADOPTED**.

Committee Amendment "A" (H-602) as Amended by House Amendment "A" (H-625) thereto was **ADOPTED**.

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

The Resolve was **PASSED TO BE ENGROSSED** as Amended by Committee Amendment "A" (H-602) as Amended by House Amendment "A" (H-625) thereto and sent for concurrence.

BILL RECALLED FROM GOVERNOR

(Pursuant to Joint Order - House Paper 1588)

An Act to Clarify the Standard for Cause in the Request for Proposal Process for the Department of Mental Health, Mental Retardation and Substance Abuse Services

(H.P. 692) (L.D. 959)

(C. "A" H-229)

- In House, **PASSED TO BE ENACTED** on May 6, 1999.

- In Senate, **PASSED TO BE ENACTED** on May 7, 1999.

On motion of Representative KANE of Saco, the Bill and all accompanying papers were **COMMITTED** to the Committee on **HEALTH AND HUMAN SERVICES** 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 Horse Racing Commencing at Noon on Sundays"

(H.P. 749) (L.D. 1039)

TABLED - May 17, 1999 by Speaker ROWE of Portland.

PENDING - **RULING OF THE CHAIR**.

The SPEAKER: With respect to the amendment to L.D. 1039 with a filing number of H-526, the Chair finds that the amendment is not germane. The amendment does not relate to the subject of the original bill: the time at which harness racing may begin on Sundays. The substantive provisions of the amendment switch the legislative committee that reviews appointments to and budgets and reports of the Harness Racing Commission. The Chair finds that this switch of committee is not relevant, appropriate, and in a natural and logical sequence to the consideration of the Sunday start time of harness racing. Therefore, Committee Amendment "A", H-526 is not a germane amendment.

The Chair **RULED** that **Committee Amendment "A" (H-526)** was not germane to the Bill.

Subsequently, 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** and sent for concurrence.

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

ENACTORS

Emergency Measure

An Act to Clarify Roles and Responsibilities in the Child Development Services System

(H.P. 931) (L.D. 1308)

(C. "A" H-525)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 109 voted in favor of the same and 5 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act Concerning Disposal of Solid Waste from Decommissioning Activities

(S.P. 515) (L.D. 1516)

(C. "A" S-285)

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. 113 voted in favor of the same

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

Representative THOMPSON of Naples assumed the Chair.

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

Emergency Measure

An Act to Increase Accessibility to the Department of Environmental Protection Clean-up Funds for Businesses

(S.P. 641) (L.D. 1823)
(C. "A" S-286)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 102 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker Pro Tem and sent to the Senate.

Emergency Measure

An Act to Revise Certain Provisions of the Fish and Wildlife Laws

(S.P. 738) (L.D. 2088)
(C. "A" S-292)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 103 voted in favor of the same and 1 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker Pro Tem and sent to the Senate.

Emergency Measure

Resolve, Regarding Legislative Review of Chapter 20: Forest Regeneration and Clearcutting Standards, a Major Substantive Rule of the Department of Conservation

(H.P. 883) (L.D. 1240)
(C. "A" H-552)

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

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

Emergency Measure

Resolve, to Establish the Commission to Study Alternative Uses for Unused Maine Youth Center Land and Buildings

(H.P. 1478) (L.D. 2118)
(H. "A" H-587 to C. "A" H-558)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 104 voted in favor of the same and 4 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker Pro Tem and sent to the Senate.

Mandate

An Act to Release Juvenile Crime Records to School Personnel

(S.P. 578) (L.D. 1658)
(C. "A" S-277)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. In accordance with the provisions of Section 21 of Article IX of the Constitution, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 108 voted in favor of the same and 2 against, and accordingly the Mandate was **PASSED TO BE ENACTED**, signed by the Speaker Pro Tem and sent to the Senate.

Acts

An Act to Amend the Drug Laws Related to Possession of a Firearm

(S.P. 39) (L.D. 49)
(C. "A" S-278)

An Act to Amend the Maine Criminal Justice Academy Requirements for Candidates for Sheriff

(H.P. 139) (L.D. 201)
(C. "C" H-560)

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

(S.P. 111) (L.D. 308)
(C. "A" S-279)

An Act to Reconcile Minor Technical Differences between Forest Practices Laws and Rules

(H.P. 299) (L.D. 407)
(C. "A" H-551)

An Act to Require That Workers' Compensation Coverage Be Equitably Applied to the Timber Industry

(S.P. 248) (L.D. 670)
(C. "A" S-269)

An Act to Ensure a Fair Distribution of Hunting Permits

(H.P. 970) (L.D. 1368)
(H. "A" H-585 to C. "A" H-567)

An Act to Allow Cutting of Trees in the Shoreland Zone Under Certain Conditions

(H.P. 1036) (L.D. 1458)
(C. "A" H-481)

An Act to Criminalize Internet Dissemination of Child Pornography

(H.P. 1116) (L.D. 1575)
(C. "A" H-418; H. "A" H-600)

An Act to Amend the Liability Limit under the Maine Tort Claims Act

(H.P. 1118) (L.D. 1577)
(C. "A" H-565)

An Act Governing Privileged Communications between Victims of Crimes and Governmental Victim Witness Advocates

(H.P. 1174) (L.D. 1685)

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)

An Act to Ensure Prompt Payment of Unemployment Compensation Benefits to Displaced Workers

(S.P. 638) (L.D. 1805)
(S. "A" S-267 to C. "A" S-216)

An Act to Provide Continuing Financial Support for the Maine Community Policing Institute at the University of Maine at Augusta

(H.P. 1326) (L.D. 1909)
(C. "A" H-559)

An Act to More Accurately Describe the Criminal Conduct Committed When a Person Grows or Cultivates Marijuana

(H.P. 1407) (L.D. 2012)
(C. "A" H-561)

An Act to Simplify the Rule of Reasonable Belief in the Maine Criminal Code

(H.P. 1411) (L.D. 2018)

An Act to Amend the Laws Relating to Issuance of a Warrant in the Name of the District Court

(H.P. 1424) (L.D. 2031)

An Act to Bring Certain Criminal Code Provisions Addressing Fines Into Conformity with Recently Amended Criminal Code Provisions Addressing Restitution

(H.P. 1491) (L.D. 2129)

An Act Regarding Long-term Care

(H.P. 1582) (L.D. 2231)

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

An Act to Prohibit the Employment of Professional Strikebreakers

(H.P. 756) (L.D. 1046)
(C. "A" H-484)

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

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

The same Representative **REQUESTED** a roll call on **PASSAGE TO BE ENACTED**.

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

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

ROLL CALL NO. 256

YEA - Ahearn, Bagley, Baker, Belanger, Berry RL, Bolduc, Bouffard, Bowles, Brennan, Brooks, Bryant, Bull, Carr, Chick, Chizmar, Clark, Colwell, Cote, Cowger, Davidson, Davis, Desmond, Dudley, Dugay, Dunlap, Duplessie, Etnier, Frechette, Fuller, Gagne, Gagnon, Gerry, Goodwin, Green, Hatch, Honey, Jabar, Jacobs, Kane, LaVerdiere, Lemoine, Madore, Mailhot, Martin, Matthews, Mayo, McDonough, McGlocklin, McKee, Mendros, Mitchell, Muse, Norbert, O'Brien JA, O'Brien LL, O'Neil, Perkins, Perry, Pieh, Powers, Quint, Richard, Richardson J, Rines, Rosen, Samson, Sanborn, Savage W, Saxl JW, Saxl MV,

Shiah, Sirois, Skoglund, Stanley, Stevens, Sullivan, Tessier, Thompson, Townsend, Tracy, Tripp, Twomey, Usher, Volenik, Watson, Wheeler GJ, Williams, Mr. Speaker.

NAY - Andrews, Berry DP, Bragdon, Bruno, Bumps, Cameron, Campbell, Cianchette, Clough, Collins, Cross, Daigle, Duncan, Foster, Gillis, Glynn, Gooley, Heidrich, Jodrey, Jones, Joy, Kasprzak, Kneeland, Lindahl, Lovett, MacDougall, Mack, Marvin, McKenney, McNeil, Murphy E, Murphy T, Nass, Nutting, Peavey, Pinkham, Plowman, Richardson E, Savage C, Schneider, Sherman, Shields, Shorey, Snowe-Mello, Stanwood, Stedman, Tobin D, Tobin J, Trahan, Treadwell, True, Waterhouse, Weston, Wheeler EM, Winsor.

ABSENT - Buck, Fisher, Labrecque, Lemont, McAlevy, O'Neal, Povich, Tuttle.

Yes, 88; No, 55; Absent, 8; Excused, 0.

88 having voted in the affirmative and 55 voted in the negative, with 8 being absent, the Bill was **PASSED TO BE ENACTED**, signed by the Speaker Pro Tem and sent to the Senate.

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 **Engrossed Bills** as truly and strictly engrossed.

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

The same Representative **REQUESTED** a division on **PASSAGE TO BE ENACTED**.

The Chair ordered a division on **PASSAGE TO BE ENACTED**.

The SPEAKER PRO TEM: The pending question before the House is Enactment. All those in favor will vote yes, those opposed will vote no.

A vote of the House was taken. 69 voted in favor of the same and 24 against, the Bill was **PASSED TO BE ENACTED**, signed by the Speaker Pro Tem and sent to the Senate.

An Act to Facilitate the Establishment of Trail Easements

(H.P. 1340) (L.D. 1923)
(C. "A" H-563)

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

On motion of Representative WATERHOUSE of Bridgton, was **SET ASIDE**.

The same Representative **REQUESTED** a roll call on **PASSAGE TO BE ENACTED**.

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

The SPEAKER: 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. 257

YEA - Ahearn, Andrews, Bagley, Baker, Belanger, Berry DP, Berry RL, Bolduc, Bouffard, Bowles, Bragdon, Brennan, Brooks, Bruno, Bryant, Bull, Bumps, Cameron, Campbell, Carr, Chick, Chizmar, Cianchette, Clark, Clough, Collins, Colwell, Cote, Cowger, Cross, Daigle, Davidson, Davis, Desmond, Dudley, Dugay, Duncan, Dunlap, Duplessie, Etnier,

Foster, Frechette, Fuller, Gagne, Gagnon, Gerry, Gillis, Glynn, Goodwin, Gooley, Green, Hatch, Heidrich, Honey, Jabar, Jacobs, Jodrey, Jones, Kane, Kasprzak, Kneeland, LaVerdiere, Lemoine, Lindahl, Lovett, MacDougall, Madore, Mailhot, Martin, Marvin, Matthews, Mayo, McDonough, McGlocklin, McKee, McKenney, McNeil, Mendros, Mitchell, Murphy E, Murphy T, Muse, Nass, Norbert, Nutting, O'Brien JA, O'Brien LL, O'Neil, Peavey, Perkins, Perry, Pieh, Plowman, Powers, Quint, Richard, Richardson E, Richardson J, Rines, Rosen, Samson, Sanborn, Savage C, Savage W, Saxl JW, Saxl MV, Schneider, Sherman, Shiah, Shields, Shorey, Sirois, Skoglund, Snowe-Mello, Stanley, Stanwood, Stevens, Sullivan, Tessier, Thompson, Tobin D, Townsend, Tracy, Trahan, Tripp, True, Twomey, Usher, Volenik, Waterhouse, Watson, Weston, Wheeler EM, Wheeler GJ, Williams, Winsor, Mr. Speaker.

NAY - Joy, Mack, Pinkham, Stedman, Tobin J, Treadwell.

ABSENT - Buck, Fisher, Labrecque, Lemont, McAlevey, O'Neal, Povich, Tuttle.

Yes, 137; No, 6; Absent, 8; Excused, 0.

137 having voted in the affirmative and 6 voted in the negative, with 8 being absent, the Bill was **PASSED TO BE ENACTED**, signed by the Speaker Pro Tem and sent to the Senate.

CONSENT CALENDAR

First Day

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

(S.P. 433) (L.D. 1270) Bill "An Act to Provide Child Care Subsidies for Families Who Lose Coverage under the Temporary Assistance to Needy Families Program" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass**

(S.P. 245) (L.D. 667) Bill "An Act to Allow the Commissioner of Inland Fisheries and Wildlife to Determine the Number of Moose Permits to Be Awarded" Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-313)**

(S.P. 315) (L.D. 949) Bill "An Act to Encourage Economic Development in the State" Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-309)**

(S.P. 455) (L.D. 1330) Bill "An Act Concerning Corrections Employees" Committee on **CRIMINAL JUSTICE** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-307)**

(S.P. 764) (L.D. 2156) Bill "An Act to Amend the Laws Governing the Construction of Salt and Sand Storage Facilities" Committee on **TRANSPORTATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-308)**

(H.P. 617) (L.D. 857) Bill "An Act Concerning Certified Nurse Practitioners and Certified Nurse Midwives as Primary Care Providers" Committee on **BANKING AND INSURANCE** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-630)**

(H.P. 1032) (L.D. 1454) Bill "An Act to Promote Ethanol Production as Alternative Fuel" Committee on **NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-632)**

(H.P. 1204) (L.D. 1714) Bill "An Act to Clarify and Improve the State's Solid Waste Management Laws" Committee on

NATURAL RESOURCES reporting **Ought to Pass as Amended by Committee Amendment "A" (H-633)**

(H.P. 1386) (L.D. 1992) Bill "An Act to Limit Entry into the Lobster Fishery by Zone" Committee on **MARINE RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-629)**

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

ENACTORS

Emergency Measure

An Act to Amend the Laws Relating to the Location of Lobster Trap Escape Vents

(S.P. 835) (L.D. 2236)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 121 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker Pro Tem and sent to the Senate.

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.

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-154)** on Resolve, Authorizing Certain Members of the Sullivan Family to Bring Suit Against the State

(S.P. 605) (L.D. 1728)

Signed:

Senators:

FERGUSON of Oxford
CAREY of Kennebec

Representatives:

TUTTLE of Sanford
GAGNE of Buckfield
MAYO of Bath
PERKINS of Penobscot
McKENNEY of Cumberland
O'BRIEN of Lewiston
HEIDRICH of Oxford

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

Signed:

Senator:

DAGGETT of Kennebec

Representatives:

CHIZMAR of Lisbon
FISHER of Brewer
LABRECQUE of Gorham

Came from the Senate with the Resolve and all accompanying papers **COMMITTED** to the Committee on **LEGAL AND VETERANS AFFAIRS**.

READ.

On motion of Representative CHIZMAR of Lisbon, the Resolve and all accompanying papers were **COMMITTED** to the Committee on **LEGAL AND VETERANS AFFAIRS** in concurrence.

Divided Report

Majority Report of the Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-312)** on Bill "An Act to Clarify the Laws Relating to Off-track Betting Facilities"

(S.P. 577) (L.D. 1657)

Signed:

Senators:

DAGGETT of Kennebec
CAREY of Kennebec
FERGUSON of Oxford

Representatives:

TUTTLE of Sanford
FISHER of Brewer
GAGNE of Buckfield
LABRECQUE of Gorham
MAYO of Bath
PERKINS of Penobscot
HEIDRICH of Oxford
McKENNEY of Cumberland
O'BRIEN of Lewiston

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

Signed:

Representative:

CHIZMAR of Lisbon

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-312)**.

READ.

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

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

Representative **CHIZMAR**: Mr. Speaker, Men and Women of the House. I rise in opposition, the only one in opposition, to LD 1657, and I would like to share with you my concerns. At present there have been four off track betting facilities that have gone out of business, we've had a closing of one in Madawaska, we've have two licensees in Presque Isle and just recently the Bath Off Track Betting Facility closed. The closing of these four facilities has cost the State, as of today, \$80,000.

My second objection to this piece of legislation is the reduced payments. It's based on population and area covered, but it eliminates Lewiston, Waterville, Bangor and Brunswick. When this piece of legislation was introduced to the Legal and Veterans Affairs Committee, there were people that had proper license, since then we have no licensee for the Presque Isle area and my fourth objection to this is that the off track betting facilities had a problem with the smoking law ban that we voted several weeks

ago. Special language has been written into this legislation so that it will cover them so that they can smoke. Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative **LEMOINE**: Mr. Speaker, Men and Women of the House. Does this proposed legislation expand the opportunity for off track betting in this state?

The SPEAKER: The Representative from Old Orchard Beach, Representative Lemoine has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Lisbon, Representative Chizmar.

Representative **CHIZMAR**: Mr. Speaker, Men and Women of the House. In answer to the Representative from Old Orchard Beach's question. Yes it does. Thank you.

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**: Mr. Speaker, Men and Women of the House. To anyone who cares to answer, would someone please again clarify for me exactly what this bill does?

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 Lisbon, Representative Chizmar.

Representative **CHIZMAR**: Mr. Speaker, Men and Women of the House. In answer to the Representative from Standish question. It does expand and allow additional off track betting facilities to be opened within the State.

On motion of Representative McNEIL of Rockland, **TABLED** pending the motion of Representative GAGNE of Buckfield to **ACCEPT** the Majority **Ought to Pass as Amended** Report and later today assigned.

Divided Report

Majority Report of the Committees on **HEALTH AND HUMAN SERVICES** and **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-623)** on Resolve, to Implement the Recommendations of the Task Force to Study Strategies to Support Parents as Children's First Teachers

(H.P. 689) (L.D. 956)

Signed:

Senators:

PARADIS of Aroostook
BERUBE of Androscoggin
MURRAY of Penobscot
SMALL of Bath

Representatives:

KANE of Saco
BROOKS of Winterport
FULLER of Manchester
QUINT of Portland
DUGAY of Cherryfield
WILLIAMS of Orono

RICHARD of Madison
DESMOND of Mapleton
BRENNAN of Portland
BAKER of Bangor
SKOGLUND of St. George
WATSON of Farmingdale

Minority Report of the same Committees reporting **Ought to Pass as Amended by Committee Amendment "B" (H-624)** on same Resolve.

Signed:

Senator:

MITCHELL of Penobscot

Representatives:

LOVETT of Scarborough

BRAGDON of Bangor

SNOWE-MELLO of Poland

SHIELDS of Auburn

WESTON of Montville

STEDMAN of Hartland

ANDREWS of York

BELANGER of Caribou

READ.

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

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

Representative STEDMAN: Mr. Speaker, Ladies and Gentlemen of the House. We have two reports here, Ought to Pass, one report would take money out of the current funds available in the State, The second report would take money out of the tobacco money when that becomes available. I would encourage you to reject the motion on the floor and go to the Minority Report. Thank you.

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

Representative KANE: Mr. Speaker, Men and Women of the House. The Majority Ought to Pass Report does emphasis the critical importance of initiating the program as early as possible. This whole program, this whole initiative, whether we call it Parents as First Teachers or Start Me Right, has been one of the broadest grassroots program that we have ever seen develop in the State of Maine. At the public hearing on this, there must have been 200 people and there are Start Me Right Programs, the Start Me Right Committees and Groups that exist all over the State, looking to us to respond as quickly as possible to an urgent need.

The whole concept underlying the Start Me Right Program, based upon substantial research done on brain development is that children when first born are suspects. Susceptible to influences which either reinforce healthy development or impede it. When we look at the potential impact of a six month delay on several hundreds or thousands of newborns in the State of Maine, we felt it was worth considering, not committing, but considering the feasibility of using general fund revenue to get us out of the starting gate. Our expectation is that this would go before the Appropriations Committee and compete with other worthy projects, but the concept, which is based so much on the earliest possible intervention, we felt it was critical to initiate the program just as soon as possible and that's the rationale for the differences in the Report.

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

Representative ANDREWS: Mr. Speaker, Men and Women of the House. I, too, am on the Minority Report and I don't think anyone would dispute the good intentions of this and the need for this, but I would ask you to take a note of the fiscal note and realize that it's over a million and a half the first year, six and a half million the second year. We've all fought very hard to get increased funding for GPA and some other critical programs and this will have a definite impact on that. I would ask you to support the Minority Report.

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

Representative BRENNAN: Mr. Speaker, Men and Women of the House. I absolutely agree with the previous speaker, Representative from York. There is very little if any dispute about the merits of this bill. We all agree about the preventive nature of this bill and the importance of children getting off to a good start. In fact, in the Education Committee one of the common complaints that we hear over and over and over again is that children come to first grade not prepared to enter the first grade. Teachers, administrators, and people in education repeatedly come to us and say, "We can do the job, but we need to have children in a better position when they enter first grade of being able to learn." Quite simply, this is what this bill is all about. It makes sure that those children in this state, in fact every child in this state will start first grade ready to learn. It's a fairly simple concept, but it's one that we all agree needs to happen. Everybody here, I think has had a story, or they've seen an instance of a child that has struggled in school. It almost inevitable, when you trace that struggle back, it goes back before they started school and if somebody had intervened in that child's life early on, it would have made all the difference in their performance in school. I think this is an important bill. I think this is a bill that we should go forward with and I think it's a critical bill for our education system and for our children moving into the next century. Thank you.

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

Representative LOVETT: Mr. Speaker, Ladies and Gentlemen of the House. I have to agree with the former speaker from Portland. This is a wonderful program. It's a program that's much needed, but there's been a lot of programs, there's been bills that have come through our committee that I've felt were very important and you all know how important children are to me, but I had to think hard about this. I don't want to start a program and not be able to carry out the program the way it was laid out for us. Consequently, I voted on the Minority Report and I would hope you would look at this and seriously give us consideration. We want a program that's going to work continuously and not start something that we can't finish. Consequently, I think this is a candidate for the tobacco money. I think this is something that we should consider honestly and truly and therefore, I'm going to ask you to go with the Minority Report. Thank you.

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

Representative BROOKS: Mr. Speaker, Ladies and Gentlemen of the House. I think this is the reason why I was elected. I live in a county where this was tested, Waldo County and the statistics that have been brought out in the public hearings and in the work sessions that I have attended on this legislation show that the children that were going to first grade in most areas of the state are ill prepared, but in Waldo County

where home visits, and in Waldo County where programs similar to this have been tested, the children have been tested, the results are 97 percent of the children are ready. I know we're talking about the merits of the Majority Report as compared to the Minority Report, but I make that point to you because I don't want to see this kind of legislation languish for six months.

I think many of my colleagues in the House have witnessed the agonizing testimony that comes to the Corrections Committee and other committees that have been facing the perils and the problems of this state. I suggest to you, that there isn't a single piece of legislation that I have seen in my short period of time that may have a greater impact five or ten years down the road on this state an early start. If we can prepare children for school before they get there and we can achieve a success rate even remotely close to what has been documented in Waldo County, think of the head start we're going to be giving all these children. I think that's why we're here. We're here to find ways to make this a better state. Sometimes we decry that we're spending hundreds of millions of dollars on certain products. Here's an opportunity to spend money in an area that has been testified too that the return can be as much as seven to one. For every one dollar we invest, we will see the fruits of our work back seven fold.

The Minority Report would ask you to wait and take this out of the tobacco money. Now there are arguments that have already been put forth about that tobacco money and how we should spend it and when we get to that, that's going to be debated a whole lot more. I will not disagree with anyone that there are some connections and some cessation programs that in Waldo County we have again documented a change in the prime care among the mothers who have ceased to smoke. It is there. It does happen. There is a connection, but I ask you why wait. We've been waiting for centuries for a bill like this to come along. It's an opportunity for us to put forward and to put in motion, in January, a program that will affect us for many, many years to come. The best prevention program that we could ever put forth and afford at this dollar, so I hope that you will follow my light and others like it and pass the Majority Report. Thank you, Mr. Speaker.

Representative BROOKS of Winterport **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 Manchester, Representative Fuller.

Representative **FULLER**: Mr. Speaker, Ladies and Gentlemen of the House. There is no question that everybody agrees that this is an extremely valuable program. I can understand the concern about the fiscal note, but I would argue along with those that say let's get started. There's every intention when the tobacco settlement money becomes available, and it will become available on June 30th of the year 2000, which is at the end of the first fiscal year of the next biennium, that this program can be funded out of the tobacco settlement money, but let's get it started and on with the business of providing a better start for our kids. Thank you.

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

ROLL CALL NO. 258

YEA - Ahearne, Baker, Berry RL, Bolduc, Bouffard, Brennan, Brooks, Bryant, Bull, Chick, Chizmar, Clark, Colwell, Cote, Cowger, Davidson, Desmond, Dudley, Dugay, Dunlap, Duplessie, Etnier, Frechette, Fuller, Gagne, Gagnon, Gerry, Green, Hatch, Jabar, Jacobs, Kane, LaVerdiere, Lemoine, Madore, Mailhot, Martin, McDonough, McGlocklin, McKee, Mitchell, Muse, Norbert, O'Brien LL, O'Neil, Perry, Pieh, Powers, Quint, Richard, Richardson J, Rines, Samson, Sanborn, Savage W, Saxl JW, Saxl MV, Shiah, Sirois, Skoglund, Stanley, Stevens, Sullivan, Tessier, Thompson, Townsend, Tracy, Tripp, Twomey, Usher, Volenik, Watson, Williams, Mr. Speaker.

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

ABSENT - Buck, Fisher, Goodwin, Labrecque, Lemont, Matthews, McAlevy, O'Neal, Povich, Tuttle.

Yes, 74; No, 67; Absent, 10; Excused, 0.

74 having voted in the affirmative and 67 voted in the negative, with 10 being absent, the Majority **Ought to Pass as Amended Report was ACCEPTED**.

The Resolve was **READ ONCE**. **Committee Amendment "A" (H-623) was READ** by the Clerk and **ADOPTED**.

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

Under further suspension of the rules the Resolve was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-623)** and sent for concurrence.

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

Divided Report

Majority Report of the Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought Not to Pass** on Bill "An Act to Terminate the Authority of the Governmental Facilities Authority" (S.P. 57) (L.D. 127)

Signed:

Senators:

PENDLETON of Cumberland

DAVIS of Piscataquis

Representatives:

AHEARNE of Madawaska

BAGLEY of Machias

RINES of Wiscasset

McDONOUGH of Portland

TWOMEY of Biddeford

BUMPS of China

JODREY of Bethel

RICHARDSON of Greenville

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (S-146)** on same Bill.

Signed:

Senator:

GOLDTHWAIT of Hancock

Representatives:

KASPRZAK of Newport

GERRY of Auburn

Came from the Senate with the Minority **OUGHT TO PASS AS AMENDED** Report of the Committee on **STATE AND LOCAL GOVERNMENT READ** and **ACCEPTED** and the Bill **FAILED OF PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-146)**.

READ.

Representative AHEARNE of Madawaska moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

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

Representative **KASPRZAK**: Mr. Speaker, Men and Women of the House. It is not my pleasure that this goes under the hammer Ought Not to Pass. I think this is an important piece of legislation and I think we need to consider it. I'd like to share just a little bit of the testimony that we heard from the good Senator at the other end of the hall. When the Maine Constitution was adopted, there was no apparent restriction on the Legislature to incur public debt, the omission was not a problem until the 1830's when the state began lending money to multiple private ventures, building railroads, canals, and other infrastructure. In 1848, after a series of those speculative ventures failed, Maine voters adopted the sixth amendment to the Constitution contained two fundamental prohibitions that are in Article 9, Section 14. The 1848 amendment restricts the manner in which the state may incur a debt of its own. It says the Legislature shall not create any debt, or debts, liability, or liabilities on behalf of the State which shall singly or in the aggregate with previous debts and liabilities hereafter incurred at any one time exceed \$2,000,000 except to suppress insurrection, to repel invasion, or for purposes of war, and except for temporary loans to be paid out of money raised by taxation during the fiscal year in which they were made; and excepting also that whenever 2/3 of both Houses shall deem it necessary, by proper enactment ratified by a majority of the electors voting thereon at a general or special election, the language is simple, clear and broad. As I recall when this began in State and Local Government Committee, this new entity that could borrow money at taxpayer expense was not created to suppress insurrection, to repel invasion, or for purposes of war. It was a new entity created for borrowing purposes, which doesn't have much accountability and that is my argument and I believe the argument of the good Senator from the other end of the hall and I would appreciate your support in voting against the pending motion. Thank you.

Representative **KASPRZAK** of Newport **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 China, Representative Bumps.

Representative **BUMPS**: Mr. Speaker, Men and Women of the House. I urge you to vote in favor of the Majority Ought Not

to Pass Report. I share some of the concerns of the Representative from Newport about Government Facilities Authority. In the 118th Legislature, I was a cosponsor of the Legislation that created the Authority. I will tell you quite honestly that the problem is not the Authority. The problem is an 11th hour action that was taken by this Legislature in the 118th Legislature to remove a requirement that bonds issued by the Maine Governmental Facilities Authority be approved by a 2/3 vote of the Legislature. There was a perception at the time that a pending proposal would not be accepted by the 2/3 of the Legislature, and so that minimal requirement was stripped from the legislation and the bill was passed requiring a simple majority of the Legislature to approve bonding for the Governmental Facilities Authority.

Representative Etnier and I submitted a bill to this Legislature that would have restored the 2/3 vote required for bonds to be issued by the Governmental Facilities Authority and unfortunately because of a newly adopted House Rule, that bill was deemed not properly before the House. A potential solution to this problem would be to amend the Constitution to require whenever the Governmental Facilities Authority or Authority like it issue bonds they go through the process of achieving a 2/3 vote of the Legislature. This would assure the kind of public support that Representative Kasprzak, myself and others would expect whenever the Facilities Authority, or other Authorities were to go about issuing bonds.

The benefits of the Facilities Authority and the reason that I oppose the termination of it and ask for you to vote against the bill is that it allows for the administration and the Legislature to prioritize capital improvement projects that otherwise can't be prioritized and otherwise can't be achieved. You see this process of sending to the voters every single capital improvement project becomes necessarily cumbersome and involves and delays the process of making the improvements to buildings like the State Office Building and like the State House and they necessarily fall into disrepair. The Facilities Authority is a responsible entity created to carry out capital improvement projects, but it must require at least a 2/3 vote of Legislature and currently it does not. So I submit to you the answer to the problem is not to terminate the Authority, the answer to the problem is restoring the 2/3 vote of the Legislature, which was stripped from the legislation at a very late hour in the last Legislature in order to achieve what could have been easily achieved without taking such a disastrous move. I would urge you to accept the pending motion. Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative **WATERHOUSE**: Mr. Speaker, Men and Women of the House. I heard the previous speaker talk about what I refer to as expediency and I don't mean that as any deprecating way. The fact that we have a problem is a way of doing things and it may be unconstitutional. I know we have an Attorney General's position on this from the 118th, but has this been challenged in the courts, because the courts will not look at the constitutionality unless its brought to the attention and has standing, has that been done?

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. 259

YEA - Ahearne, Andrews, Bagley, Baker, Berry RL, Bolduc, Bouffard, Brennan, Brooks, Bruno, Bryant, Bull, Bumps, Cameron, Carr, Chick, Chizmar, Cianchette, Clark, Colwell, Cote, Cowger, Cross, Daigle, Davidson, Davis, Desmond, Dugay, Duncan, Dunlap, Duplessie, Etnier, Frechette, Fuller, Gagne, Gagnon, Gillis, Green, Hatch, Honey, Jabar, Jacobs, Jodrey, Kane, Kneeland, LaVerdiere, Lemoine, Lovett, Madore, Mailhot, Martin, McDonough, McGlocklin, McKee, McNeil, Mitchell, Murphy E, Murphy T, Muse, Norbert, Nutting, O'Brien JA, O'Brien LL, Peavey, Perry, Pieh, Powers, Quint, Richard, Richardson E, Rines, Rosen, Samson, Sanborn, Savage C, Savage W, Saxl MV, Schneider, Sherman, Shiah, Shorey, Sirois, Stanley, Stanwood, Stevens, Tessier, Thompson, Tobin D, Townsend, Tracy, Tripp, True, Twomey, Usher, Volenik, Watson, Weston, Wheeler GJ, Williams, Winsor, Mr. Speaker.

NAY - Belanger, Berry DP, Bowles, Bragdon, Campbell, Clough, Collins, Foster, Gerry, Glynn, Gooley, Heidrich, Jones, Joy, Kasprzak, Lindahl, MacDougall, Mack, Marvin, McKenney, Mendros, Nass, Perkins, Pinkham, Plowman, Shields, Skoglund, Snowe-Mello, Stedman, Tobin J, Trahan, Treadwell, Waterhouse, Wheeler EM.

ABSENT - Buck, Dudley, Fisher, Goodwin, Labrecque, Lemont, Matthews, Mayo, McAlevy, O'Neal, O'Neil, Povich, Richardson J, Saxl JW, Sullivan, Tuttle.

Yes, 101; No, 34; Absent, 16; Excused, 0.

101 having voted in the affirmative and 34 voted in the negative, with 16 being absent, the Majority **Ought Not to Pass** Report was **ACCEPTED** in concurrence.

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

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 Citizens' Advisory Committee to Secure the Future of Maine's Wildlife and Fish

(S.P. 725) (L.D. 2045)

(C. "A" S-254)

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

PENDING - FINAL PASSAGE.

On motion of Representative DUNLAP of Old Town, 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**.

The same Representative **PRESENTED** House Amendment "A" (H-639) which was **READ** by the Clerk.

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

Representative **DUNLAP**: Mr. Speaker, Men and Women of the House. What this amendment does, it provides for a

technical change which deals with the appointment of committee members or Legislators, rather, to this study committee and makes it more in conformity with the standard practice of those appointments and also the other significant part of this floor amendment is that it is the first one I have ever offered and if anyone would like an autographed copy, I'll make sure that you get one. Thank you very much.

House Amendment "A" was **ADOPTED**.

The Resolve was **PASSED TO BE ENGROSSED** as Amended by Committee Amendment "A" (S-254) and House Amendment "A" (H-639) in **NON-CONCURRENCE** and sent for concurrence.

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:

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **JUDICIARY** reporting **Ought Not to Pass** on Bill "An Act to Ban Partial Birth Abortion" (I.B. 1) (L.D. 1593)

Signed:

Senators:

LONGLEY of Waldo

TREAT of Kennebec

BENOIT of Franklin

Representatives:

THOMPSON of Naples

BULL of Freeport

LaVERDIERE of Wilton

MITCHELL of Vassalboro

JACOBS of Turner

NORBERT of Portland

SCHNEIDER of Durham

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-627)** on same Bill.

Signed:

Representatives:

PLOWMAN of Hampden

MADORE of Augusta

WATERHOUSE of Bridgton

READ.

Representative THOMPSON of Naples moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

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

Representative **THOMPSON**: Mr. Speaker, Men and Women of the House. The bill before you on Supplement 4 is the initiated bill, which has been submitted to the Legislature in accordance with the Constitution of the State of Maine. Our options here this evening are to vote either Ought to Pass or Ought Not to Pass, just as our options were back in the committee. In an initiated petition there are no amendments allowed to the initiated bill and the committee could either vote to pass it, Ought to Pass or Ought Not to Pass which is the vote to send the bill out to a referendum vote. There was one other option available to the committee, I might add, that the

committee did not take and that is in any referendum you could have the report to say you want to put on a competing measure. In this case the committee voted 10 to 3 to send the matter out to referendum, so when you look at the vote of the committee, Ought Not to Pass has a somewhat different meaning than it does on most issues that are before you.

This area of abortion is an area which I would go out on a limb and say we are not going to change any minds on tonight and the issue on this bill is simply whether you choose to vote to enact the bill at this time or to send the bill out to referendum. I'd like to though, give my opinions on the bill, on the referendum, the initiated bill and tell you why I do not support this bill.

LD 1593 does not have an exception in it to protect the health of the woman. It simply says that a certain type of procedure is prohibited. It does say in exception for the life of the mother, but not for the health of the mother, so the situation could arise where the woman, the mother, the woman faces a potentially very serious medical emergency, but an exception could not be made to this law, to this ban unless it was to save her life. Anything short of that and there is no exception.

I also oppose the initiated petition because it is vague for a couple of reasons. The concept of partial birth abortion is certainly not a medical term and is not a discrete procedure that is described as a medical term, it's a term that is defined in the law and the provisions of this bill, although it reports to only prohibit late term abortions, there is no statement of the fact that it banned only after viability so it could be construed to having the affect of being in effect in earlier stages of pregnancy than you would otherwise be led to believe.

In the State of Maine in current law, enacted in 1993, prohibits post viability abortions and the only exceptions are when a woman's life or health is in danger. As a result of that ban, from the statistics provided us by the Department and Doctor Dora Mills from 1984 to 1997, there were only two third trimester abortions performed in the State of Maine. There is no indication whether those were of the partial birth abortions or not. Now you will also hear, I'm sure, from my friend the Representative from Hampden, Representative Plowman, that there are a certain number of other documents that were filed with the Department that were not completely filled out and there is some truth to that, but there is also no indication that any of those involved third trimester abortions. In addition from 84 through 97, 99 percent of all abortions performed in Maine were performed before the 20th week of the pregnancy.

The final reason why I am opposed to this bill is that I believe it is unconstitutional, that it contrasts, contradicts the Supreme Court decisions which have laid out the law in this area. So far federal and state courts in 18 other states have found, either found the statutes to be unconstitutional or have held up enforcement of enacting or they have stopped the enforcement of the law until the final ruling is made. The courts have indicated in some of these decisions, in many of these decisions, that laws very similar to this are written so broadly that they could outlaw the most common and safe abortion procedures used at nearly every stage of pregnancy. This is an issue that I don't think is going to end here tonight, obviously, it's going to go on from here. I will be voting with the Majority Ought Not to Pass Report and I don't expect I am going to change any minds, but I also don't expect anyone on either side is going to change any minds on this issue. Thank you.

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

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

Representative AHEARNE: Mr. Speaker, Ladies and Gentlemen of the House. I ask you to vote against the pending motion so there will be no need to send this bill, this initiative out to referendum, so that we can enact this bill. Life is precious. Life is sacred and should be cherished by all. I am a pro life democrat, but being pro life is not just being anti abortion. We all have responsibility to insure that all stages of life receive the respect, care and dignity it all deserves. I accept unhappily that abortion is legal and the Supreme Court as of now will keep it so. I am a realist, abortion will not disappear. The fight to eliminate and end all abortions is impossible. However, having made those statements, under current law abortions are too readily available and there are no safe guards to insure all of those involved know the whole truth about the procedure or about the availability of services if a decision is made to keep the baby. I want to clarify once and for all a statement that continues to be advocated time after time and that statement is that current Maine law forbids the third trimester abortions and thus the law to ban partial birth abortions is not needed. Not true.

First, let's discuss current Maine law, Title 22, section 1598, subsection 4, abortion after viability. As defined in Maine Statute, viability means the state of fetal development when the life of the fetus may continue indefinitely outside the womb by nature, natural or artificial life support systems. An abortion performed after viability is prohibited except as necessary for the preservation of the life or health of the mother. As I have continued to point out and time after time the critical word is health. In the United States Supreme Court Ruling, Doe versus Bull, the word health is broadly defined. Medical judgment must be excised in the life of all factors, physical, emotional, physiological, and the woman's age, relevant to the well being of the patient. The court wrote all these factors may relate to health. This allows the attending physician the room he needs to make his best judgment. This landmark ruling makes the prohibition on abortions after viability as stated in Maine law an absolute joke. It amounts to a mostly symbolic, but unenforceable statement by the State of Maine that abortions after viability are frowned upon, but the Supreme Court's ruling and the broad definition of health, third trimester abortions and for that matter, partial birth abortions can and will be performed at any stage of the pregnancy for whatever the reason. What we have here, in fact, is on demand abortion. Abortion at any time during the pregnancy for any reason, so let's set the record straight once and for all. The continued statement by the pro-abortion advocates that because there are only a small percentage of third trimester performed, a ban on partial birth abortions is not needed, fails the straight face test. With this logic and reasoning, does it mean that because Maine has a low murder rate or crime rate, we can reduce our public safety budgets or reduce the police force. Does this mean because we are seeing a reduction in teenage pregnancy, we can cut or even eliminate funding for programs that cause that decrease. The obvious answer is no. This form of logic and reasoning is completely flawed.

There are other problems with the pro abortion planks, one, the fact that third trimester abortions are permitted for nearly any

reason and that unborn children are left unprotected is significant in itself regardless of whether a small percentage of total abortions have taken place during this time. Two, since there are 1.5 million abortions per year in the United States, it follows that 15,000 or one percent of them are done in the third trimester. This means that 1,250 of them are performed every month, about 40 a day. This is no insignificant number. Another claim from the pro-abortion advocates is that this citizen's initiative to ban partial birth abortions will ban all abortions is completely false. Rather than discuss the absolute need and defense for this horrific procedure the pro-abortion advocates rather divert attention from the real issue and that is the abortion itself. As far as I recall not once during the debate last legislative session to ban partial birth abortion did the issue of the complete ban ever arise, not once. This bill is a mirror of the federal legislation that was vetoed by our President and the procedure described is a very precise as is what is being prescribed. It is based on that Doctor Haskell's own description. Doctor Haskell is one of those who support the use of the partial birth abortion procedure. The bill is so worded as to clearly distinguish the procedure being banned from recognized obstetric techniques and recognized abortion techniques, such as DNE which would be unaffected by the proposed ban. Personally, I welcome the discussion on partial birth abortion. For that matter, the whole issue of abortion itself, once the people of Maine hear the facts and not the distorted views of the pro abortion advocates, they, too, will see the need for safeguards on nonrestricted abortions here in Maine and why a ban on partial birth abortion is needed. I look forward to seeing those doctors like Doctor Mark Haskell, who supports this procedure go up against those doctors like former Surgeon General C. Everett Koth, who sees no reason for this procedure in a one on one or group debate. It is important that everyone know the facts from the professionals who deal with these cases. Once the citizens of Maine see the truth, they too will be supportive of the initiative to ban partial birth abortions.

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

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

Representative **WATERHOUSE**: Mr. Speaker, Ladies and Gentlemen of the House. Often times, I'm sure all of us, I certainly had a moment this morning, that we see things that are somewhat ironic and very poignant. I had one of those moments this morning when I got this little piece of paper on my desk, as I'm sure all of you have seen it and may still have it. In a sense it's a study showing butterflies, and I thought when I read that about the upcoming debate on partial birth abortion and how ironic it is that we have this concern on the protection of butterflies and yet this procedure is being carried on.

All those things that the good Representative, Representative Ahearne, said as far as I'm concerned are true. I remember the debate in the 118th, and by the way ladies and gentlemen in the 118th this House passed the ban by a pretty good margin. It was a long day. Some of you who were here then remember that debate and I'm going to try to keep mine truncated so we don't keep it too long, but some of the things have to be said and keep on being said and stressed. I remember the debate was a dueling of doctors, we had a group of doctors who said this and a group of doctors who said that. It was almost like a jury trial, you had expert witnesses on both sides. One saying it was

never medically necessary to protect the mother's health or future fertility, others saying you should keep out of the doctor patient relationship. The American Medical Association taking a position against this procedure saying, if anything, to be harmful.

About the constitutionality and it's been mentioned before in the last couple of days how strange it is we all use the Constitution as a leverage to debate against some of the things we don't like. Some of those cases have been decided by the Supreme Court, but this one hasn't. This one is not ripe. It hasn't reached the Supreme Court, so I don't think it's a valid argument to say this is unconstitutional, in light of what the Supreme Court has done on some of the abortion issues.

I wish that everybody here could have seen the testimony that Senator Henry Hyde gave before the Judiciary Committee in Congress. I got on the Web site this morning and read it. It was very profound and it really tells, to me, how dangerously close we are in our society to go over that precipice. The strange thing about this abortion debate on partial birth abortion, most of my calls in the 118th and most of my contact since this issue has been put out to come before the citizens in an initiative are from pro choice people. Lifelong pro choice people who recognize this for what it is, in their eyes and in my eyes and what my good friend from Westbrook, previous Representative from Westbrook, Bill Lemke, having been a pro life person, supporter, all his life said ladies and gentlemen let's call this what it is, it's infanticide. I'm going to stop here and hope that everybody will reach into their soul and vote against this pending motion. Thank you.

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 Dexter, Representative Tobin.

Representative **TOBIN**: Mr. Speaker, Ladies and Gentlemen of the House. I rise for the third time this week, which doesn't happen very often. I was present during the 118th when we debated this for several hours, if I remember correctly and for the last two years I've been reflecting over what was said and to be very honest with you I'm sorry that I didn't get up during the 118th. I'm also asking you to vote against the pending motion.

There are a number of reasons, maybe it's my French, Irish Catholic upbringing, maybe it's my wife having worked in the maternity ward at the local hospital, maybe it's because I've had four grandchildren in the last four years and held in my arms just minutes after they were born, but I thought about this for a couple of years and the most important reason is none of those. The most important reason I lend to my education, ladies and gentlemen.

I want you to think for a minute about the movie, *Forrest Gump*. You know my wife thinks it was far fetched, but there was a lot about universal truth in that movie. Forrest had two handicaps, both physical and mental and he went on to accomplish tremendous things in the course of his lifetime, but it all began with his mother and so did my education, ladies and gentlemen, my education began with my mother. I remember my mother reading to me *Black Beauty*, I wasn't even four years old, but I remember that. We went on to the *Swiss Family Robinson*, and *Robertson Caruso* and *Heidi* and by the time I was six years old, she had read most of all the classics to me so when I started school in the first grade, I was an avid reader.

I was going to be a math major in college but after my freshman year was just a repeat of what I had in high school so I decided to be a literature major. I majored in literature. In graduate school I took a special interest in philosophy and I still

have a special interest in philosophy and it's amazing how the great writers, the greatest writers in the history of man, the greatest thinkers, the greatest philosophers in the history of man have reached some similar conclusions and those conclusions are there are four great conflicts in the world, ladies and gentlemen, the first one is man versus man, very easy to understand, Hollyfield versus Tyson, the world versus Sadden Hussein. It's an internal conflict. Man is going to conflict with other men.

The second, ladies and gentlemen, is man versus nature, the ice storm of 98. What control did we have over the ice storm of 98? What control do we have over the weather and global warmth? We have very little control over that conflict, man versus nature. The third, ladies and gentlemen, is very, very, very important, it's man versus himself. It is the most awesome, the most dangerous, the internal conflict that we have and this bill, ladies and gentlemen, is a perfect example of man versus himself. We are our own enemies, we are consuming ourselves. Forrest Gump's mother said to him, "Forrest, life is like a box of chocolates, you never know what you're going to get. Forrest, stupid is as stupid does."

Ladies and gentlemen, I know I probably won't change many people's minds. I think our good Chair is absolutely correct, but if you're on the border line, just think about that important conflict, man versus himself and think about our unquenchable thirst for control. Evidence, 3,000 bills this session. Man's unquenchable appetite, we can't satiate our appetite for control. What a perfect example this is. We want to control everything. Please ladies and gentlemen examine you consciences and think about voting Ought Not to Pass. Thank you.

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

Representative BULL: Mr. Speaker, Men and Women of the House. I rise today in strong support of the pending motion. We need to call this bill for what it is. This is the bill to ban abortion. I'm not here to defend the procedure, I'm here to defend the woman's right to choose and show my trust in a woman's decision. I want to ask you all to do something that I think happens all too rarely on this House floor, I want you to find this bill in your folder, in your neighbor's folders, and look at it and read it. Really look at it, look at the language, look at the definitions and try to explain what this bill means, because that is what the crux of this comes down to. The language in this bill is so vague, so ambiguous, that this bill could easily be construed to ban all abortions. The doctors who would be faced with this bill would not know it's interpretation and therefore could very likely choose to skew all portions for fear that they would be in violation of this vague and ambiguous law. This bill has so far been challenged 18 different times in 18 different states to courts, so far not one court has upheld this bill. They have all overturned this bill on constitutional grounds that it violates Roe B. Wade.

Already, here in Maine you have a law that bans abortions post viability except for the life or the health of the mother. What this bill intends to do is nullify current law, current law that has been on the books for many years. We've heard some reference that the health exemption in that current law could be abused. Ladies and gentlemen, I trust a woman not to go out and get an abortion on a whim, particularly one late in her pregnancy. We may be hearing some descriptions here, this is not about procedure and what it means. What this is about is a woman's right to choose, and to make incredibly painful personal

medically necessitated decisions on her own. If we take the health exemption out, what we are asking the woman to do is to make a trade off between her health and the survival of the fetus. So again, what we have here is the bill to ban abortion. This is a back door attempt to circumvent the Supreme Court's decision in Roe B. Wade that constitutionally protects the woman's right to choose. If this bill is passed in it's present form, in it's vagueness, that is what this bill will do it will ban abortions. The Maine Medical Association has not come out in opposition to this bill, to this procedure. The whole issue of abortion to me, ladies and gentlemen, is that this is an incredibly private, personal decision that needs to be left between a woman, her doctor, and her God. We can not inject government into this equation. I urge your support for the pending motion. Thank you, ladies and gentlemen.

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

Representative NORBERT: Mr. Speaker, Ladies and Gentlemen of the House. Sadly for many women, life is not a box of chocolates, faced with the anguishing and difficult personal choices, terminating pregnancy at the late stage is very difficult and I wish you all could have been at the public hearing to hear some of the tragic stories of people who did not want to make this decision, but who had to, because of the health considerations. As a member of the Judiciary Committee, I rise in support of the pending motion, and I just wanted to speak briefly about Constitutional ramifications of the bill. So many times in this chamber we are aloath and rightfully so discuss Constitutional questions. It's so often it is the prerogative of another branch of government, but I still feel as lawmakers it is our responsibility to look to what courts have said about the laws we are considering, especially when they have done so in unison and in such a loud and similar voice. As I think it is in this case, given numerous court decisions throughout other states that have considered almost the exact same language in this case. Maine currently does have a Constitutional statute on the books and it is Constitutional, it bans abortions after viability except to protect the life and health of the mother. This proposed bill, or law, does not even mention viability. As has been noted earlier, in the last two years alone, partial birth abortion bans have been challenged in 19 states and in all but one of them, the courts have refused to let them go into action. There are similar factors underlying these court decisions and that is the recognition by the courts of four particular elements common to the proposed laws. One is the undo burden, such a law would present on the right of a woman to terminate her pregnancy, because of the wide-ranging prohibition on safe and currently common and legal methods of abortion. Second is a failure of these laws to include adequate exceptions for abortions that are necessary to preserve a woman's life or health. Third, many courts have found the language is impressively vague and fourth, in some cases, they impose unconstitutional spousal or parental involvement requirements.

Now contrary to what the ban's proponents would have us believe, bans on so called partial birth abortions could actually ban abortion in general, because of the vague language. The truth is that courts have been noting this in their decisions striking down the laws, because they are so vague, the law's language is so vague and broad that it could apply to virtually any type of procedure. Also the ban threatens woman's health, federal courts have recognized that the ban's do not protect the state's legitimate interest in the health of a woman, but rather

pose a threat to the health by potentially banning the safest abortion procedures available and by failing to include adequate health or life exceptions. I hope you consider supporting the Committee's hard and well thought out Majority Report and vote this bill Ought Not to Pass.

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

Representative **PLOWMAN**: Mr. Speaker, Men and Women of the House. This is not a bill to ban abortions. This is a bill to ban partial birth abortion and I can read and I can see that it's not vague. Partial birth abortion means an abortion in which the physician performing the abortion partially, vaginally delivers a living fetus, killing the fetus before completing the delivery. If there's a doubt in your mind what that means, there's some pictures on your desk that explain it. Roe versus Wade was passed 20 years ago. In 20 years we've advanced incredibly in the procedures that we do, to both save and kill babies. The week after this was killed in the other Body two years ago, I watched an incredibly operation where a woman was advised by her doctor that the tumor that was growing on her baby's body was drawing all the baby's energy and her energy and that it would result in the death of her baby as well as result in terrible harm to her. She was advised to have a partial birth abortion, because the baby was quite far along when they discovered the tumor. She refused and she searched and she traveled from the east coast to the west coast where she found a doctor who would open her womb, remove the tumor, sew the baby's bottom up, replace the baby in the womb, suture the womb and suture her closed. The baby was born approximately six weeks later with a little scar on her bottom from where her tumor used to be. If she had followed her doctor's advise she would have been sucked into a sink.

When Roe versus Wade was written 20 years ago, Justice Stewart spoke of the possibility that perhaps in later stages of pregnancy that the State should be permitted to prohibit or restrict abortions and that there may come a time when abortion procedures suggested or performed may actually have to be prohibited. I'd say we are there.

Roe versus Wade guaranteed women an empty uterus, an empty womb. Not the promise of a dead baby. For those of you who haven't heard what a partial birth abortion is, the doctor who invented it, Dr. MacMann, after he invented it described the moment where he discovered he could do this as a moment of serendipity. Look it up, it means to discover by delight or surprise, a moment of serendipity. He was looking back on the abortions that he performed and some were easier than others, now why was that, oh, it was a breech presentation, well if I can make every abortion a breech presentation, I could cut a 45 minute to an hour long very tough, difficult abortion into a 15 minute procedure for him. A three day procedure for a woman, so with the help of an ultrasound, the doctor turns the baby, and pulls the baby's feet, legs, bottom, back, arms, shoulders through a previously dilated cervix, but a cervix not dilated to the point where the head can progress through. When asked why the cervix is not dilated to that point, one doctor said, you don't want to slip and accidentally have a live birth. The purpose of this procedure is to produce a dead fetus. That my friends is a partial birth abortion. A partial birth abortion takes a child to within three inches of being protected by the same Constitution that guaranteed his mother the right to an abortion.

When you talk about health and life of a mother, do you know you have to schedule your emergency illness to fit the days that

the clinic does partial birth abortions. The busiest clinic in the United States does them on Tuesdays and Thursdays. Bring your \$2,500 in cash we'll start the process. If you can schedule your life saving procedure on Tuesdays or Thursdays, I would suggest that you are not that close to death. The other beautiful thing about a partial birth abortion is that it takes place in a clinic, no peer review. Perform a C-section in a hospital, have a birth go wrong in a hospital, have anything go wrong in a hospital, there's peer review. In a clinic, the doctor in charge is the only person who knows what's going on and I will tell you that the doctors who are in charge in the State of Maine are filing reports with the Department of Health as prescribed by law and they are showing, I have 1998 figures, 13 week abortion, not too far along, there're showing 16 week abortions with intrauterine as the indicated type of abortion, that, my friends, is where you go into the uterus pull a baby out. That was performed May 16, 1998. We had a 28 week abortion, by the way I was told by the Family Planning that you can't get an abortion in the State of Maine after 12 weeks, well the doctors are reporting that they're doing them, but they're not reporting everything, because you see it's a Class E crime, I believe, to abort a baby after viability, so many, by the way information given to me by the Department of Health, many of the forms have blanks. No age of gestation, no type of abortion, sometimes there's nothing at all, and you know what, three percent of the providers account for 83 percent of the blanks. Maybe word gets around who'll do it for you, I don't know, but partial birth abortion is wrong. The Supreme Court recognized that one day there would be a line that would be crossed. When a baby feels, goes from feeling 98.6 on its bottom to room temperature in a clinic and is held in the hand of a doctor who has just pulled him from the womb, flipped him over, jabbed scissors in his head and sucked his brains out, we've crossed a line. All for the lack of two or three or four inches, this child is not a citizen of the United States, it's not a baby, it's trash. That's what a partial birth abortion renders.

The bill is clear. The people of the State of Maine are abhorred at the idea that we have come this far. United States population has been supportive of a woman's right to choose, the majority of the people do support that, but when you tell them we draw forth a human being to the legal point of almost being a constitutionally protected citizen and than we kill them, I'm sorry, we've crossed a line and I think it's time we enact this ban and I'll be glad to see it tested. I'll be glad to see the court test it, see where it stands, but at least we'll be recognizing that there's a line. I urge you to vote against the Majority Ought Not to Pass Report.

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

Representative **MENDROS**: Mr. Speaker, Ladies and Gentlemen of the House. We talk a lot about children in this Chamber. We all say we care about kids. Do we? I voted for Start Me Right because I care about children, even when it's not politically convenient. We hear if this saves just one child's life or if that action puts children's lives at risk, well guess what a partial birth abortion ends a life every single time. This doesn't just put a child's life at risk, partial birth abortions ends babies lives, so I ask you to vote against the pending motion, Ought Not to Pass. Don't just use children as a political weapon, instead take a stand that we truly save children's lives. Thank you.

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

Representative **WILLIAMS**: Mr. Speaker, Ladies and Gentlemen of the House. This is obviously a very emotional issue for many people and I'd like to interject a little bit of objectivity here. In response to the good Representative from Hampden's testimony about what is and what isn't being filled out on the abortion forms, as a member of the Health and Human Services Committee, we heard testimony from Doctor Mills about exactly what the compliance rate is on these forms as a result of looking at all the abortion forms submitted by the Bureau. Let me just run down the numbers for you, quick. The most common spaces that are not filled out in the form, the patient's marital status, her ancestry, and her level of education, clearly not vital information as it pertains to determining the stage of pregnancy. The other spaces on the form were filled out to a 99 to 100 percent compliance rate, those being, the location of the abortion, the name of the facility, the date of the abortion, the patient's residence, by state and town, previous pregnancies, previous abortions that she has had, 99 to 100 percent of the time. The type of procedure that is used is filled out 98 percent of the time. The date of the woman's last menstrual period, 95 percent of the time and the doctor's determination of gestation, 96 percent of the time. In the last year in which there is complete data, there were only three incomplete reports, in terms of the information containing either the gestational estimate, nor the date of the last menses. My point here is that that these forms are filled out at a higher compliance rate than birth certificates, or death certificates. I would suggest to you that we have the information on this and I guess as Forrest Gump would say, "That's all I'm going to say about that." Thank you, Mr. Speaker.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Turner, Representative Jacobs.

Representative **JACOBS**: Mr. Speaker, Men and Women of the House. I stand in support of the Majority Ought Not to Pass motion. This is a difficult issue for everyone. The debate is emotional and goes to the heart about how we feel about issues of life and death. It's important to hear from the people truly affected by this proposed law. I'd like to have you listen to the words of a very brave woman who came to the public hearing on this bill. She came with her husband from Camden and revealed the most personal information about her life. She did this because she truly cared about the proposed ban and its consequences. This is what she said. I had an abortion 20 weeks into a very much wanted pregnancy. The decision was agonizing. For three weeks my husband and I meditated, prayed and consulted with medical experts, family and friends and reviewed scientific research on our baby's medical condition. Our baby was diagnosed with a rare chromosomal disorder that is considered lethal. Her prognosis consisted of possible miscarriage, stillbirth, death shortly after birth, and if none of those occurred 95 percent probability of death within the first year. Her severe multiple defects were determined inoperable. The degree of surgery needed was considered futile and further endangering to her condition. If she had been born, her short time alive would have been spent in the neonatal ICU with no hope of leaving it. We were deeply worried about what pain she might be experiencing from the cystic tissue growing on her brain, and her heart and lungs being crushed by displaced organs. It felt cruel and selfish to put our baby through the remaining months of pregnancy. Had I attempted to carry her to term, I would have risked complications that could have made it difficult even impossible for me to have my first living baby.

These were horrifying circumstances to face and I am grateful that I received truthful information from my providers and was not told that the State of Maine felt better qualified than I to make such a decision for my baby and my family.

Abortions happen for many reasons, but virtually all the women I have personally known who have had one weighed all the available alternatives, consulted more than one medical professional, sort spiritual guidance and ultimately made their own difficult decisions. Please allow Maine women to continue to maintain control of their decisions affecting their reproductive health and privacy. Thank you for allowing me to tell you how this bill will affect Maine women. Thank you, ladies and gentlemen, and Mr. Speaker for listening to the words of Barbara MacBride of Camden. I hope her story reminds you to trust Maine women.

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

Representative **DAVIS**: Mr. Speaker, Men and Women of the House. I have three children, Brian, Greg and Katie. I have three grandchildren, Cheyenne, Nathaniel, Gerald and there will be grandchild along in July. I once lived in Africa and they had a saying that when things go going tough, and somebody helped you, it was your great grandfather, or great grandmother, whom they've never met and I always remembered that saying. It seems to me the most sacred thing that we can pass on to our children and grandchildren, to our children's children is life.

In the 1850s slavery was legal in the United States. There was a great statesman named William Sewall, he was a Senator and later Secretary of State, who said yes it was Constitutional that slavery was legal, but there's a higher law than any Constitution, and certainly with partial birth abortion, in my opinion, we will violate that law. So I urge you really to think about what you are voting for. This does not ban abortion. It bans partial birth abortion, a very barbaric procedure. Please think very carefully when you vote. Thank you, Mr. Speaker.

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

Representative **KASPRZAK**: Mr. Speaker, Men and Women of the House. I would just like to respond to some of the comments that the good Representative from Turner shared with us from the woman's point of view. I would like to share something from that little child's point of view. In the last few months my husband and I have been volunteers in one of our local hospitals that has one of those neonatal ICU units. It was a new program, a pilot program, they began to bring people in to just be cuddlers, someone to hold little teeny, tiny babies, some of them born three months before they were due. They survived. They weren't taken by partial birth abortion. Some of them have deformities. Some of them have extreme brain damage. Some of them have problems they may never outgrow. Some have some that they will. We're there to hold them, to give them some human contact in their stay in the hospital. I would like to speak on their behalf. I think we ought to give them the opportunity to come into this world, whether it's to spend those few months in a neonatal unit and once in awhile to be taken out and held by someone who will love and care for them, sing to them, rock them, pray over them, whatever they see fit to do. I think they deserve that much, to come into this world and enjoy the short time that they have. I would just urge you to vote against the pending motion and remember these little ones when we take this vote.

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

Representative **SHIELDS**: Mr. Speaker, Ladies and Gentlemen of the House. A scientific view point. You've seen the information from many reputable medical authorities that are on record that this procedure is really not necessary in current obstetrical practices. None of my obstetrical friends that I have checked with see any reason for it. Partial birth abortion in the current practice of medicine is sacrificing a living child and is simply not justified. Abortion is reprehensible enough even in a none living child, but this is terrible. I urge you to vote against the pending motion. I think the bill clearly spells out what partial birth abortion is, clearly spells out that the living fetus is being involved. 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 agree with some of the previous speakers that at this point in the discussion there probably won't be many people changing their mind. However, I feel obligated to stand and at least tell you why I intend to vote against the pending motion. As many of you know I served about 29 years on the State Police. During that time I saw a lot of death. I saw alot children in situations that really makes your heart feel bad.

On June 28th last year, my first grandchild was born and I keep a picture of her on my desk just to kind of remind me of when these things come up, the abortion issues and I think that each and every one of us really should take the time to look at our own children and think how easy it would be and how easy it would have been to perform the same procedure on those children. I think that most of us can relate to situations where we've been in tough times. I know that most of us have lived through tough times, at least those of us that are over 50 now, times haven't always been as good as they are now and it would have been much easier back then to have this procedure done, but we didn't. The kids grow up and they have their own children. I just wish that everybody would really search their conscience before you vote and I think that it's important that we vote our conscience.

I knew how strongly I felt about this particular procedure. I sent out a questionnaire to the people in my area and I didn't do it in any scientific method. I just mailed out to people I didn't know, some I did know, over 350 of them. I got back 38 percent of those and 81 percent of those people in my area would not support partial birth abortion. I think there's a large percentage of people out there that do not support this procedure. I would ask that you vote against the pending motion.

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

Representative **COTE**: Mr. Speaker, Members of the House. I wasn't intending to stand up and speak on this bill due to the fact that it disgusts me. As a young fellow at the age of 22, I myself lost a young infant and it appalls me to see this. My infant was the same thing as the living fetus. My son was premature, he weighed only 2 lbs. 13 ounces, he was just a little thing and it appalls me to get here and listen to this, that people do not want to pass this bill. There isn't a day that doesn't go by, I wish my child was here with me. It kills me to sit here and listen to this. It's tearing me up. It'll be 17 years, June 18th, that I lost him, so I stand here today to urge you to vote against the pending motion and vote Ought to Pass instead of Ought Not to Pass. We need this bill. We need to prevent any more

abortions. We need to give these living fetuses a chance to survive, to have a life for themselves. Yes, I understand sometimes it's a life situation, but you've got to stop and think that is still a living thing, that is still a baby, that is still a child, so today I urge you to vote against the pending motion. Thank you.

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

Representative **MATTHEWS**: Mr. Speaker, Men and Women of the House. I, too, rise to ask the Body respectfully not to support the Majority Ought Not to Pass Report and I sincerely hope, and from what I've heard on the floor today the debate seems to be on the issue without personality attacks. In my years of service here in the State House, I have tried to be respectful of different opinions and I can say in the vast majority of cases that has always happened. On this issue there are differences. Democrats, Republicans, Liberals, Conservatives and I will tell you on the partial birth abortion bill I think you will find many, many people, the vast majority of Americans, the vast majority of citizens of Maine as exemplified by the referendum support stopping that procedure and they come from all parties and all persuasions. I want to share just with the Body tonight that one of the greatest accomplishments I've had and I thank God Almighty for it, as a Senator, a member of the other Body, there was a time when I was asked by a constituent of mine as all of us in here have been asked by our constituents to contact an agency for them. I knew this gentleman, this gentleman was a physician, still is a physician, actually a P.A., a physician's assistant, and they for medical reasons couldn't have children and this good friend and his wife, good people, asked me to intercede on behalf of them to a government in South America, where they were looking to adopt a child. I said I have no experience in this kind of activity or talking to another foreign government, but I would be glad to check into it and do what I can. Well the bottom line, and to make a long story short, and a very happy story. They were successful, I had an opportunity to write with our Congressional Delegation, Senators, Congressmen, Republicans and Democrats and we sent those letters to that government and they got that child. They adopted that little boy and every few months I get to see that little boy in a store and he has a very good life in the greatest, most freest country on earth. Thanks to God and I think that we need to remember that there is that opportunity for adoption out there and there are many Americans, people in Maine that have strong moral religious spiritual opposition to abortion and I am one and I know that my constituents in the Town of Winslow, with all the polling and all the surveying and going door to door feel the same way, the vast majority. They know where I stand, but I think when the day is done, ladies and gentlemen, especially on these issues, you fight the good fight, you stand up, you vote accordingly, and you shake hands with the opposition, because again my faith and many of yours, the same thing, tells me to do so, to be civil, to love one another, to stand up for what you believe in and on this issue, I am opposed to partial birth abortion. I will vote against the Majority Report so that we can enact it. I would do so if this were 2:00 A.M. in the morning, or on the 29th day of December, if we happened to be here that long, because it is a position of moral value to me and I understand that many of you feel differently on the other side and I respect you. Thank you, Mr. Speaker.

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

Representative **POWERS**: Mr. Speaker, Men and Women of the House. I'd like to reference a little bit what this situation is we're looking at. I think we have to give a great deal of credit to the few still in pain and courageous people who have been able to come and tell us their stories. Noone, neither the woman who carried the child, nor her partner, have ever liked this procedure. It's nothing that they have wished, it's not been their preference and it's been a very, very difficult decision for them to make. As the Representative from Turner, Representative Jacobs referred to and the story is actually reproduced for you and on your desk from the *Lewiston Sun Journal*, the family in Camden was deeply pained and still grieves the decision they made. I want to remind you what is before us in this Majority Ought Not to Pass Report. In voting for this motion, we allow the people who have initiated this question to go to referendum. The question will be will we maintain the already demonstrated legal right of women to choose, if they must choose this difficult procedure. The bill as written trivializes personal family tragedies, later term abortions, while they are very rare in Maine may be a proper and right course when a woman is facing threats to her health or her life or is carrying a child that will suffer from severe and painful or fatal abnormalities. Families and their physicians, not politicians, must be permitted to make this difficult decisions that oppose by the rare and heartbreaking circumstances of wanted pregnancies but they have gone dreadfully and tragically wrong. I urge you to support the Ought Not to Pass Report and have this question go to referendum. Thank you very much.

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

Representative **O'BRIEN**: Mr. Speaker, Colleagues of the House. I agree that there are probably very few if any left in this Chamber, or in the sound of my voice, that haven't made a decision on this, but in case there's one still wavering, please listen to my words. I have evolved through this process, the abortion issue, for the past several years. It's been in a state of flux, and I've thought about it a lot, but I really decided how I really felt when fairly recently my three youngest children were in the car with me and the radio was on and the news was on and they were talking about abortion and one of them asked me, "What is abortion?" There were no other words I could say that it's killing a baby. I could think of nothing else to say. To me it is a deeply moral issue now and to me those babies, whether they are deformed, whether they will live one second, whether they will live one year, whether they will go on to live to adulthood, are human beings and they are their angels. It's not for us to take back what God has done. Thank you.

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

Representative **SNOWE-MELLO**: Mr. Speaker, Ladies and Gentlemen of the House. I stand here today to ask you please to vote against the pending motion. I, too, have a story to tell. I told this story two years ago. The lady called me up and asked me to tell it again. This lady was my constituent, now she lives in Presque Isle. This lady wrote to me two years ago, like I said, she told me that doctor's said she was nine months along and the doctors felt that her child was not going to live once he was born, so they told her about the partial birth abortion and we're talking about the partial birth abortion, not abortion, partial birth abortion, okay. When she heard about the procedure and that they were going to take this baby three inches away from her birth canal and the baby would never see the light of day, after carrying her child nine months, she said, "I can not do that, I just

cannot do that. I have to have this child." So the doctor gave her a cesarean and she had her baby. She was really thrilled that she had this baby, because it made all the difference in the world to her. She was able to see her baby. She was able to smell her baby, touch her baby and love her baby and hold her baby in her arms and yes, the baby did die, but she was able to see that baby through the nine months and complete that birth cycle. Yes, it was probably very, very painful for her. It's painful for me to talk about it. But it would have been worse if it went the other way. The lady would have been filled with guilt and remorse and would not have the temporary joy and maybe the joy that she had the rest of her life getting to know her baby, even if it was for a moment. A partial birth abortion kills an innocent life. Please remember that. It's killing an innocent life. You know we just did the death penalty a couple of days ago and you all voted against the death penalty. You wanted to protect someone who takes life and kills life, but we're talking here about an innocent child, an innocent child. Yes perhaps this child has birth defects, but are we to play God. Are we to play God by taking that life? I don't think so. Please ladies and gentlemen think so very seriously and vote against the pending motion. Thank you.

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

Representative **DAIGLE**: Mr. Speaker, Ladies and Gentlemen of the House. I feel compelled to respond and to comment on this, to test the premise that we say that this is a big tent, that we accept many different views, because I will be voting in favor of the current motion. I feel that this boils down to a question of current law which allows these decisions to be made to protect the health or the life of a woman and I don't know how to draw that line. I don't know how to sit up here and for every woman in this state faced with a crisis, I don't know where to draw the line between where it is her health and where it is her life, so we're saying here is the state is going to figure out where to draw that line and if I don't know how to do it and a vote in favor of this current motion is to turn this over to the people in a referendum and to give them the next several months to consider this question, while those who have opinions seek to influence them so that every person who steps into the voting booth this November and ask themselves, do you know where to draw that line and if you feel you really do than you'll vote to pass this and if you feel that you can't, or don't want to and leave that to the individual and their doctor and their God, than you vote against it. That's the position here and I hope everyone is able to accommodate that individual decision and still work with each of us afterwards.

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 speak against the motion on the board. I don't think it is right to subject such a little one to the procedures called this late term abortion. From talking to doctors and people, the baby is not given anything, it feels everything when this procedure is being done. I don't think that is right or humane. If there was flaws in this bill, which I don't think there was, but if there was, than we as a Legislative Body have shirked our duty to send out a competing measure to correct whatever we might have thought was wrong with this bill. I don't feel that this vote is about banning partial birth abortions or just sending it out to the voters. This vote is about being responsible and saving lives. Let's be responsible as a Legislature and do

what we know and within our hearts is right and we know most people want. We should not force the people of Maine to bail out their irresponsible Legislature, so please vote against this pending motion.

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

Representative **AHEARNE**: Mr. Speaker, Ladies and Gentlemen of the House. I think it is important that I read for the record a letter sent to the State House. It's dated April 7th, 1999, Members of the Judiciary Committee, State House, Augusta, Maine 04333. Gentlepersons: I'm writing to you to ask you to take a fresh look at the partial birth abortion problem. This controversial, if not grotesque procedure is hazardous to the mother's health and future fertility. It is most often carried out in the 5th to 6th month of pregnancy. The very act of inducing premature labor and deliberately performing a breech birth is fraught with risks. First at this stage of pregnancy, your uterine wall is stretched thin and more torn. The possibilities for hemorrhaging or infection are significantly increased. The procedure of creating a breech birth runs the risk of leaving the mother with a compromised cervix, potentially leaving her infertile. It is healthier for both mother and child to continue any pregnancy to its final conclusion even if this means that the baby may predictively die. To hurry along the eventuality through partial birth abortion does not benefit the mother's health or future fertility. It is never a necessary procedure for either mother or child. Opponents of the ban on partial birth abortion claim that it is broad and sweeping restriction on abortion rights. This is untrue. This is a narrowly focused proposal that protects the health of a woman and the lives of children. Sincerely yours, C. Everett Kope, and the Kope Institute at Dartmouth, Hanover, N.H. Thank you.

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

Representative **GILLIS**: Mr. Speaker, Men and Women of the House. The day started off with the House sharing in the grief of the family, the loss of a precious life. That was something that we did not have any control in. I ask you now to save a precious life, please vote no on this pending motion.

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

Representative **MACDOUGALL**: Mr. Speaker, Men and Women of the House. The medical community has told us the partial birth abortion is never medically necessary, that's number one. Number two, the procedure itself, the doctor grabs the baby's leg with forceps, the baby's leg is pulling out the birth canal, the baby's entire body, except for the head is delivered, then scissors are jammed into the baby's skull, the scissors are then opened to enlarge the hole a suction tube is inserted and the child's brain is sucked out causing the skull to collapse. The motion before us, ladies and gentlemen, I will be opposing because myself, and all my colleagues, can certainly do better than this. A procedure that doctor's tell us are never medically necessary, a procedure that sucks out the brains of an innocent life. We can do better than that. Thank you.

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

Representative **TRAHAN**: Mr. Speaker, Honorable Members of the House. As I heard the testimony today of the people that have endured partial birth abortion, the pain and the agony of having to make those decisions, I couldn't help to continue to return to the same question in my mind. When we perform this

procedure, whose pain are we trying to spare. Is it the pain of the child being born, or is it our own pain of having to watch a child that may die? Do we perform this procedure to save money or to ease our agony in watching a death, slow, painful death? Every time that crossed my mind, I couldn't help but return to an incident that occurred when I was a young child. I was fishing in a river and I fell in and I struggled at first. I was fully clothed and at first I couldn't get up out of the water. I struggled to take my clothes off, my shoes and get back to the surface. I almost died that day, but I made it to the surface. Is what we are doing taking the responsibility of God. He created a life. That life struggled to be born, we take it. Plain and simple, we take that life. I believe there is probably a good chance that every one of those children that these doctors say will die, possibly will die, but I want you to ponder this in your mind. Whose pain are we trying to ease, ours or the child's? Thank you.

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

ROLL CALL NO. 260

YEA - Bagley, Baker, Berry RL, Bolduc, Brennan, Brooks, Bruno, Bull, Colwell, Cowger, Cross, Daigle, Davidson, Dudley, Dunlap, Duplessie, Etnier, Frechette, Gagne, Gagnon, Gooley, Green, Hatch, Jabar, Jacobs, Jodrey, Kane, LaVerdiere, Lindahl, Mailhot, Marvin, Mayo, McDonough, McGlocklin, McKee, Mitchell, Muse, Nass, Norbert, O'Brien LL, O'Neil, Peavey, Pieh, Powers, Quint, Richardson E, Richardson J, Rines, Rosen, Savage W, Saxl JW, Saxl MV, Schneider, Shiah, Skoglund, Stanwood, Stevens, Sullivan, Tessier, Thompson, Townsend, Tracy, Tripp, True, Twomey, Usher, Volenik, Watson, Williams, Mr. Speaker.

NAY - Ahearne, Andrews, Belanger, Berry DP, Bouffard, Bowles, Bragdon, Bryant, Bumps, Cameron, Campbell, Carr, Chick, Chizmar, Cianchette, Clark, Clough, Collins, Cote, Davis, Desmond, Dugay, Duncan, Fisher, Foster, Gerry, Gillis, Glynn, Heidrich, Honey, Jones, Joy, Kasprzak, Kneeland, Lemoine, Lemont, Lovett, MacDougall, Mack, Madore, Martin, Matthews, McAlevey, McKenney, McNeil, Mendros, Murphy E, Murphy T, Nutting, O'Brien JA, O'Neal, Perkins, Pinkham, Plowman, Richard, Samson, Sanborn, Savage C, Sherman, Shields, Shorey, Sirois, Snowe-Mello, Stanley, Stedman, Tobin D, Tobin J, Trahan, Treadwell, Waterhouse, Weston, Wheeler EM, Wheeler GJ, Winsor.

ABSENT - Buck, Fuller, Goodwin, Labrecque, Perry, Povich, Tuttle.

Yes, 70; No, 74; Absent, 7; Excused, 0.

70 having voted in the affirmative and 74 voted in the negative, with 7 being absent, the Majority **Ought Not to Pass Report was NOT ACCEPTED.**

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

The Bill was **READ ONCE. Committee Amendment "A" (H-627) was READ** by the Clerk and **ADOPTED.**

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

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-627)** and sent for concurrence.

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

Divided Report

Majority Report of the Committee on **JUDICIARY** reporting **Ought Not to Pass** on Bill "An Act to Require a 24-hour Waiting Period before an Abortion May Be Performed"

(H.P. 1483) (L.D. 2123)

Signed:

Senators:

- LONGLEY of Waldo
- TREAT of Kennebec
- BENOIT of Franklin

Representatives:

- THOMPSON of Naples
- BULL of Freeport
- LaVERDIERE of Wilton
- JACOBS of Turner
- MITCHELL of Vassalboro
- NORBERT of Portland
- SCHNEIDER of Durham

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-628)** on same Bill.

Signed:

Representatives:

- PLOWMAN of Hampden
- MADORE of Augusta
- WATERHOUSE of Bridgton

READ.

Representative THOMPSON of Naples moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

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

Representative **AHEARNE**: Mr. Speaker, Ladies and Gentlemen of the House. It's not with great joy that I reintroduce these pro-life bills to this Legislative session, it's not my desire to cause discomfort to anyone, but this issue is too important to me, constituents and the people of the State of Maine and must be addressed once again before this Legislature.

LD 2123 does not outlaw abortion, it merely places in safeguards that are completely reasonable so that the decision to have an abortion is made, all the steps will have to be taken to ensure that all the relevant information is being provided to assist the woman in deciding whether an abortion is indeed the right choice. Some have considered this bill to be restrictive, but I disagree completely. The abortion procedure is a procedure that involves two human beings, other medical procedures are very different when compared to abortion. Because we are dealing with a possibility of terminating the life of a human being, we should proceed with extreme caution to insure that any decision being made is based upon having complete information. Life is too precious to be discarded in a fight over Constitutional rights. What will LD 2123 do? This proposed legislation will include the proper provisions to insure that women considering having an abortion must be provided information about the risks, and the alternatives to abortion. This bill does not restrict access to abortions. It only provides time for the woman to access the information she will be provided and to consider the bill options prior to, rather than after having an abortion performed. After all abortion is not a reversible procedure. In the Casey decisions,

the Supreme Court stated that while the woman has some freedom to terminate the pregnancy, the line should be drawn at viability. This law provides women with the time and the information better to resist pressure to pain and unwanted or coerced abortion by providing information regarding alternatives to abortion and giving the woman time and an opportunity to consider and discuss such alternatives.

The United States Supreme Court upheld that a woman's right to know law, such as LD 2123 containing a waiting period do not violate United States Constitution. In Casey, the court upheld the Pennsylvania law, which requires a 24 hour reflection period before an abortion is performed. The woman be given the following information by the attending or referring physician, the name of the physician who is to perform the abortion, possible physical and psychological affects of an abortion, medical risks associated with the abortion procedure to be used, probable gestational age of the unborn child, the medical risks associated with carrying the child to term. That the woman be given the following information by the physician or his medical assistant, availability of assistance benefits, liability of the father for child support, right to review information prepared by the state that describes fetal development and the availability of pregnancy services.

Since Casey, federal courts have upheld woman's right to know laws in five other states. The argument that such laws present an undue burden on the woman was rejected in Casey, unless it places a substantial obstacle in the path of the woman seeking an abortion and the court ruled that providing information by the doctor or to be subjected to a 24 hour waiting period after reviewing information was not considered by the court to be undue burdens. Thus the arguments that this statute represents an undue burden is incorrect and has been rejected by the Supreme Court. The argument that providing this information by the doctor is unnecessary and represents and intrusion or a delaying tactic has also been rejected by the court. If we as legislators are truly to represent the people of Maine, we should enact this legislation to protect the lives and well being of the women who consider abortion and the unborn children. I am deeply encouraged that abortions are on the decrease in Maine and that teenage pregnancy is also on the decline. We still have a long way to go. Personally, I would like to see no abortions in Maine, but I'm too realistic to expect this to occur. This bill will bring us back to the realization that life is too short and should be lived to its fullest. To cheapen life to reduce its value will only perpetuate the attitude that life is worthless. It will only signify that it is easy to hurt, maim, or even to kill another human being. I know everybody in this body would love to have no violence and with this bill we can send the true message that life is indeed valuable and we should do everything humanly possible to preserve it.

Representative AHEARNE of Madawaska **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 Naples, Representative Thompson.

Representative **THOMPSON**: Mr. Speaker, Men and Women of the House. If you pass this bill you are telling Maine women that the state is passing a presumption that they have not truly thought through their decision carefully enough and we're going to make you wait. You are telling Maine women who do choose

an abortion, one of the most difficult and personal decision that a woman can ever make, that the state is going to make you wait. The state is going to make you wait and the state is going to tell the doctor that in the state's opinion they're not giving informed consent to their patients, which is currently required by law, on every medical procedure. This bill serves no medical purpose or public health purpose. It is meant as an impediment to women who have chosen to have an abortion. That is what it is. If you choose to vote for that, than that is what you are voting for. Only three of Maine's 16 counties have clinics where abortions are routinely performed. You are telling a woman who travels to one of those clinics from a long distance that they have to wait another 24 hours. Is that what we want the state to be doing? People on both sides of this issue have stood up and said abortions are legal and yes the courts have said you can impose a 24 hour waiting period. Legally it's not going to be a burden, it doesn't arise to the constitutional level of an undue burden. Is it a rational burden that the state should be doing, placing on these women, I think not. I would ask that you join me in voting on the Majority Ought Not to Pass Report.

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

Representative O'BRIEN: Mr. Speaker, Ladies and Gentlemen of the House. To me what is 24 hours? So much can happen in 24 hours. I can't imagine why we would not give the baby an opportunity to live an additional 24 hours. Who or what may come into that mother's life in the 24 hour period. It seems so common sense to me. I would urge you to reject the Ought Not to Pass Report. Thank you very much.

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

Representative TOWNSEND: Mr. Speaker, Men and Women of the House. The problem from my point of view with the 24 hour waiting period is the assumption that a woman who is facing such a tragic decision hasn't thought it through. Maine women are intelligent, they elected us, they are capable of making their own decisions and there is no doubt that they have given great thought to this decision long before they have reached the point of coming to a clinic. We can trust Maine women to make their own decisions and we don't need to tell them that they must wait an additional 24 hours.

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

Representative WATERHOUSE: Mr. Speaker, Ladies and Gentlemen of the House. I just had to respond to the last comment on the floor. A lot of this people are not mature and they're not even women. A lot of them are young juvenile girls. Maybe I'm looking for some direction of what to do, in 24 hours waiting and getting proper information just might change their whole life and somebody else's life too and make it so that person doesn't have to live with the memory of destroying their child. Thank you.

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

Representative PLOWMAN: Mr. Speaker, Men and Women of the House. I urge you to vote against the pending motion and go on to accept the Minority Ought to Pass. A little information can go a long way. Some years ago, a friend of mine who was pregnant was told by her doctor that she was pretty sure she had miscarried. She had bled extensively, cramped terribly and she was going to perform a D & C. My friend who was very torn needed to know that indeed she had had a miscarriage, so her

doctor took the time to send her for an ultrasound and the ultrasound showed a beating heart. The woman had only known she was pregnant for about a week, she was only about three weeks along, four weeks along, but there was already a beating heart. The woman's marriage wasn't that great. A baby would have been a great complication. It would have been very easy for her to take a D & C and assume she had had a miscarriage, but she didn't and when she saw that beating heart she realized she hadn't had any information at that point in her pregnancy except that she had had a positive test. She had no idea there was a heart beating already. She had no idea that this was not just a clump of cells. Suddenly it became real that there was a baby and that was an accident, that little bit of information, basically she just needed some reassurance that she wasn't pregnant anymore. The books she picked up and read after that were incredible and she shared them with me and we kept calling her our little walking science project because of the miracles that were changing within her every single day. The previous speaker spoke about young women who are looking for answers and you know some of those women are young women just old enough to get pregnant and they're not looking someone to tell them to have an abortion. They're looking for someone to tell them its okay not to have an abortion. It's okay to know that there are other things you can do besides have an abortion. Right now the pressure is incredible to have an abortion. On the other hand I'll tell you about a friend of mine who had four, you want to talk about this being the most difficult decision, she had four because she liked being pregnant for the attention but she never intended to carry a baby. When I asked my doctor about was this the most difficult decision women reach, she looked at me and said no, they come in here, they have abortions, they go home. There's no aches, there's no anxiety, you wouldn't believe it, it's not that difficult. Well I guess it isn't, if you don't know what's happening. Don't think that we're asking too much for someone to know what their options are and if you think women know everything, let me tell you about the pediatricians that have to teach young mothers that Karo syrup and milk is not an appropriate substitute for formula because that is a common misconception. You wouldn't believe how hard it is to teach a young mother how to take care of a child after the child is born. I'm not saying women are ignorant, but I am saying that some of the information that's passed on is not the best information for them and they need time to sort it out and they need support from someone when they're just looking for, you don't have to. Do you know you don't have to?

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

Representative BULL: Mr. Speaker, Men and Women of the House. I rise in support of the Majority Committee Report and also rise to say that I trust Maine women. The biggest issue here in this bill is that it's potentially dangerous to the women of this state. Mandatory delays increase the risk of complications to the woman and to the pregnancy so we are forcing them to a situation that could potentially put their health at risk. The good Representative from Naples, Representative Thompson, already addressed the remote nature of this state, which should be of no surprise to anyone. We had a woman come in to testify from Washington County. For a woman to access services in Lubec, Eastport, Calais or Machias, it would take her over three hours to reach the nearest provider. There are no providers in Washington County and the only provider in Hancock County is the private service, she sees only her own patients, so we are

most likely looking at the need of an overnight stay in the area where these services are provided. This is a significant financial burden on the women in this state.

The other issue that has not been brought up here yet tonight is abusive relationships. In the cases of rape or incense, the need to get an abortion may be immediate. The violator of the woman may very well resort to force to keep that woman from getting the abortion that she may feel she needs. So once again, ladies and gentlemen, I ask you to trust the women of this state, they are going into this with their eyes wide open and this 24 hour waiting period is a new burden.

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

Representative **SAXL**: Mr. Speaker, Men and Women of the House. I didn't speak on the last bill that concerned abortion, but I think that I should go on record, because I have every session that I have been here. What is of utmost importance to me is that there remain sphere of privacy, some place where government does not intrude, some place where we are able to make choices for ourselves, without having the government's heavy hand and certainly these matters are very deeply held, some influenced by religious beliefs, some influenced by secular ones, but certainly there must be some place where we can make decisions for ourselves, with those who we choose to consult, our doctors, our religious leaders, our friends and not have them legislated to us by strangers. 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. 261

YEA - Bagley, Baker, Belanger, Berry RL, Brennan, Brooks, Bruno, Bryant, Bull, Cameron, Chick, Collins, Colwell, Cowger, Daigle, Davidson, Dudley, Dugay, Dunlap, Duplessie, Etnier, Fisher, Foster, Fuller, Gagne, Gagnon, Gooley, Green, Hatch, Honey, Jabar, Jacobs, Jodrey, Jones, Kane, LaVerdiere, Lemoine, Lemont, Lindahl, Lovett, Mailhot, Marvin, Mayo, McDonough, McGlocklin, McKee, McKenney, Mitchell, Murphy T, Muse, Nass, Norbert, Nutting, O'Brien LL, O'Neil, Peavey, Perkins, Pieh, Powers, Quint, Richardson E, Richardson J, Rines, Rosen, Savage W, Saxl JW, Saxl MV, Schneider, Sherman, Shiah, Skoglund, Stanwood, Stevens, Sullivan, Tessier, Thompson, Tobin D, Townsend, Tracy, Tripp, Twomey, Volenik, Watson, Wheeler GJ, Williams, Mr. Speaker.

NAY - Ahearn, Andrews, Berry DP, Bolduc, Bouffard, Bowles, Bragdon, Bumps, Campbell, Carr, Chizmar, Cianchette, Clark, Clough, Cross, Davis, Desmond, Duncan, Frechette, Gerry, Gillis, Glynn, Heidrich, Joy, Kasprzak, Kneeland, MacDougall, Mack, Madore, Martin, Matthews, McAlevey, McNeil, Mendros, Murphy E, O'Brien JA, O'Neal, Pinkham, Plowman, Richard, Samson, Sanborn, Savage C, Shields, Shorey, Sirois, Snowe-Mello, Stanley, Stedman, Tobin J, Trahan, Treadwell, Usher, Waterhouse, Weston, Wheeler EM, Winsor.

ABSENT - Buck, Cote, Goodwin, Labrecque, Perry, Povich, True, Tuttle.

Yes, 86; No, 57; Absent, 8; Excused, 0.

86 having voted in the affirmative and 57 voted in the negative, with 8 being absent, the Majority Ought Not to Pass Report was **ACCEPTED** and sent for concurrence.

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

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **JUDICIARY** reporting **Ought Not to Pass** on Bill "An Act to Require Parental Notification for Minors Seeking Abortions"

(H.P. 106) (L.D. 137)

Signed:

Senators:

LONGLEY of Waldo
TREAT of Kennebec
BENOIT of Franklin

Representatives:

THOMPSON of Naples
BULL of Freeport
JACOBS of Turner
LaVERDIERE of Wilton
NORBERT of Portland
MITCHELL of Vassalboro
SCHNEIDER of Durham

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-626)** on same Bill.

Signed:

Representatives:

PLOWMAN of Hampden
MADORE of Augusta
WATERHOUSE of Bridgton

READ.

Representative THOMPSON of Naples moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

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

Representative **AHEARNE**: Mr. Speaker, Ladies and Gentlemen of the House. I ask you not to accept the pending motion so we can pass this piece of legislation.

Today our children require permission slips from parents to participate in high school athletics, extra curricular activities, and even when they are seventeen to join the military service. Why then is there any question regarding the proposed requirement of LD 137. That parental notification be required in such a form as to be meaningful when the minor seeks to have an abortion. Is not having an abortion more likely to have an adverse impact on the child than playing basketball, or being in the band. We impose restrictions in the interest of the minor's welfare in many activities, but yet we balk at requiring parental consent, or even proper notification when a minor seeks to have an abortion. Where is the logic or are we just simply picking the least line of resistance when confronting with vocal pro-abortion advocates. We are clearly imposing double standards, next we will probably be asked to remove the parental permission requirement from all activities as an infringement of children's rights while ignoring the child's right to have a sense of discipline, a proper education, learning right from wrong, a secure and loving home and proper guidance. This legislation does not restrict abortion, but it rather insures that before abortions are permitted for minors proper steps are taken to secure parental notification and to allow the parents time to console the minor. The inclusion of the provision for judicial bypass provides a remedy for those minors suffering

from abuse, abusive parents. This legislation simply provides protection similar to requirements for parental permission for high school students who participate in athletics or other extra curricular activities. In fact this legislation is less stringent in that it provides for judicial remedy in the cases where the parents refuse to grant such permission. A remedy that is not readily available in the case of extra curricular activities denied. This legislation is based upon similar legislation passed in Ohio. The Ohio statute required notification of one parent, the personal notice by the physician, the 24 hour waiting period after the notice and the clear and convincing evidence, standard of proof of the minor's maturity and the best interests have been upheld by the U.S. Supreme Court. Since the statistics indicate that possibly one fourth of abortion clinic patients are minors, this legislation can affect abortion practice as it applies to minors in a significant manner. It can also help to reinforce the concept that life is priceless and must be considered priceless. The decision to terminate a pregnancy should not be made under peer pressure by an immature or confused minor without due consultation with her parents. This legislation does not seek to preclude the ability of a minor to obtain an abortion, it only seeks to place equal weight in the role of the parents in a minor's decision society currently requires in connection with a minor's right to participate in athletics, or other extra curricular activities in school.

There is great concern in Maine about the level of child abuse. We wonder why children are killed, beaten, starved and simply neglected by their parents or guardians. We also wonder why so many teenagers or even younger children are involved in crimes of violence, including murder without any apparent signs of remorse. All the while we continue this disregard of the unborn children and in fact, the young women who have become pregnant with unwanted children. We are told by some that abortion is better in such cases than having children born in such circumstances that they are abused or abandoned. What these same voices ignore is the facts that the attitude of indifference to life is fostered and reinforced by the apparent ease with which society permits the termination of unborn life. It doesn't take a great leap to go from killing the unborn to beating or killing a young child who happens to be an inconvenience or an ignorance. Where is our concern for the life and for the rights of all living things to live? Today violence is rampant in our nation, people, including young children are killed every hour and people ask why even children commit murder without any apparent concern. I can only say when there is no concern for the unborn child, there is usually no concern for the young child nor for teen and the result is often another violent uncaring person. I believe this is primarily due to a lack of parental concern that begins with an uncaring attitude through abortion. I urge you to reject the pending motion so we can approve this bill and save the lives of the unborn children in Maine while providing an example for other states to follow.

Representative AHEARNE of Madawaska **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 Augusta, Representative O'Brien.

Representative **O'BRIEN**: Mr. Speaker, Colleagues of the House. I really didn't mean to speak on these bills tonight, but I feel compelled. Something interesting happened to me

yesterday, I received a call from my 16 year old son asking that I go over and give him Tylenol. He had a migraine headache and they would not give him Tylenol. Something seems askew here.

Another point I would like to point out is that as we are discussing this, it comes to mind I really wonder how many minors feel that they have no choice and they think about the repercussions, that they're afraid and I would have been at 16, 17 years old. I would have been terrified had I been pregnant. I don't know if I would have gone to my parents, being afraid of the shame and the guilt and everything that would have gone with it, but I know now as a parent, and I ask all of you as a parent, those of you who are parents, if your son or daughter were in that situation, wouldn't you much prefer that they did come and tell you. It is your blood, you have a say in it, it's your potential grandchild, you have a say in whether they carry that baby to term. You have a say in whether there is an abortion. You have a say in letting them know the option of adoption. It does not even need to be said, but I'll say it anyway. How many families out there are looking for children, again, to me this is a no brainer.

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

Representative **WATERHOUSE**: Mr. Speaker, Ladies and Gentlemen of the House. I think of all the issues dealing with abortion, this is one of the easiest ones to talk to people about. When I approach people that I know and ask them if they think they should be notified if their daughter is going to have an abortion, there is absolutely no question in their mind, whatsoever, whether they should be notified.

An earlier debate on another issue, the first issue that we took up on partial birth abortion, the constitutionality and vagueness issue was talked about, well ladies and gentlemen of the House, this is not vague and there is no constitutional problem, not only has the Supreme Court upheld parental notification, it has upheld parental consent laws. You heard that the present law takes care of the situation and you heard we might have a potential situation where the pregnant person is abused by the person they're suppose to report to, but as the good Representative from Madawaska said there's a judicial bypass to take care of that. Present law allows a young minor to get an abortion, if she's counseled by an adult or even the very boyfriend who got her pregnant.

Think long and hard on this as parents, those of you who are parents and have a young daughter, a daughter who is not of age that can not become pregnant at this early stage, possibly she's young, someday she for whatever reason got pregnant, if you, as the mother or father would at least, the very, very least would like to be notified that she was going to have an abortion. How would you feel if for whatever reason your daughter was ashamed and didn't come to let you know and used the present law in the State of Maine, got some counseling by one of the people who are allowed to do this counseling, they counseled her to have an abortion and you found out about it later and your niece or nephew life was ended and after talking to your daughter after that she realized what a tragic mistake she had made and if only you had been notified you could have worked things out together. As the good Representative from Augusta said, and I concur and I hope you do too, this is a no brainer. Thank you.

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

Representative **SCHNEIDER**: Mr. Speaker, Ladies and Gentlemen of the House. I ask you to support Majority Ought Not to Pass Committee Report on this bill for two basic reasons. The first reason is that Maine already has an adult involvement law and the second reason is that it works.

Maine's current adult involvement law requires a minor, a young woman age 17 years or younger to get consent from her parents or from an adult relative or from an approved counselor or from the judge of the court before she can have an abortion. I would like to read to you from the statute exactly what that counseling must require under Maine's law right now. Any physician or counselor providing pregnancy information and counseling on this subsection shall, in a manner that will be understood by the minor, number one, explain that the information being given to the minor is being given objectively and is not intended to coerce, persuade or induce the minor to choose either to have an abortion or to carry the pregnancy to term. The information is suppose to be given objectively without pressing one side or the other.

Two, explain that the minor may withdraw a decision to have an abortion at any time before the abortion is performed or may reconsider a decision not to have an abortion at any time within the time period during which an abortion may legally be performed. So the person has to explain to the young woman that she can change her mind, that she can decide not to have an abortion at any time.

Three, clearly and fully explore with the minor the alternative choices available for managing the pregnancy, including carrying the pregnancy to term and keeping the child, carrying the pregnancy to term and placing the child with a relative or another family, through foster care or adoption and the elements of prenatal and postnatal care, so that's all educational and it's intended to tell the young woman what her options are. Explain that public and private agencies are available to provide birth control information and that a list of these agencies and the services available from each will be provided at the minor's request.

Five, discuss the possibility of involving the minor's parents, guardian or other adult family members in the minor's decision making concerning the pregnancy and explore whether the minor believes that involvement would be in the minor's best interest and number six, provide adequate opportunity for the minor to ask any questions concerning the pregnancy, abortion, child care, and adoption, and provide information the minor seeks or if the person can not provide the information indicate where the minor can receive the information. So Maine's existing adult involvement law requires the involvement of an adult in the decision of a young woman to have an abortion, or to carry the baby to term. This law works extremely well and it doesn't need supplementation or changing by the proposal under consideration right now. I urge you to press your green button and vote with the Majority Ought Not to Pass. 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. The question you must ask yourself is who is in charge of their children. It's the parents, of course. Who provides for them, who provides them with their food, who provides them with their shelter, their clothing and all their other needs. It's the parents.

In the 118th, I served on the Business and Economic Development Committee, we had a bill come before us that was passed and enacted into law. What it said was if a minor gets any body piercing that they need their parent's approval for it. As the Right Honorable Representative from Augusta, Representative O'Brien, said, when her son needed some Tylenol for a bad headache, she hadn't already filled out a form to give her son the Tylenol to give them the okay. She had to go bring it to him. Parents need to okay Tylenol in public schools. Parents need to okay their children playing sports in public schools. Who pays and who is responsible if something goes wrong? It's the parents, of course and the parents, since they are responsible, they are the ones who should know and also, with abortions there are many awful side affects that could happen, there could be massive bleeding, there have been several women who have bled to death after abortions. There's post abortion syndrome, with severe depression over what's happened. If the parents are responsible, shouldn't they know, shouldn't they know of this potential liability, let alone, of the murder of their grandchildren.

This bill would not ban any abortions. Like the bill we had last year that bans minors from getting a nose ring or a bellybutton ring, the bill last year said that parents had to give permission for that to happen. This bill doesn't even go that far, the parents don't even have to give permission. Just one parent has to get notified, not consent, it's just notification and if there's a bad family situation, there are plenty of loop holes in this bill, plenty of ways to be able to talk to another relative, a judge or a social worker, but in a time of crisis, who could be better for a young girl to talk to, who could be better than their parents, that raised them, loved them, cared for them and are responsible for them. We shouldn't just think about involving the parents, we should involve the parents in these situations. We must bring the families closer together in these times of crisis and not allow them to be split apart. Thank you and I urge you to vote against the pending motion.

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

Representative **BRENNAN**: Mr. Speaker, Men and Women of the House. As the good Representative Durham pointed out, in 1989 Maine developed an adult involvement law, the current law that we have and what we have before us today, and that law, in fact, became a national model. Since 1989, there have been a number of different attempts in this body, that have come before the Legislature to repeal or undue that good work that was done in 1989. The reason why that law has not been undone and has not been repealed or changed, because it works, because there hasn't been a reason to change what we did in 1989. What we currently have in law does work. A number of speakers have already said, it doesn't make simple sense, a no brainer, to have parental notifications. We already have adult involvement. We already have what works. We don't need to change what we have, or we don't need to put in unnecessary obstacles in the place of women that are making this important decision. Thank you and I hope that you will support the pending motion.

The Speaker resumed the Chair.

The House was called to order by the Speaker.

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

Representative **SULLIVAN**: Mr. Speaker, Men and Women of the House. I've chosen not to stand on the other two bills, but I need to stand on this one. I ask you to support the Majority Ought Not to Pass for several reasons. First of all, we have a law that works. If this were a perfect world, we wouldn't need any of these bills. If all the parents were parents I was fortunate enough to have and you were fortunate to have, if all the children had parents like the people that work in here day in and day out, we wouldn't need these. There would be no problem going to speak to your parents, oh there would be the embarrassment, disappointment, but you know this isn't an Ozzie and Harriet world. I see children, middle school, 6th, 7th and 8th grades, I want you to know that in this world there are children coming in who are nightly sexually abused by their mother's boyfriends. They don't dare talk about it, because if they do, their mother will be angry because the boyfriend will be removed from the house. This is all this child knows is his mother, it's not easy to talk together if you're a dysfunctional family. It's hard to understand that and you can blame society and you can blame the movies, you can blame anyone you want, but the fact remains there are children every day that are abused. They are asked to choose between protecting their mother and they put up with this abuse day and night. Uncles, family members, constantly take abuse and children are afraid to add more stress. We have a law that works. They need some help, they go and they get a counselor, but not in a perfect world, not every parent provides for their child. Not every parent offers what I offer to my child or what I'm sure you have offered to your children. We need to remember there are other people out there. Let the law that we have work, please vote with the Majority Ought Not to Pass. 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. I beg your indulgence, and I promise you this will be the last time I get up to speak on this issue. Three things that the good Representative, Representative Brennan mentioned, very interestingly said that if this was a bad law, how come it hasn't changed. I dare say a lot of laws have been changed that have been on the books a long time, though not too long, last session we had a law that was on the books 60 years, it's called the Hatch Act, or the mini Hatch Act, and Representative Hatch put in a bill to change that. Obviously enough people thought that it needed changing after 60 years. I don't know how long this adult involvement has been on the books, but I dare say it hasn't been 60 years. The previous speaker mentioned about abused children, as was mentioned earlier, this bill has a judicial bypass that will take care of that issue, but the key point that I want to make is the good Representative from Durham went down through a long litany of known adult involvement. Yes, you notice this adult involvement, but not parental involvement, whereas both models having judicial bypass, the present law that we have on the books unfortunately has a parental bypass.

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

Representative **PLOWMAN**: Mr. Speaker, Men and Women of the House. This is a law that works, and it works quite well. Immature young ladies who have already made one bad decision get to make another one, with the help of a school counselor, or

some other adult who may or may not have their best interest in mind. Why has it survived this long, because we have a Legislature that's willing to step in where parents belong and until we have a Legislature that's willing to step out of where parents belong, this will continue to be the law of the State of Maine.

Let me remind you so far this year, you have decided that this young girl must wear a helmet because she doesn't know better and she has to wear a seat belt in the car because she's not smart enough to figure she will go straight through the windshield, if there is an accident. She must not have learned that in school yet, an object of motion continues to stay in motion. You've determined that Joe Camel is a bad influence and she's likely to be persuaded to smoke by some kind of symbol, some kind of idea of glamour and I'm sure we're not through with the things that we're going to decide our children are too stupid to figure out for themselves and that the government will step in and take care of them or that their parents won't do it and if a child is coming to school and has been abused the night before and the teacher is aware of it, that teacher has broken the law by not mandatorily reporting it. That child needs to be protected and if a child has been incested, who better than a judge to go to say my uncle raped me. I need protection and just this very day you decided that DHS has the ability to step in and take children away to protect them from their own parents, but tonight you've decided that you don't want to make them choose between their mom and a perverted boyfriend.

I feel a little schizophrenic, don't you. This says that the child must notify one of the parents or go to a judge, we have judges all over the State of Maine, I can attest to that. Not everybody wants to tell their parents they made a mistake, whether it's backing into another car, getting an F on your report card, or you got pregnant. All carry a different degree of disappointment and anger and you know what as a child you're not suppose to have to do this alone, nobody says young lady you march home and tell your mother you're pregnant, that could just as easily be done in the doctor's office with the doctor sitting right there. Other states have it, we have adult involvement, we have minors, we have children having sex, getting pregnant and being told, don't worry we can take care of this, nobody has to know, it's okay, don't worry. Well what about the next time she gets in trouble, it might not be just being pregnant. I really think as a parent, I need to know what's going on with my child and I will know what's going on with my child, but I'd like you to be the one, you know women die having abortions, they do, I've been reading about them this afternoon. Donna Heins, Lillian Kortez, Michelle Chase to name three, how'd you like to get the call that your daughter didn't tell you she was pregnant, but she just died on the abortion table, or how would you like to be the one in the middle of the night that gets woken up, Mom, I have a fever and you give her a couple of Tylenol and she waits until the next morning to tell the school counselor that she's hemorrhaging, because she can't tell Mom she's had an abortion, because she didn't tell Mom she was going to have an abortion. I wouldn't want to deal with that either. Just a few scenarios for you to think over, but you have told children what they can't and can do and now you're telling them the rest is a free for all. I urge you to vote Ought Not to Pass. Thank you.

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

Representative **O'BRIEN**: Mr. Speaker, Ladies and Gentlemen of the House. If you will just indulge me one more

thought, I promise I will not speak again tonight, probably. As most of you know, I have five children and they are very, very different and when I think of these issues, I think they are very representative of the children throughout the state. Some of them are compassionate, some of them are not, some of them are studious, some of them are not, they are very, very different. I have one who is very, very sensitive and it is dawning on me as we've had this discussion, if this child had spent the hundreds of hours agonizing over it, that we're hearing that these women do and decided anyway to have the abortion and I didn't know it, I can guarantee that this child would become extremely depressed and I wouldn't know why. I would try and try to figure it out, grades would suffer, they would probably be shut off in a room, I wouldn't have any idea, and I just wonder, as I'm listening to this discussion how many suicides occur, teenage suicides occur because the child didn't tell and kept it within them and the guilt and shame and everything that goes along with it. I don't think we can forget this. Thank you.

The SPEAKER: The Chair recognizes the Representative from Montville, Representative Weston.

Representative **WESTON**: Mr. Speaker, Ladies and Gentlemen of the House. A number of years ago, I was at a dog pound with my son, he was looking at a little black Labrador Retriever that was being sort of hoisted upon him by one of the workers at the dog pound. While we were looking at this dog, a woman came in with a fluffy black and white Samoya puppy. This little puppy seemed to like my son and as I looked at this, I really liked that puppy better and as I stood trying to decide how much I should say, I approached my son and we talked about these two puppies and I stopped and said, well you know, you really need to make this decision, I don't want to influence you. He looked at me and said, oh mom, influence me, influence me, he wanted help in making this decision. As I look at this Maine adult involvement law, I see an adult whose saying you choose, I can't tell you one way or another, is that what this child needs in this time of crisis? I thought it was my role as a parent to influence my children, not just to choose a puppy, but as something as important as choosing to have an abortion or not, that is my role and I can do it with love and understanding that no one else can. Thank you.

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

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

The SPEAKER: The Representative may pose her question.

Representative **ANDREWS**: Mr. Speaker, Men and Women of the House. I'm looking through here for the definition of counselor, I see guidance counselor, I would assume this would be a counselor in school, have these guidance counselors been given training on how to properly counsel a teenager seeking an abortion, have they had the proper training for this, I have a concern regarding that.

The SPEAKER: 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 York, Representative Andrew's question, no, there's no special requirement for a school guidance counselor to know how to counsel young girls when they have an abortion. I'd also like to point out that in the law as it works, counseling from an approved counselor is a giant loophole. You could go talk to your guidance counselor at school, the same guidance that

allowed to refer you to abortion clinics in times of trouble. You could also see any physician, registered nurse, or licensed practical nurse, I'm sure the abortion clinics have plenty of nurses, and registered physicians and practical nurses, that are ready to counsel you and advise you of your choices, but push you in the way to have an abortion. This is the giant loophole that does nothing to include parents in the decision and nobody on this list needs any special training on how to talk to a young girl about an abortion. They just need to be a guidance counselor, a physician, or a nurse, not a special counselor for this situation. Thank you.

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

Representative **THOMPSON**: Mr. Speaker, Men and Women of the House. You know everybody here that has been speaking seems to be in complete agreement about the fact that the best of all worlds is parental involvement is what should happen. We don't pass our laws for the best of all worlds, we try to have our laws so they fit the real world. I've heard a lot of people stand up and say, I can't imagine this, I can't imagine that, I would do this, or I would want my child to do that. Not all families are so lucky, not all kids are lucky enough to be in such families. The current law allows the child to go to another adult relative, an aunt, or a grandmother, when they can't approach their parents. When we're counseling within a specific requirements of what must be counseled. What about the child that grew up in an abusive family situation? What about the child who is the victim of incest? Wouldn't it maybe be best for them to be able to go to their aunt, or their grandmother to help them get through this situation or would you rather make them go and see the judge and deal with the court situation and if they do go to a counselor, of course the counselor will be mandated to at least report the abuse to the authorities. Let's not kid ourselves, there are kids living out there every day in lives that we can't even imagine. There are 17 year olds living on the streets who don't even know where their parents are and whose parents don't care where they are. Who are we kidding, the kids don't live in the best of all worlds and we have to make the law work for them too, not just for the kids that have a loving family at home. I strongly urge you to support the Majority Ought Not to Pass Report.

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

Representative **SNOWE-MELLO**: Mr. Speaker, Ladies and Gentlemen of the House. Please let's not fall into the trap of throwing in all the great wonderful parents, throwing them into the bath water. You know putting them with the good and the bad, why do we always have to assume that every parent is going to callus and unkind to their child that's pregnant. You know I really believe that our society, the way it's been set up today is teaching our children to grow up way too fast. We're putting our children, making them make decisions on their own that they should not be making. We're taking rights away from parents left and right because we assume that every parent is a bad parent. Good parents should have notification. You know let's think about it, this is a child, a child bearing a child.

You know I remember when I was a teenager, I felt I knew everything, but I tell you, I don't know what I would have done if I got pregnant, thank the Lord I had the best parents in the world, but I would have been scared to go to them if I got pregnant, I really would have, but I would have gone. I really believe that the way the law stands today, the child doesn't learn responsibility. The way the current law teaches our children to

escape from making the right decision. We force them into making bad decisions. By not letting the parents know that their child is pregnant, you're also denying the parents of a future grandchild that they might welcome with open arms, but we're always assuming. Let's stop assuming and please vote against the pending motion. Let's put some more responsibility back into the parents where it belongs. Thank you.

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

Representative **MACDOUGALL**: Mr. Speaker, Ladies and Gentlemen of the House. Something that happened recently to me as a parent, I have five sons, I'm very proud of each and every one of them. My fourth son, Todd, who is currently going to Southern Maine Technical to study law enforcement. He's just finishing up his first year and I do spend most of the week up here when we are in four or five days of session, like we have been, so I am away from home quite a bit and try to stay up to date with what's going on back home with phone calls and so forth. My son will go into law enforcement of some kind, he also has in his mind that he's going to go into the service, perhaps after he gets his degree. He went in to talk to a recruiter and I want you know that there are a lot of people out there that deal with our young people that are very professional and very good people and really do care about the people that they deal with and such is the case with this recruiter. He's a Marine recruiter. He managed to talk to my son in such a way that my son was very close to enlisting just recently, now sometimes, at least with boys, I never did have a daughter, but sometimes young men don't make the brightest decisions and my son who normally does with the counsel of this recruiter almost made a decision unilaterally, something that he would not normally do, but I wasn't around, I was up here, he came very close to signing up and enlisting. Now that wouldn't have been the end of the world. Fortunately, my wife got a hold of me and we had some discussions and so forth and so on, and after we talked my thoughts were that he should get his degree first and then enlist at that point in time. So to make a long story short, the network that we have in my family is very important and must be used, it's there. The recruiter did not know my son the way I know my son.

The current law, to me, puts that recruiter or counselor, or physician, or a nurse kind of on an equal level as parents, under the guise that there are some parents that are not good parents. The thing about parents in the legislation before us that I will support is that it allows the fact that there are more parents such as my wife and myself and most of you folks then there are parents that are not good parents and there is the judicial bypass, there is a safety valve for those parents who don't do the job well. We make decisions and young people have to make a lot of them very quickly, what school they are going to go to, what they're going to do for a career, and like I said earlier had my enlisted, it wouldn't have been the end of the world.

But this when we are talking about abortion, once the decision to abort this baby it's forever. That baby does not come back. The woman often left broken. In the case of my son, and we're talking about, certainly not abortion, but just a career decision, even if he had made the worst decision in the world there was still another path he could go down. He could restart, it wasn't the end of the world if he made a bad decision. But in this case, abortion, that brings up the end, in my opinion. So ladies and gentlemen, I think what the current legislation does is it says parents in the State of Maine are the best network for

their children and this bill supports that and gives that safety valve to those parents. Thank you for listening.

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

Representative **GLYNN**: Mr. Speaker, Ladies and Gentlemen of the House. I rise in opposition to the pending motion and I, too, like many of my colleagues would like to see some parental notification in place in the statute. To say the least, Maine State Law is not consistent and it's particularly not consistent when we take a look at issues dealing with parental notification. I'd like to draw the House's attention to a state law that has been in existence for many years in Title 19, regarding marriage and our state statute regarding marriage says very clearly that a city clerk may not issue a marriage license to a person without written consent of that minor's parents, guardians, or the person of whom the court has given custody permission and it sets forward that in the event that that isn't possible, that they may petition the court to do so. I ask myself why is that law in place and the reason why that law is in place is obviously this marriage is a pivotal point in a young person's life and it's a decision so large and so difficult with so many issues associated that a young person just absolutely would not have the life experience to make that decision before them, to be able to be equipped to make a good decision. So to that we look to the parent. With the issue of abortion, we say that the child doesn't need to look to their parent and in fact, doesn't even need to tell their parent. We say instead, they can look to any adult, or they can look to a counselor. Why would a decision in state law, why would it make sense that we maintain this statute saying that they don't need to consult or notify a parent while at the same time we carry a law on the books that was reviewed and changed as recently as last legislative session, that you, in fact, need to consult that parent and get, not just notification, but written consent in order to perform a marriage. And I say it, and I say to all of you that in the least that's inconsistent and in my mind it's not putting the power and the confidence into the family.

Parents have a very difficult time in parenting, I hear that from my constituents as I speak with them. They feel as though the system is rigged against them, at least many of them do. When issues come about such as the condition that would have a young girl needed an abortion, or even considering having an abortion. Obviously there are things going on in that young person's life that they need a parental figure more than ever. If there was drug abuse going on with that youngster, we'd certainly want the parents to know. If the person has become sexually active, obviously, the parent should need to know and in fact, we have a state law if they would like to unite with another, they in fact have a statutory responsibility to notify and get the permission of the parent and for these reasons I will be voting against the pending motion and urge you also to do the same. I thank you.

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

Representative **STEVENS**: Mr. Speaker, Men and Women of the House. I stand to remind us that the availability of information never leads to bad decisions. If someone is afforded the information that someone needs then the decision that's made will ultimately result in a good one, because if the information is available than that individual understands the situation and can decide accordingly. Education results in good decisions and the Maine Adult Involvement Law educates young women and girls about their options, about their situation. My

friend from Standish, Adam Mack, alleged that guidance counselors probably were not the best to give guidance, but guidance is not assistance in making decisions, guidance is information. That's what the Maine Adult Involvement Law does. It provides information to people who desperately need information about options. Most adolescents do not get pregnant. Most adolescents do not have abortions. Most adolescents who do get pregnant tell their parents, I think we all agree on this, it's been said time and again. Most of the parents in this chamber claim that their children would probably turn to them for information when they needed it. However, the Maine Adult Involvement Law that we presently have at least works, it allows for those stray few cases where information is not available from the family. These aren't families like ours. These aren't people like the people we know. These are families with problems, people who have a lack of information and the Maine Adult Involvement Law works. I hope that you vote the Majority Ought Not to Pass. It's a terrible situation that someone finds themselves in to have to even consider the information. The least we can do is make that information available.

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

Representative **MCKEE**: Mr. Speaker, Men and Women of the House. I've sat very patiently through all these bills in a great deal of turmoil, because I deal with students every day who talk about exactly what we're talking about tonight often. I couldn't agree more with anyone who has spoken tonight than with the good Representative from Orono, Representative Stevens. Students do make good decisions when they have information, be it whether or not they are going to wear robes at graduation or what band they're going to have and I've found that in most cases, just to keep sitting there and asking questions that eventually that group of kids makes a darn good decision about whatever it is they're working on. Especially students who have grown up with parents who have talked to them, asked them about what they're thinking and feeling and helping them to learn to make good decisions all along. But very few minors can talk with their parents, I can tell you truthfully, very few minors can talk with their parents honestly and openly tonight about lots of things. I find it rather interesting that on this issue, parents suddenly want to be notified, they want to know, well I want to ask you, why don't you want to know about what they are doing tonight, or what they are watching, or who they are with, or why they aren't doing their homework, or what drugs they're using, or what's their curfew, and why they're afraid to go to school, or who they're having sex with and what do they think about sex, but no, we want to know at the last possible moment about an abortion. I would suggest to you, that you are the last person your child is going to come to and should not come to if you or I have not been open enough to talk to them about these things that matter to them. Kids are not flip about these issues. They're troubled about them, they want to talk to people. It's important stuff and they know it and they'd love to be able to talk to their parents but they can't. The law is working for children who don't have parents who have shown by example that they are the best adult involved in their lives to talk to. I would suggest that we accept the Majority Ought Not to Pass and move on.

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. 262

YEA - Bagley, Baker, Berry RL, Bolduc, Brennan, Brooks, Bruno, Bull, Cameron, Chick, Cianchette, Colwell, Cowger, Davidson, Dudley, Dugay, Dunlap, Duplessie, Etnier, Frechette, Fuller, Gagne, Gagnon, Goodwin, Gooley, Green, Hatch, Jabar, Jacobs, Jodrey, Jones, Kane, LaVerdiere, Lemoine, Lemont, Lindahl, Lovett, Mailhot, Marvin, Mayo, McDonough, McGlocklin, McKee, Mitchell, Murphy T, Muse, Norbert, Nutting, O'Brien LL, O'Neil, Peavey, Perkins, Pieh, Powers, Quint, Richard, Richardson E, Richardson J, Rines, Rosen, Savage W, Saxl JW, Saxl MV, Schneider, Sherman, Shiah, Skoglund, Stanwood, Stevens, Sullivan, Tessier, Thompson, Townsend, Tracy, Tripp, True, Twomey, Volenik, Watson, Wheeler GJ, Williams, Mr. Speaker.

NAY - Ahearne, Andrews, Belanger, Berry DP, Bouffard, Bowles, Bragdon, Bryant, Bumps, Campbell, Carr, Chizmar, Clark, Clough, Collins, Cross, Daigle, Davis, Desmond, Duncan, Foster, Gerry, Gillis, Glynn, Heidrich, Honey, Joy, Kasprzak, Kneeland, MacDougall, Mack, Madore, Martin, Matthews, McAlevey, McKenney, McNeil, Mendros, Murphy E, Nass, O'Brien JA, Pinkham, Plowman, Samson, Sanborn, Savage C, Shields, Shorey, Sirois, Snowe-Mello, Stanley, Stedman, Tobin D, Tobin J, Trahan, Treadwell, Usher, Waterhouse, Weston, Wheeler EM, Winsor.

ABSENT - Buck, Cote, Fisher, Labrecque, O'Neal, Perry, Povich, Tuttle.

Yes, 82; No, 61; Absent, 8; Excused, 0.

82 having voted in the affirmative and 61 voted in the negative, with 8 being absent, the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

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

SENATE PAPERS

Non-Concurrent Matter

Bill "An Act to Ban Partial Birth Abortion"

(I.B. 1) (L.D. 1593)

Minority (3) **OUGHT TO PASS AS AMENDED** Report of the Committee on **JUDICIARY READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-627)** in the House on May 20, 1999.

Came from the Senate with the Majority (10) **OUGHT NOT TO PASS** Report of the Committee on **JUDICIARY READ** and **ACCEPTED** in **NON-CONCURRENCE**.

Representative THOMPSON of Naples moved that the House **RECEDE AND CONCUR**.

The same Representative **REQUESTED** a roll call on his motion to **RECEDE AND CONCUR**.

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 to Recede and Concur. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 263

YEA - Bagley, Baker, Berry RL, Bolduc, Brennan, Brooks, Bruno, Bull, Cameron, Colwell, Cowger, Daigle, Davidson, Dudley, Dunlap, Duplessie, Etnier, Frechette, Fuller, Gagne, Gagnon, Goodwin, Green, Hatch, Jabar, Jacobs, Jodrey, Kane, LaVerdiere, Lindahl, Lovett, Mailhot, Marvin, Mayo, McGlocklin,

McKee, Mitchell, Muse, Nass, Norbert, O'Brien LL, O'Neil, Peavey, Pieh, Powers, Quint, Richardson E, Richardson J, Rines, Rosen, Savage W, Saxl JW, Saxl MV, Schneider, Shiah, Skoglund, Stanwood, Stevens, Sullivan, Tessier, Thompson, Townsend, Tracy, Tripp, True, Twomey, Volenik, Watson, Williams, Mr. Speaker.

NAY - Ahearne, Andrews, Belanger, Berry DP, Bouffard, Bowles, Bragdon, Bryant, Bumps, Campbell, Carr, Chick, Chizmar, Cianchette, Clark, Clough, Collins, Cross, Davis, Desmond, Dugay, Duncan, Fisher, Foster, Gerry, Gillis, Glynn, Gooley, Heidrich, Honey, Jones, Joy, Kasprzak, Kneeland, Lemoine, Lemont, MacDougall, Mack, Madore, Martin, Matthews, McAlevey, McKenney, McNeil, Mendros, Murphy E, Murphy T, Nutting, O'Brien JA, Perkins, Pinkham, Plowman, Richard, Samson, Sanborn, Savage C, Sherman, Shields, Shorey, Sirois, Snowe-Mello, Stanley, Stedman, Tobin D, Tobin J, Trahan, Treadwell, Usher, Waterhouse, Weston, Wheeler EM, Wheeler GJ, Winsor.

ABSENT - Buck, Cote, Labrecque, McDonough, O'Neal, Perry, Povich, Tuttle.

Yes, 70; No, 73; Absent, 8; Excused, 0.

70 having voted in the affirmative and 73 voted in the negative, with 8 being absent, the motion to **RECEDE AND CONCUR FAILED**.

Subsequently, the House voted to **ADHERE**.

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 (10) **Ought Not to Pass** - Minority (3) **Ought to Pass as Amended by Committee Amendment "A" (H-612)** - Committee on **JUDICIARY** on Bill "An Act Creating Offenses Against Unborn Children"

(H.P. 805) (L.D. 1128)

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

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

Representative **PLOWMAN**: Mr. Speaker, Men and Women of the House. I urge you not to accept the Report and go on to accept the Minority Ought to Pass Report. This bill makes the killing of an unborn child a crime. Currently, in the State of Maine it is not a crime to cause the death of an unborn child. This crime exists in many other states. This bill does not, it is very specific that abortion is not including in killing an unborn child, that it must be an assault with the intent to cause the death of a child. It cannot be vehicular manslaughter, such as a drunken driver case, it must be where the intent is to deprive the woman of her right to choose to carry her child to term. I would ask that you defeat the pending motion and insure the woman's right to choose to carry her baby to term be upheld by the state and that the killing of her child be considered a crime for the first time here in Maine. Thank you.

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

Representative **KASPRZAK**: Mr. Speaker, Ladies and Gentlemen of the House. It's unfortunate that this bill has been

grouped together with the abortion bills that we have heard this evening. I would like it to be an anti-abortion bill. I would like that. I would like it if we could save the life of one child who doesn't have the opportunity to be born, but this isn't an abortion bill.

This is domestic violence bill, if anything. In my circle of friends, family and acquaintances, and I won't share for the record what relationship I personally have with this couple, but suffice it to say that during the period of time in which I was drafting the bill, working my presentation, an event took place that brought the need for this kind of legislation home to me personally. There's a couple that I know and love deeply, they're a couple who go through the ups and downs of marriage like many couples, I suppose, but on this afternoon the event took place, the husband of this couple was especially angry about something, who knows what, he goes through these periods of time when he is that way. Usually, it's not much of an event, but sometimes it is. On this day it was. The wife of this couple is pregnant, even now she is expecting. He was left home alone with the other children and when she arrived home from grocery shopping, a little later than he expected her, he was upset. They argued and in ensuing moment things got out of hand, completely out of hand as far as I see it. Amongst the yelling and screaming that followed, this very large man, over 200 pounds, maybe 250, slapping the expected mother across the face and then he proceeded to pour a colander of hot pasta over her. More yelling and screaming went on, who knows where it would have gone. He knew she was expecting, it is his child and we don't know yet whether it's a son or daughter, they hope for a son. But in a case like this, if something else had happened, if he had gone further and he had taken the life of this baby, this baby that many are expecting and looking forward to, some have even purchased baby items for this baby, I have, personally, many are looking forward to the day when this little one will show his or her face. In current law there is nothing to hold this man responsible for what he might have done, what he still may do. She hasn't delivered. She's not due for some time now. There's nothing to punish him further than a usual assault. It's the same as breaking her arm. If he causes the loss of a child, she hasn't just broken an arm, she hasn't got a black eye, she has lost the child that she looked forward to having. I urge you, I encourage you, I beseech you to consider this bill for what it is. It is not an abortion bill. It's been written so carefully that it can't possibly affect an abortion. What it can do is protect the right of a mother to have her child and if she can't because someone has abused her to the point where she loses her child, she has something to stand on, something the judge can hold him accountable for other than a broken limb. I urge you to vote against the pending motion. Thank you.

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

Representative **WATERHOUSE**: Mr. Speaker, Ladies and Gentlemen of the House. The sponsor of the bill the Representative from Newport, is entirely right as far as I'm concerned and I also don't think this should have been bunched with the abortion bills because it has nothing, nothing, nothing to do with abortion. A woman's choice is not in play here. This has everything to do with the killing of an unborn child that's wanted, it's not an abortion issue. The classic case for these laws is 34 states have variations of fetal homicide. Laws on the books that might say that the constitution does not tremble for abortion rights, none of these fetal homicide statutes in the 34 states have

been overturned by any court decision. In fact, California has had their's on the book since 1970. California being one of the most liberal, abortion, pro-choice states in the country.

Very briefly, I want to read the classic case read by any law student is *Kela vs Superior Court of Amando County*, in that case a husband whose wife was 35 weeks pregnant with another man's child, confronted her saying, I'm going to stomp it out of you and kneed his wife in the abdomen. An emergency cesarean produced a stillborn child with a fractured skull. Kela's child was murdered under the statutes, which used the common law definition murder, which is the unlawful killing of a human being with malice and forethought. The California Supreme Court, in a 5 to 2 decision, held that statute in terms of human being used in that statute was not to able to the child unless it was born alive. A crime committed up to that time would be classified as a fetal homicide.

I have to stress this has nothing to do with a woman's choice, it has everything to do with violence to the woman. It has a lot to do with domestic abuse to the woman and completely constitutional. I urge you to vote against the pending motion.

Representative WATERHOUSE of Bridgton **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 Madawaska, Representative Ahearne.

Representative **AHEARNE**: Mr. Speaker, Ladies and Gentlemen of the House. I hope you will join me in vote against the pending motion. To me this is a no brainer, it shouldn't matter whether you're pro-life or for abortion, or Democrat or Republican. This is sensible legislation. Everywhere we go to the store, to a restaurant, there's no doubt we have seen pregnant women, most of the time, but not all of the time everybody does their best to insure that woman receives due respect and common courtesy due to the fact that she is pregnant. We all instinctively hold the door open, give up our seat, if there are no other seats available. You must ask yourself the question of why, why should we as human beings provide some form of comfort or protection to a woman who is pregnant. It is because we not only value her life, but we equally value the life of the unborn baby. If a pregnant woman is involved in an accident, everything humanly possible is done to insure that not only is the mother okay, but also that the baby is fine. If the baby is in danger, all medical technology is used to preserve that baby's well being and life. There is no doubt of the sorrow we all feel when we hear of a couple who has lost a baby through miscarriage.

There was a time when my brother's wife had a complication during her pregnancy and I could say without doubt not all was my brother stressed out, but also the whole Ahearne family. Thank goodness there was no problems and the baby was born in perfect health. So it only follows that if anyone potentially does harm to a woman who is pregnant, not only should that individual be charged with assault and battery to the woman, but also should be charged with an additional penalty of the unborn baby is hurt or killed. It is critically important through methods that this unborn baby is a wanted baby. If we truly value that wanted baby's life then I foresee no reason why we cannot enact legislation that would place on the books stated protection that would penalize those individuals who intentionally cause harm or

even death to that unborn baby. I ask you to reject the pending motion.

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

Representative **THOMPSON**: Mr. Speaker, Men and Women of the House. I would ask you to take a look at this bill and see that it does much more than create crimes for intentionally inflicting an injury upon a pregnant woman and thus affecting her unborn child. It also creates the crimes of voluntary manslaughter and involuntary manslaughter of an unborn child. Involuntary manslaughter of an unborn who recklessly caused the death of the unborn child, even if you didn't know the woman was pregnant. Involuntary manslaughter of an unborn child, even if it's the result of a traffic infraction, resulting in an accident. So if you run a stop sign and bump into a car with a woman in the other vehicle, you bump her such that she miscarries, which doesn't have to be a huge bump under the worse circumstances for her, you are guilty of a felony manslaughter charge. Now there's something to be said about creating or doing something about intentional accidents against pregnant women, but is this what we envision as Maine law. If your traffic violation happens to be criminal violation, it's a class B felony, if it's only a civil violation, than it's a class C felony, punishable by up to five years in jail.

Then under voluntary manslaughter, if you are under the influence of extreme anger or extreme fear, brought about by adequate provocation and if you negligently or even accidentally cause the death of the unborn child, accidentally caused the death of this unborn child, you may be guilty of involuntary manslaughter which is a class A crime, which is punishable by up to 40 years in jail. Is this what we had in mind, when we think of crimes against an unborn child. I think not. Under the current law, if you assault a woman who is pregnant and it causes harm to her fetus, it's clear that you could be charged with aggravated assault, which is a felony and be subject to those penalties. The bill before us, I feel, is very flawed. It sounds good by the title, and it sounds good by some of the examples that were given to you, but in reality it is also going to result in very unintended consequences and I would ask that you support the Majority **Ought Not to Pass** Report.

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

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

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

Representative **MATTHEWS**: Mr. Speaker, Ladies and Gentlemen of the House. For anyone who might have the answer, in discussions on this floor many, many times, many have talked about viability. I happen to believe that human life begins at conception, that's my viewpoint. In this discussion we talked about viability in the third trimester, my question is this. How many states have protections for an unborn child, as an attempt to bring some kind of commonality and agreement here on the discussion and does Maine have currently in the statutes protections for an unborn child in the third trimester. It seems to me with my mind, which is not quite as sharp as it used to be, there have been some cases that come to mind, not only in our state, but elsewhere, there has been assault on an unborn child, usually because of a domestic dispute and I am a strong believer, as I know this House is, and I know doggone well that the Judiciary Committee, which I have a great deal of respect for, is a strong proponent of legislation to protect women and against

domestic violence. Does Maine have a law protecting a child, a human life, we know from medical research that having had joy feeling my little boys and girls kick daddy when they were early in the stage of this life and we know a Governor in the State of Georgia, advocated that we have music for the baby in the womb, because they listen and they respond and we know medical research tells us that we are learning more and more about their stage of development. Many of us didn't need all that medical research, we knew by imperial evidence and common sense, but my question is, what does Maine do to protect that unborn child? Thank you, Mr. Speaker.

The SPEAKER: The Representative from Winslow, Representative Matthews has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Naples, Representative Thompson.

Representative THOMPSON: Mr. Speaker, Men and Women of the House. In response to the question, there are no laws in Maine regarding any period of viability, there are no laws at all, but this law here specifically states that the unborn child is from fertilization up through birth, so this would be a law that if you damaged the fetus at any stage, you would be guilty of these crimes.

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

Representative PLOWMAN: Mr. Speaker, Men and Women of the House. I would like to answer part of the question that was asked by the good Representative. In Arizona it's a crime of manslaughter of any age of the fetal development, in California it's murder for any fetus, Georgia is determined at the point where the baby quickens within the womb, Illinois is from fertilization to birth, Iowa any pregnancy at any point, Louisiana fertilization and implantation to birth, Nevada quickening, North Dakota conceived, but not yet born, Rhode Island quickening, South Dakota conceived but not born. Recently, one of our district attorneys asked for a law like this, because he couldn't prosecute the death of the child of Ginger Raymond. District Attorney David Crook, he wanted to charge a drunk driver with causing the loss of her child, but he found out that he couldn't charge him with anything to do with the death of the baby. So this editorial asked a couple of questions and I'll ask them. Would pro-choice advocates consider legalizing abortions done against the woman's will, of course not they answer, then why should abortion by negligence or intention be permitted. This is what our state law permits by omission. A woman who suffers a tragic loss at the hands of another intentionally or by negligence has no recourse and as the district attorney pointed out there was no choice involved for Ginger Raymond. The Legislature, as it considers this bill, should seek to write a law that would allow prosecution for the death of a fetus. The law of the woman's choice in the matter should weigh heavily in any legislation that is considered. Of course none of this is easy, but the right of women to bear children, of both men and women to become parents, deserves protection, too and as this case clearly illustrates, they're not getting it from Maine law. Please vote to defeat this and give the protection to the people like Ginger Raymond and her husband that they deserved. Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative MENDROS: Mr. Speaker, Men and Women of the House. We've heard under the proposed law if an unborn child were killed and the person doesn't know that the woman was pregnant, hits a car and committed manslaughter and they didn't know. My question is under current law somebody sitting in a parked car, you don't know they are in there, you hit that car and you're negligent and that person in the car was killed and you didn't know they were there, can you be tried for negligent manslaughter?

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

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

The SPEAKER: The Representative may pose his question.

Representative SHOREY: Mr. Speaker, Men and Women of the House. I've heard thus far the reason we shouldn't go forward with this bill is because of all the accompanying problems that may come from it, such as people not knowing that someone is pregnant in an automobile accident. Did the committee look at amending the bill so that if someone willfully killed a child they would be prosecuted?

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

ROLL CALL NO. 264

YEA - Bagley, Belanger, Berry DP, Berry RL, Bolduc, Brennan, Brooks, Bruno, Bryant, Bull, Bumps, Cameron, Chick, Cianchette, Colwell, Cowger, Davidson, Dudley, Dugay, Dunlap, Duplessie, Etner, Fisher, Frechette, Fuller, Gagne, Gagnon, Gooley, Green, Hatch, Jabar, Jacobs, Jodrey, Jones, Kane, LaVerdiere, Lemoine, Lemont, Lindahl, Mailhot, Marvin, Mayo, McAlevey, McGlocklin, McKee, Mitchell, Murphy T, Muse, Norbert, Nutting, O'Brien LL, O'Neil, Peavey, Perkins, Pieh, Powers, Quint, Richard, Richardson E, Richardson J, Rines, Rosen, Savage W, Saxl JW, Saxl MV, Schneider, Shiah, Skoglund, Stevens, Sullivan, Tessier, Thompson, Townsend, Tracy, Tripp, True, Twomey, Volenik, Watson, Wheeler GJ, Williams, Mr. Speaker.

NAY - Ahearne, Andrews, Bouffard, Bowles, Bragdon, Campbell, Carr, Chizmar, Clark, Clough, Collins, Cross, Daigle, Davis, Desmond, Duncan, Foster, Gerry, Gillis, Glynn, Heidrich, Honey, Joy, Kasprzak, Kneeland, Lovett, MacDougall, Mack, Madore, Martin, Matthews, McKenney, McNeil, Mendros, Murphy E, Nass, O'Brien JA, Pinkham, Plowman, Samson, Sanborn, Savage C, Sherman, Shields, Shorey, Sirois, Snowe-Mello, Stanley, Stanwood, Stedman, Tobin D, Tobin J, Trahan, Treadwell, Usher, Waterhouse, Weston, Wheeler EM, Winsor.

ABSENT - Baker, Buck, Cote, Goodwin, Labrecque, McDonough, O'Neal, Perry, Povich, Tuttle.

Yes, 82; No, 59; Absent, 10; Excused, 0.

82 having voted in the affirmative and 59 voted in the negative, with 10 being absent, the Majority Ought Not to Pass Report was **ACCEPTED** and sent for concurrence.

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

LEGISLATIVE RECORD - HOUSE, May 20, 1999

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

An Act to Improve the Efficiency of Environmental Regulation in the Unorganized and Deorganized Areas of the State

(S.P. 574) (L.D. 1654)
(C. "A" S-261; H. "A" H-591)

Which was **TABLED** by Representative PIEH of Bremen 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**.

On motion of Representative TRACY of Rome, the House adjourned at 9:54 p.m., until 9:00 a.m., Friday, May 21, 1999 in honor and lasting tribute to Patricia A. Bailey, of Windsor, Clement H. Smith, of Monmouth and Perle R. Pollack, of Bangor.