

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
57th Legislative Day
Monday, May 24, 1999

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

Prayer by Reverend Michael Ring, First Congregational Church and Oxford Congregational Church, Mechanic Falls.
National Anthem by Belfast Area High School Chorus.
Pledge of Allegiance.
Doctor of the Day, Larry Harcourt, M.D., Scarborough.
The Journal of Friday, May 21, 1999 was read and approved.

SENATE PAPERS
Non-Concurrent Matter

Bill "An Act to Amend Maine's Family and Medical Leave Law"

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

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-217) AND HOUSE AMENDMENT "A" (H-576) in the House on May 17, 1999.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-217) AND HOUSE AMENDMENT "A" (H-576) AS AMENDED BY SENATE AMENDMENT "B" (S-323) thereto in NON-CONCURRENCE.**

On motion of Representative MATTHEWS of Winslow, **TABLED pending FURTHER CONSIDERATION** and later today assigned.

COMMUNICATIONS

The Following Communication: (H.C. 203)

STATE OF MAINE
ONE HUNDRED AND NINETEENTH LEGISLATURE
COMMITTEE ON CRIMINAL JUSTICE

May 19, 1999
Honorable Mark W. Lawrence, President of the Senate
Honorable G. Steven Rowe, Speaker of the House
119th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Rowe:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Criminal Justice has voted unanimously to report the following bills out "Ought Not to Pass":
L.D. 2098 An Act to Improve the Safety of Firefighters
We have also notified the sponsor and cosponsors of each bill listed of the Committee's action.

Sincerely,
S/Sen. Robert E. Murray, Jr.
Senate Chair
Rep. Edward J. Povich
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 204)

STATE OF MAINE
ONE HUNDRED AND NINETEENTH LEGISLATURE
COMMITTEE ON HEALTH AND HUMAN SERVICES

May 19, 1999
Honorable Mark W. Lawrence, President of the Senate
Honorable G. Steven Rowe, Speaker of the House
119th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Rowe:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Health and Human Services has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 1229 Resolve, to Promote Community Mental Health Services

We have also notified the sponsor and cosponsors of each bill listed of the Committee's action.

Sincerely,
S/Sen. Judy Paradis
Senate Chair
S/Rep. Thomas J. Kane
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 205)

STATE OF MAINE
ONE HUNDRED AND NINETEENTH LEGISLATURE
COMMITTEE ON INLAND FISHERIES AND WILDLIFE

May 19, 1999
Honorable Mark W. Lawrence, President of the Senate
Honorable G. Steven Rowe, Speaker of the House
119th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Rowe:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Inland Fisheries and Wildlife has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 187 An Act to Change the Dates of the Moose Hunting Season
L.D. 325 An Act to Change the Time of the Moose Hunting Season
L.D. 446 An Act to Amend the Application Process for the Moose Lottery
L.D. 513 An Act to Require Resident Moose Lottery Applicants to Hold Big Game Hunting Licenses
L.D. 520 An Act to Increase the Number of Moose Hunting Permits to 3,000
L.D. 844 An Act to Change the Moose Hunting Season to the Last Week of September
L.D. 978 An Act to Allow a Subpermittee on a Moose Hunting Permit to Be Named after the Moose Lottery
L.D. 1150 An Act to Amend the Moose Hunting Laws
L.D. 1387 An Act to Facilitate Moose Hunting Permits for Active Military Personnel BY REQUEST
L.D. 1465 An Act Regarding Qualifications to Enter the Moose Lottery

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,
S/Sen. Marge L. Kilkelly

Senate Chair
S/Rep. Matthew Dunlap
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 206)

**STATE OF MAINE
ONE HUNDRED AND NINETEENTH LEGISLATURE
COMMITTEE ON STATE AND LOCAL GOVERNMENT**

May 21, 1999

Honorable Mark W. Lawrence, President of the Senate
Honorable G. Steven Rowe, Speaker of the House
119th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Rowe:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on State and Local Government has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 1351 An Act to Require that Members of the Workers' Compensation Board be Subject to Review by the Joint Standing Committee on Labor

We have also notified the sponsor and cosponsors of each bill listed of the Committee's action.

Sincerely,
S/Sen. Peggy A. Pendleton
Senate Chair
S/Rep. Douglas J. Ahearn
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 207)

**STATE OF MAINE
ONE HUNDRED AND NINETEENTH LEGISLATURE
COMMITTEE ON TAXATION**

May 21, 1999

Honorable Mark W. Lawrence, President of the Senate
Honorable G. Steven Rowe, Speaker of the House
119th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Rowe:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Taxation has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 2102 An Act to Exempt from Use Tax Merchandise that is Donated to a Nonprofit Organization

We have also notified the sponsor and cosponsors of each bill listed of the Committee's action.

Sincerely,
S/Sen. Richard P. Ruhlman
Senate Chair
S/Rep. Kenneth T. Gagnon
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 208)

**STATE OF MAINE
ONE HUNDRED AND NINETEENTH LEGISLATURE
COMMITTEE ON TAXATION**

May 19, 1999

Honorable Mark W. Lawrence, President of the Senate
Honorable G. Steven Rowe, Speaker of the House
119th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Rowe:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Taxation has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 2071 An Act Concerning Penalties Under the Maine Tree Growth Law and the Farm and Open Space Law

We have also notified the sponsor and cosponsors of each bill listed of the Committee's action.

Sincerely,
S/Sen. Richard P. Ruhlman
Senate Chair
S/Rep. Kenneth T. Gagnon
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 209)

**STATE OF MAINE
ONE HUNDRED AND NINETEENTH LEGISLATURE
COMMITTEE ON TRANSPORTATION**

May 19, 1999

Honorable Mark W. Lawrence, President of the Senate
Honorable G. Steven Rowe, Speaker of the House
119th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Rowe:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Transportation has voted unanimously to report the following bills out "Ought Not to Pass":

H.P. 1568 Joint Order - Relative to Establishing the Commission to Study the Fairness of the Maine Turnpike

L.D. 53 Resolve, Requiring the State to Reimburse Towns for the Construction of Salt and Sand Storage Facilities

L.D. 2205 An Act to Require Legislative Approval of the Automation of 2 Drawbridges between Kittery and Portsmouth, New Hampshire

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,
S/Sen. William B. O'Gara
Senate Chair
S/Rep. Joseph M. Jabar, Sr.
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 210)

STATE OF MAINE

**ONE HUNDRED AND NINETEENTH LEGISLATURE
COMMITTEE ON HEALTH AND HUMAN SERVICES**

May 21, 1999

Honorable Mark W. Lawrence, President of the Senate
Honorable G. Steven Rowe, Speaker of the House
119th Maine Legislature
State House
Augusta, Maine 04333

Dear President Lawrence and Speaker Rowe:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Health and Human Services has voted unanimously to report the following bills out "Ought Not to Pass":

- L.D. 2167 An Act to Ensure the Availability of Funds for Tobacco Prevention and Control
L.D. 2169 An Act to Establish the Trust Fund for a Healthy Maine
L.D. 2191 An Act to Establish the Maine Tobacco Endowment Fund Using Tobacco Settlement Funds

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,
S/Sen. Judy Paradis
Senate Chair
S/Rep. Thomas J. Kane
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (S.C. 299)

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

May 21, 1999

The Honorable G. Steven Rowe
Speaker of the House
2 State House Station
Augusta, Maine 04333

Dear Speaker Rowe:

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

Upon the recommendation of the Joint Standing Committee on Banking and Insurance, the nominations of Howard R. Gray, Jr. of Portland for appointment as the Superintendent of the Bureau of Banking and William N. Lund of Falmouth for reappointment as the Director of the Office of Consumer Credit Regulation.

Upon the recommendation of the Joint Standing Committee on Education and Cultural Affairs, the nominations of Barry D. McCrum of Mars Hill and Edward A. Fox of Harborside for appointment and Albert B. Glickman of Cape Elizabeth for reappointment to the University of Maine System Board of Trustees.

Upon the recommendation of the Joint Standing Committee on Labor, the nomination of Catherine R. Sullivan of Portland for appointment to the Maine State Retirement System Board of Trustees.

Upon the recommendation of the Joint Standing Committee on Natural Resources, the nominations of Martha G. Kirkpatrick of Newcastle for appointment as the Commissioner of the Department of Environmental Protection; Ernest W. Hilton of

Starks and Virginia N. Plummer of Turner for appointment and John D. Tewhey of Gorham and John F. Marsh of West Gardiner for reappointment to the Board of Environmental Protection.

Upon the recommendation of the Joint Standing Committee on State and Local Government, the nominations of Patricia Lemaire of Lewiston and Barbara Longfellow of Winthrop for appointment to the Workers' Compensation Board.

Upon the recommendation of the Joint Standing Committee on Legal and Veterans Affairs, the nominations of Virginia Constantine of Bar Harbor and Michael E. Carpenter of Houlton for appointment and Harriet P. Henry of Standish for reappointment to the Commission on Governmental Ethics and Election Practices and Orland G. McPherson of Eliot and Edwin W. Bowden of Camden for reappointment to the State Liquor and Lottery Commission.

Thank you for your attention to this matter.

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

READ and ORDERED PLACED ON FILE.

The Following Communication: (S.C. 301)

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

May 21, 1999

The Honorable Joseph W. Mayo
Clerk of the House
State House Station 2
Augusta, ME 04333

Dear Clerk Mayo:

Please be advised the Senate today adhered to its previous action whereby the Majority Ought Not To Pass Report from the Committee on Judiciary on Bill "An Act to Ban Partial Birth Abortion" (I.B. 1) (L.D. 1593), 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:

the Poland "Panthers" Varsity Cheerleaders, who won 2nd place at the State Class B Junior High Varsity Cheering Competition. Members of the cheerleading squad include: Nicole Cameron, Jessica Verrill, Jada Holloway, Chelsea Plourde, Meghan Cote, Jen Gray, Chelsea Dionne, Megan Paine, Regina Goyette, Casey Audet, Leah DeWitt, Paige Griffiths, Jaime Lam, Jessica Plowman and Angie Corcoran. We send our congratulations to the cheerleaders and Coach Rose White on this accomplishment;

(HLS 443)

Presented by Representative SNOWE-MELLO of Poland.

Cosponsored by Senator DOUGLASS of Androscoggin.

On **OBJECTION** of Representative SNOWE-MELLO of Poland, was **REMOVED** from the Special Sentiment Calendar.

READ.

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

Representative **SNOWE-MELLO**: Mr. Speaker, Men and Women of the House. It is a tremendous privilege for me to rise today to salute the Poland Community School Varsity Cheerleading Squad. Under the leadership of Coach Rose White, the Lady Panthers took second place at the State Class B Junior High Varsity Cheering Competition. This is a classic story of David versus Goliath. Little Poland Community School with a total student population of 615 students, that is K-8 folks, only 146 students in the seventh and eighth grade goes into the state cheering competition and knocks off many of the powers in Class B.

The Poland Community is very proud of the cheerleading Squad's achievements. The team has been a great ambassador for our town, demonstrating the same character and principles that have played a pivotal role in the development of our community.

The Lady Panther's success can be attributed to their athletic talent, hard work, energy and commitment. Coach White also deserves a great deal of credit for having the team confident, well prepared and focused for the state competition. Anyone in this Chamber who has dealt with teenagers knows it is no easy job to keep them on task.

Next year a number of the cheerleading squad members will move on to high school. They will be a part of the first freshman class at the brand new Poland High School. The Lady Panthers will assure that our new cheering squad will have a strong foundation of well-coached, experienced athletes capable of making an immediate impact at high school cheering competitions.

Again, it is a great honor to acknowledge the accomplishments of the Poland Community School Varsity Cheerleading Squad. Ladies, as your State Representative, I am very proud of your achievements, but I am even more proud of what you have done as a resident of Poland. Thank you.

PASSED and sent for concurrence.

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

In Memory of:

Ronald E. Johnson, a life-long professional lobsterman, a selectman of the Town of Harpswell for 13 years and a founder of the Harpswell Youth Baseball League. Mr. Johnson, the beloved husband of Kathleen R. Johnson and the loving father of Matthew Johnson, had a profound love for lobstering and the sea. As a selectman, his concerns were for his native Harpswell community and for the fishing industry. He was a member of the Shellfish Committee and the Harbor and Waterfront Committee and a member of the Harpswell Boat Races Committee. Mr. Johnson was also a deacon and moderator of the West Harpswell Baptist Church, a steward of Merriconeag Grange, past president and vice president of Sage Swingers. He will be greatly missed by his family and many friends;

(HLS 352)

Presented by Representative ETNIER of Harpswell.
Cosponsored by Senator SMALL of Sagadahoc.

On **OBJECTION** of Representative ETNIER of Harpswell, was **REMOVED** from the Special Sentiment Calendar.

READ.

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

Representative **ETNIER**: Mr. Speaker, Colleagues of the House. I would like to preface my remarks by saying I have never done a memoriam before in my five years here. Please bear with me as I attempt to justice to this one.

On April 22nd of this year, Maine lost one of its finest citizens, Casco Bay lost one of its best lobstermen and my hometown of Harpswell lost one of its finest native sons.

Ron Johnson epitomized what is best about town and our state. His devotion to his family, to his church, to his work and to his community was unsurpassed and remains as the standard for those of us who he left behind. Ron was a big man and strong man and despite the abuse one receives for 13 years of public service as a selectman, he remained a quiet man and a gentle man, with a quick smile and no ill will toward anyone.

These past five years since I've had the honor of holding this office, whenever I'd run into Ron we would exchange notes regarding the relatively thankless job of public service as an elected official. We would toss around some of the various proposed remedies to the ever-increasing pressure on the lobster industry. We'd commiserate over some of the recent inaccurate and misleading local newspaper stories regarding activities in Harpswell's town office. In the end, he would shake his head and wonder how I put up with being in Augusta and I would express the same wonderment as to how he managed to handle the job of selectman for all these years and yet never loses his patience or his warm sense of humor.

Ron's loss creates a tremendous void to be filled in our community of Harpswell. Those of us who remain will have to shoulder the responsibilities that he can no longer take care of for us. And try as we may, we will never be able to completely compensate for his loss.

Gary LeClair, a friend and fellow lobsterman, said it best about the effect of Ron's passing. I quote, "Ron was an anchor in the town. He was a gentleman, gentleman lobsterman, a pleasure to fish around. As a selectman, his concerns were for the native Harpswell community and for the fishing industry and making sure we could all live here for the rest of our lives."

Please join with me today in honoring the memory of Ron Johnson, one of Maine's finest.

ADOPTED and sent for concurrence.

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-326)** on Bill "An Act to Promote Effective Management of Occupational Exposure to HIV"

(S.P. 626) (L.D. 1791)

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

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (S-327)** on same Bill.

Signed:

Representatives:

PLOWMAN of Hampden
WATERHOUSE of Bridgton
SCHNEIDER of Durham

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-326)**.

READ.

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

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

Majority Report of the Committee on **TAXATION** reporting **Ought Not to Pass** on Bill "An Act to Provide a \$500 State Income Tax Credit for Private School Tuition Payments" (S.P. 621) (L.D. 1786)

Signed:

Senators:

RUHLIN of Penobscot
DAGGETT of Kennebec

Representatives:

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

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (S-328)** on same Bill.

Signed:

Senator:

MILLS of Somerset

Representatives:

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

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

READ.

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

Representative GLYNN of South Portland **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

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

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

ROLL CALL NO. 273

YEA - Ahearne, Bagley, Berry RL, Bolduc, Brennan, Brooks, Bryant, Bull, Cameron, Carr, Chizmar, Clark, Colwell, Cote, Cowger, Davidson, Desmond, Dudley, Dunlap, Duplessie, Etnier, Fisher, Frechette, Fuller, Gagne, Gagnon, Green, Hatch, Jabar, Jacobs, Kane, LaVerdiere, Lemoine, Mailhot, Martin, Matthews, McGlocklin, McKee, Mitchell, Muse, Norbert, O'Brien LL, O'Neal, O'Neil, Perry, Povich, Powers, Quint, Richard, Richardson J, Rines, Samson, Sanborn, Savage W, Saxl JW, Saxl MV, Shiah, Sirois, Skoglund, Stanley, Stevens, Sullivan, Tessier, Tobin D, Townsend, Tripp, Twomey, Usher, Volenik, Wheeler GJ, Williams, Mr. Speaker.

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

ABSENT - Baker, Bragdon, Dugay, Jones, Lindahl, McDonough, Pieh, Thompson, Tuttle, Watson.

Yes, 72; No, 69; Absent, 10; Excused, 0.

72 having voted in the affirmative and 69 voted in the negative, with 10 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**.

Majority Report of the Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-659)** on Bill "An Act to Expedite Treatment of Certain Persons with Mental Illness"

(H.P. 499) (L.D. 706)

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
WATERHOUSE of Bridgton
SCHNEIDER of Durham

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (H-660)** on same Bill.

Signed:

Representatives:
PLOWMAN of Hampden
MADORE of Augusta

READ.

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

The Bill was **READ ONCE**. **Committee Amendment "A" (H-659)** 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-659)** and sent for concurrence.

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

Majority Report of the Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought Not to Pass** on Bill "An Act to Authorize Sly Brook to Secede from Eagle Lake and to Deorganize"

(H.P. 1379) (L.D. 1986)

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
GERRY of Auburn

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-661)** on same Bill.

Signed:

Representative:

KASPRZAK of Newport

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 Standish, Representative Mack.

Representative **MACK**: Mr. Speaker, Right Honorable Men and Women of the House. I ask you to vote against the pending motion and vote for the Minority Ought to Pass Report. This is the bill to allow Sly Brook to secede from the Town of Eagle Lake. A little over 220 years ago there was a governmental area geographically isolated from its parent. Secession was popular, but not to the parent area. A war was fought over secession. We won and the United States of America was born on the principles of freedom, independence and self-determination. A little later in that nation, there was another geographically isolated area where secession became popular. The State of

Maine seceded from Massachusetts. It was one of the best moves we have ever done, in my mind. It was popular in the State of Maine. It was based on the principles of freedom, independence and self-determination. Now there is another area trying to secede. Sly Brook is trying to secede from the Town of Eagle Lake, based on the same principles, freedom, independence and self-determination.

A map will be coming around to your desks where you can see the Town of Eagle Lake as it exists. The area on the right, the shaded area, is the Sly Brook territory. The large black area in the middle is Eagle Lake. Sly Brook is geographically isolated from the rest of Eagle Lake. Back when they drew the map of northern Maine and the unorganized territories, they just drew squares on the map to determine where the borders of the towns would be. They didn't look at the geographic areas and where it would have been logical to separate a town. The State of Maine and Canada are separated by the St. John River. It would make sense that Eagle Lake's border would be defined by the lake. Besides the obvious location and physical separation where it takes 40 minutes and 38 miles to drive from Sly Brook to Eagle Lake, there is also a safety issue involved. A year or so ago there was a large fire on the Sly Brook territory. They had the Clover Hill Lodge. It was a wonderful lodge and restaurant, popular in the entire area. It burned down. They called the fire department for help. The fire department had to come all the way from Eagle Lake. There was slow time getting into the trucks. The fire truck drove up all 38 miles and by the time they got there, it was too late. Clover Hill Lodge had burned down.

There are many people in Sly Brook who are very, very worried when they sleep at night. If there is a fire, is there any way the fire will be put out. They know how long it takes the fire trucks to respond. The insurance companies realize how bad the fire protection is for the Sly Brook residents. That is why they have an insurance rate higher than Eagle Lake. Their fire insurance is the same as in an unorganized territory where there is no fire protection.

Besides the safety issue, the people of Sly Brook have been continually ignored and mistreated by Eagle Lake. As I have said, it takes 40 minutes to get to town hall for any town hall business. All the amenities in town are on the west side of the lake. The public beach, the boat ramp, the recreational facilities are all on the west side of the lake. The good people of Sly Brook pay their taxes, but don't get any of the services.

Other issues, they have tried to get on the town warrant. They have been ignored. They tried to even get something on the warrant at the town meeting about getting their road maintained. It couldn't even get on the warrant at town meeting. They tried to get some help plowing the ice bridge over the lake in the winter. The town would not help. They have continually been ignored. Also, this is about local control. At the public hearing, we had practically the entire town of Sly Brook come down. With a survey taken, 93 percent of the residents of Sly Brook wanted secession. It is definitely popular and definitely preferred by the people of Sly Brook. There is strong support in Sly Brook. They have a strong sense of community there. They have a snowmobile club and a meeting club. I went up to a meeting there and about 70 people came. There were only 60 something registered voters in town. We have about 45 people up in the balcony right now who made the long drive from northern Aroostook County to come down and see the future of their town.

This is about freedom. This is about self-determination, local control and safety. I urge you to vote against the pending motion. Thank you.

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

Representative **AHEARNE**: Mr. Speaker, Ladies and Gentlemen of the House. Let me first begin with my remarks by stating that secession can be a very contentious issue. A community can easily be divided by those who wish to secede and by those who oppose secession. This bill is no exception. It should not matter where the secession movement is occurring or who supports or who is opposed. During our deliberation as a committee, it is our opportunity to collect all that information from both sides and to evaluate each piece on its own merit.

The fundamental question is, are these cases legitimate cases for secession? Does the reason for secession rise to a level that requires this Legislature to give its approval of this piece of legislation? Twelve of the thirteen members of State and Local Government believes that it does not meet that threshold and therefore we recommend that this body vote Ought Not to Pass.

It was during the public hearing that we heard two fundamental issues and some you heard today. One is about safety and the other about municipal services, fire protection. If Sly Brook were to secede from Eagle Lake, it would not give Sly Brook fire protection at a closer distance than what they are currently receiving from Eagle Lake. The two neighboring towns of Wallagrass and New Canada do not have fire protection. If Sly Brook secedes and needs fire protection services, they will have to get contract service from Fort Kent or Eagle Lake. The ambulance service, Sly Brook residents receive ambulance services from Eagle Lake. All ambulance dispatchers are out of Fort Kent. Secession would not improve those services. Police protection, Sly Brook residents are provided with state and county police protection, which is no different from what those receive provided on the west side of the lake. Secession will not improve or change a greater level of police protection.

Throughout the hearing there was a common theme that the Sly Brook residents needs were not being met or addressed by the municipality or there was a sense of a loss of control. Ladies and gentlemen, if LD 1986 were to pass, Sly Brook residents would lose far greater control than what they have now. If Sly Brook were granted secession, they would no longer receive municipal services from Eagle Lake, such as the Eagle Lake Planning Board. Sly Brook residents would have to obtain services from the Land Use Regulation Commission, LURC. Any appeals will have to be made to the State of Maine and no longer to the Eagle Lake Board of Appeals.

Under this bill, because Sly Brook wants to secede and de-organize, they will not have the ability to decide which school district their children would have to attend. Under current law, the laws governing the organization, the Commissioner of Education determines to what place the Sly Brook resident's children will attend. If the issue is that Sly Brook residents want greater municipal services, with secession, those residents would lose even more services and would lose even greater control over what and how services are conducted. If the issues are not safety or municipal services, then one needs not look for it is about taxes. Eagle Lakes' state property valuation grew substantially between 1984 and 1998 and looking at the rates and the property evaluation for Eagle Lake, one can see and correlate the rise in the mood for secession from Sly Brook.

Secession is not always a clean-cut issue. I do believe that there needs to be a continued discussion between the town officials and Eagle Lake and Sly Brook residents. To cut off that discussion and to allow this bill to go further would only further divide this community. It is far too early to even discuss the secession without buying more time for both sides to work out their differences. As a Legislature, we should provide them that opportunity and time. I ask you to support the pending motion.

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

Representative **BUMPS**: Mr. Speaker, Men and Women of the House. The de-organization of a territory within a municipality is not recognized by our current statutes as a legitimate process to be undertaken. A community, it should come as no surprise, must first be organized before it can de-organize. I think it might be instructive for us to have a little bit of insight into what it means to be unorganized or to be in a de-organized state. Municipalities in the State of Maine who find it too cumbersome to continue as a municipality, will often seek to de-organize. There is an explicit process in the statute to allow for de-organization. A process that sometimes spans months or years before a municipality goes from being an organized town to an unorganized territory. That process, once you have engaged in it, reveals to all of the players certain realities about what it means to become an unorganized territory. Those realities, quite simply, are that you give up all of the local control that you are used to as a municipality and you turn it over to larger government units. In some cases we are talking about fire, police or ambulance services. Those services will be provided for you by the county commissioners who will contract with municipalities or other entities in the area to provide for those services. As Representative Ahearne mentioned, if we are talking about education, you don't have the local control of a school board. You turn your control for education over to the state to the Department of Education. If we are talking about local community planning, the Planning Board, we don't have that kind of control locally in the community any longer. We turn that control over to the LURC. All of these things are revealed in the process of de-organization if you are a municipality and you are seeking to become de-organized into an unorganized territory.

Unfortunately, the statutes don't provide for a part of a municipality to move directly from being a portion of a town to an unorganized territory. Therefore, none of these realities have been revealed in this very short process by which the folks in Sly Brook have decided to petition the Legislature for self-governance. You have heard or you will hear before the debate is over that there are no municipal services in Sly Brook. What you won't hear though is there are many areas in Eagle Lake on the west side of the lake that don't have streetlights, public water and public sewer. The town doesn't have a police department so when you hear that police services aren't being provided, don't be misled, they aren't being provided to anyone in the town, not just to the folks in Sly Brook. If police services aren't being provided, they are not being provided because the county sheriff's office and the state police, the same folks who the Sly Brook people want to have control in their municipality aren't providing them and they are certainly not going to provide them when Sly Brook is de-organized. Don't be misled in thinking that everybody on the opposite side of the lake has all of these municipal services that the folks in Sly Brook aren't getting.

You might hear today that the residents of Sly Brook feel further disenfranchised because they have recently lost one of their representatives to Eagle Lake's Planning Board. Again, I will suggest to you that the responsibilities for planning aren't going to be turned over to something local in Sly Brook in this unorganized territory. Instead, they are going to be turned over to the LURC. How does that give you more control? How does that empower you to make local decisions? It doesn't.

You have heard about the fire. Fire protection, if it is an issue, can be resolved locally. It can be resolved through the establishment of a satellite station or it can be resolved through the establishment of mutual aid agreements with these other municipalities, which Representative Ahearne has suggested, may not be as close as the existing fire service. De-organization will leave fire, police and EMS services at the discretion of the county commissioners. Again, if it is local control they seek, de-organization certainly won't deliver it.

In short and in summary, the issues before Sly Brook are in many ways the same kind of issues that face rural Maine residents throughout the state. The solutions to these problems does not lie in the shortsighted act of de-organization. It lies in the mediated discussion at the local level so that issues like these and others can be resolved slowly so that all of the parties can understand exactly what is being proposed. I would ask that you support the 12 to 1 report and move on to vote in favor of the pending motion. Thank you.

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

Representative **MARTIN**: Mr. Speaker, Members of the House. Let me first begin because a number of you have asked me a couple of questions. I guess I initially was not going to speak today, but based on the questions that were asked by a couple of members, I think it is appropriate that I do.

First of all, I was not asked to sponsor this legislation. The Board of Selectmen have informed me that they were not told that there would be a bill introduced to de-organize part of the Town of Eagle Lake. To some degree, some of that was somewhat of a shock. Let me try to quickly run through the sheet that was provided to you by the Representative from Standish. I must first, however, tell you that the snowmobile club that he meant to meet with, some members of some of the residents of Fort Kent and others being summer residents, that is actually not located in the Town of Eagle Lake at all. It is outside the municipal boundary. Some of you may not be aware that everything from Mars Hill was part of the Webster Ashberton Treaty Settlement. Most of That was under disputed territory in the early 1800s. Following the settlement of the boundary of the Webster Ashberton Treaty, the northwest ordinance requirement of 1787 was imposed upon the rest of Maine. Townships were laid out six miles by six miles simply by using what surveyors did at that time, lay out lines.

Eagle Lake is not the only place where people of one location of town have to go around out of their town to get to their town office. As a matter of fact, if you look at the map that is provided to you, the town to the south, Winterville, has identical problems. Those on the north side of St. Froid Lake must enter the Town of Eagle Lake in order to get to Quimby where the municipal office is located. I didn't bother researching what is happening across the state, but if I can find one so close to home, there has to be others.

Eagle Lake became a town in the early 1860s, actually became a plantation in the early 1860s, and it progressed to

grow to about 3,000 people until the depression occurred and the three mills were wiped out by the depression. At that time there were seven grammar schools, K-8, in one fashion or another located in the Town of Eagle Lake, including two on the east side of Eagle Lake. As the population dropped after the depression to about 1,500 and then to 1,200 and then later some more, those small schools subsequently were all closed, including the one in Plaisted, which is a couple houses from my own house. I could just walk to school and be back in two minutes. Eventually they combined to two schools. Those people who remained across the lake came to school about four months out of the year, because they would come to school when they could use the boat or they can use the ice. Otherwise than that, they stayed home. I know that because the last person that lived there that went to school that way was a classmate of mine. Following that, one family that basically continued to live there with children moved to Soldier Pond because they didn't want their children to go through what the other family had been through.

When I went through high school there were about two families left there and subsequently dropped to one permanent family. At that time you could have bought the entire shore of Eagle Lake for about a dollar a running foot. Today that is valued anywhere from \$350 to \$500 a running foot. What has happened to Eagle Lake has happened to the coast of Maine and the lakes of this state, because the way I put it, God doesn't make anymore of it. That is what there is and the value keeps climbing and the people keep selling. What had happened to the people initially was they moved out of Fort Kent because of high taxes. Some of them moved to the shores of Eagle Lake when the taxes were fairly low.

Two things happened to us. One, people start selling for more than what the valuation of those buildings were valued by the town and people started moving in. The second thing that happened to us, which has happened to most communities in this state is re-evaluation. I provided to you a very simple chart, which gives you the school administrative district created when the communities formed SAD 27 of Eagle Lake, Fort Kent, New Canada, St. Francis, St. John, Wallagrass and Winterville. You will find that Fort Kent at that time was paying about 66 percent of the school budget. Today, they pay about 50 percent of the school budget. The two communities with the lakes, Eagle Lake and Winterville, are now paying about 25 percent of the school budget, with about 12 percent of the children within the district. You can quickly see what has happened to the valuation of Eagle Lake and the valuation of Fort Kent that has remained pretty constant.

I am not complaining, but it is a reality of what has happened, not only to this school district but, in many school districts around this state, where ever there is a lake or the ocean happens to exist. There are some who suggested that if this were to be carried out that the rest of Eagle Lake would be better off. Assuming the school budget were left alone at the same dollars appropriated last year, there would be better than \$100,000 loss to the school district. About \$40,000 of that would be picked up by the state because that is what Committee Amendment "A" does that has been provided on your desk by the Fiscal and Program Office. The remainder of the \$60,000 would have to be picked up by the present residents of SAD 27. Fort Kent would be picking up \$33,000 of that figure. The taxes in Fort Kent would be going up because of a portion of Eagle Lake being

separated from the community. I don't think anyone has focused on that. I think it is important that that occur.

I do want to mention because I think it is important that you understand some of the realities of where we are. I referred already to the first point on the Representative from Standish's letter. Let me point out a couple of things. Fire protection has been a real problem. As a matter of fact, the community voted and supported a firehouse and a small fire truck on the east side of the lake. However, because of the new requirements imposed by the state for volunteer fire departments, there was no one who wanted to take the courses and so for liability purposes, the people across the lake returned their equipment and the truck was brought back to the west side of the lake. That was not the wishes of the municipal officers, but they had no choice. In reference to the Clover Hill Lodge, probably it was just an accident, but I happened to be returning from the University that day when I met the fire truck about a quarter of a mile out of town. The flames were coming out of the windows of Clover Hill Lodge. If anyone can explain to me how anyone could have ever gotten there to save the building is beyond me.

The ambulance has been discussed. I stand before you as president of Ambulance Service Incorporated. A nonprofit organization provides ambulance service and we station ambulances in Allagash, St. Agatha, Eagle Lake and Fort Kent. The Fort Kent ambulance is the one that responds presently to Sly Brook and it would continue to respond to Sly Brook unless it is in the winter and we have the availability to use the ice bridge.

In reference to fire, frankly you have got that explanation and it has been explained to you. In reference to what happens to us as a municipality, what happened to us is taxes. It has been unfortunate because it has split the community. I will say that what the last Legislature did was a real help. Homestead provision is the way to help those who are permanent residents of the community of Eagle Lake because it lowers the taxes for everyone. One of my concerns, frankly, has been what happens when you have this lake that on one side of the lake they are paying 10 mills and on the other side of the lake they are paying 20 mills. It is going to be an interesting story I think before it would be all over. I think the way to handle that is to deal with the question of taxes. I think there are ways to do that.

I think the bottom line here, in my opinion, is that some of the people on Sly Brook side of Eagle Lake feel that they have been voted against, trampled upon by the people who live on the east side. As you know and I have said this before, very often it is not as much fact as is the perception of fact that creates the problem. I think there is some basis upon which that feeling can, in fact, occur and has occurred. I think it is up to the people of Sly Brook and the people of the remainder of the community to start to work together and try to heal that. I am convinced it can be. If there is one thing I have learned in the last number of years here, it is this. Rather than attempting to separate towns, we ought to be putting towns together so that we can, in fact, save money with municipal fire departments and police protection and the rest of all those things. I just look at Bangor/Brewer as an example to pick on two communities with ladder trucks, Lewiston/Auburn and you can go right around, South Portland/Portland. You can go wherever there is a separation. You have to wonder how many ladder trucks we can afford as a state. Those are some of the things we need to work toward, I think, in order to bring some effort. If the people of Sly Brook really want to cut taxes, I would urge them as some people on the west side have done, urge separation from the

school district because once they are gone from the school district and everyone is on their own in Eagle Lake, the school taxes, which are the vast majority of our costs in our town, the school taxes will drop substantially because we only have half of the children for whom we are paying taxes. As much as I know that many of my friends are here, today is not the day. The time has not arrived. This bill should die.

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

Representative **KASPRZAK**: Mr. Speaker, Men and Women of the House. Notwithstanding the discussion from the Representative from Eagle Lake and the Representative from China, concerning precedent, this body has never feared heading into new territory to set precedent before. In testimony at the public hearing we heard there are members of Sly Brook on boards and they are being represented. Their views are being heard, but guess what, since that date some things have changed.

I have a portion of a letter I would like to read for the record to a resident of Eagle Lake from an Eagle Lake town councilor. It says, "This letter is in response to a registered letter you sent me and the town manager. You state yesterday I was surprised when you called to tell me that board chairman Roland Parent had asked you to advise me that he had concluded that due to my involvement in the secession activity, I could no longer discharge your responsibility of a planning board member and have the best interest of the town in doing so. I want to inform you that I have made no conclusions on behalf of the board of selectmen. The Eagle Lake Board of Selectmen never approved your appointment to a board or committee, therefore, there is no need to terminate a position you do not hold. I will also remind you that those appointments to boards and committees are the sole responsibility of the municipal officers after which time the individual receives the oath of office. Your invitation by the town manager or any other party is not binding unless approved by a vote of the town council. The board of selectmen voted to appoint two individuals to fill the vacancies on the planning board. The appointments received unanimous approval, so please be informed that this is not a letter of termination. This is simply a letter to inform you that you are not one of the two appointments approved by the Eagle Lake Board of Selectmen."

This is what the crux of the matter is about. It is about people feeling they have no representation. It is about people feeling they have no power or say about what goes on in their portion of the town. Frankly, I don't think these people have any. I would appreciate your vote against the pending motion and ask you to approve these people's request for secession.

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

Representative **MARTIN**: Mr. Speaker, Members of the House. I just need to add one other thing, which I was thinking of doing, but based on the suggestion. Eagle Lake calls its municipal election in June. All of the positions are basically those who have applied to be on the ballot. The time has come. The ballots have been printed. I guess this is probably going to be the first time that of the board of five, there will be three people that live on the shore of Eagle Lake.

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

Representative **MACK**: Mr. Speaker, Right Honorable Men and Women of the House. I ask you on this bill to take a minute and think about what is right. You will hear a lot of arguments on

both sides, but ask yourself what is the right thing to do. We have heard a little bit about the process, but as has been stated before, no process exists to allow part of a town to secede and become de-organized. That would be a first, but in the 118th Legislature another first occurred and now the Town of Frye Island seceded from my hometown of Standish. There had never been a freshwater island that was an entire town in the State of Maine. There had never been a part-time town in the State of Maine, but this Legislature made a bold move and decided that it was right and it was just. I ask you here to look at what is right and what is just. It has been suggested that the people of Sly Brook and the people of the west side of Eagle Lake will be able to come to an agreement and work things out. Based on past history, I don't think that is possible. The people of Sly Brook have continually been trampled upon, ignored and not treated fairly. They haven't been able to get things on the warrant at the town meeting. Recently a member from Sly Brook that was leading the secession site was kicked off the planning board and the budget committee. At the public hearing we heard they have so much representation, they have someone on the budget committee. Well, he was just taken off the budget committee. There are also many stories I don't want to get into here about extreme corruption and underhandedness within the government of the Town of Eagle Lake. I do not believe that this can be amicably worked out or resolved. This is also a safety issue. The fire protection right now comes from the Town of Eagle Lake. If they were de-organized, the fire protection would most likely come from Fort Kent. Fort Kent is closer to Sly Brook than Eagle Lake. Also, Fort Kent Fire Department has a much faster response time and the roads to get there are better. For safety's sake, secession needs to happen to get the better fire protection.

It also has been brought up that being de-organized would put you under LURC and county government. The people of Sly Brook realize this and 93 percent of them choose secession. They know the consequences and they would rather deal with LURC and county government than the corruption they have found in the Town of Eagle Lake. Taxes have also been brought up. I know in my town's case, that was a major concern. People thought Frye Island seceded, similarly like this area, a geographically remote area with a lot of frontage on a lake and a lot of property value. Frye Island has left and the taxes in the Town of Standish were a wash. We even got a small cut of two cents a thousand. If you studied the numbers, a very similar thing would happen in Eagle Lake. Not only is there state revenue sharing that would pick up a lot of the slack, because Eagle Lake would lose a small amount of population, but a large amount of property value, but for the school district as well. Also, the school district may lose a few students and pick up some tuition if those students stay in that district. Also, the town would have a lot less services and would save a lot of costs in providing services to the Sly Brook area.

I ask you, don't just focus on the taxes, which is a non-issue. Look at the safety. Look at what the people of Sly Brook want. Look at what the residents say. Ask yourself, what is the right thing to do? I urge you to vote against the pending motion. Thank you.

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

Representative **MARTIN**: Mr. Speaker, Members of the House. I rise in a point of personal privilege. I have been a member of the Town of Eagle Lake and a member of the Eagle

Lake Water and Sewer District since 1966. The Representative from Standish has indicated there is illegal action and corruption in the Town of Eagle Lake. I would ask him to please document that or to provide it to the Attorney General.

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

Representative **MCDONOUGH**: Mr. Speaker, Men and Women of the House. I rise this morning as a member of the State and Local Government Committee. I take exception to what my good friend, Representative Mack from Standish said regarding corruption and so forth in the Town of Eagle Lake. As a member of that committee, there was nothing that was demonstrated to this Representative that any of that occurred, was occurring or would occur in Eagle Lake. I just think that that is unfair to that particular community. I would like to be on the record stating that. I would ask this body to support the Majority Ought Not to Pass Report. Thank you Mr. Speaker.

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

Representative **MENDROS**: Mr. Speaker, Ladies and Gentlemen of the House. I want to point out that the people of Sly Brook believe there was corruption in Eagle Lake. If they believe it, that is why they want to leave. That is why there can be no conciliatory. It would be very difficult to have any kind of consolation between Sly Brook and Eagle Lake. That was the statement, as I understood it. They believe there is corruption and maybe there is. If they believe that, then you can't have these conciliatory meetings if they don't feel that they are being dealt with fairly and clearly if they have no representation on their planning board. They certainly have a valid point in thinking they are not being properly represented. Thank you.

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

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

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

The SPEAKER: 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. 274

YEA - Ahearn, Andrews, Bagley, Berry DP, Berry RL, Bolduc, Bowles, Bragdon, Brennan, Brooks, Bruno, Bryant, Bull, Bumps, Cameron, Campbell, Carr, Chick, Chizmar, Cianchette, Clark, Clough, Collins, Colwell, Cote, Cowger, Cross, Daigle, Davidson, Davis, Dudley, Dugay, Dunlap, Duplessie, Etnier, Fisher, Foster, Frechette, Fuller, Gagne, Gagnon, Gerry, Goodwin, Gooley, Green, Hatch, Heidrich, Honey, Jabar, Jacobs, Jodrey, Kane, Kneeland, Labrecque, LaVerdiere, Lemoine, Lemont, Lovett, Madore, Martin, Marvin, Matthews, Mayo, McAlevey, McDonough, McGlocklin, McKee, McKenney, McNeil, Mitchell, Murphy E, Murphy T, Muse, Nass, Norbert, Nutting, O'Brien JA, O'Brien LL, O'Neal, O'Neil, Peavey, Perry, Povich, Powers, Quint, Richard, Richardson E, Richardson J, Rines, Rosen, Samson, Sanborn, Savage C, Savage W, Saxl JW, Saxl MV, Schneider, Sherman, Shiah, Shorey, Sirois, Skoglund, Stanley, Stevens, Sullivan, Tessier, Tobin D, Tobin J, Townsend, Tracy, Tripp, True, Twomey, Usher, Volenik, Watson, Weston, Wheeler EM, Wheeler GJ, Williams, Winsor, Mr. Speaker.

NAY - Belanger, Bouffard, Buck, Desmond, Duncan, Gillis, Glynn, Joy, Kasprzak, MacDougall, Mack, Mailhot, Mendros, Perkins, Pinkham, Plowman, Shields, Snowe-Mello, Stanwood, Stedman, Trahan, Treadwell, Waterhouse.

ABSENT - Baker, Jones, Lindahl, Pieh, Thompson, Tuttle.

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

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

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

Majority Report of the Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass pursuant to Joint Order H.P. 1158** on Bill "An Act to Revise the Salaries of Certain Kennebec County Officers" (EMERGENCY)

(H.P. 1592) (L.D. 2240)

Signed:

Senators:

PENDLETON of Cumberland

GOLDTHWAIT of Hancock

DAVIS of Piscataquis

Representatives:

AHEARNE of Madawaska

BAGLEY of Machias

RINES of Wiscasset

McDONOUGH of Portland

TWOMEY of Biddeford

BUMPS of China

KASPRZAK of Newport

JODREY of Bethel

RICHARDSON of Greenville

Minority Report of the same Committee reporting **Ought Not to Pass pursuant to Joint Order H.P. 1158** on same Bill.

Signed:

Representative:

GERRY of Auburn

READ.

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

The Bill was **READ ONCE**.

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.

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. 597) (L.D. 1721) Bill "An Act to Create the Sex Offender Registration and Notification Act of 1999" Committee on

CRIMINAL JUSTICE reporting **Ought to Pass as Amended by Committee Amendment "A" (S-332)**

(S.P. 644) Joint Resolution to Declare a Maine Fitness Weekend Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-331)**

(H.P. 228) (L.D. 332) Bill "An Act to Increase the Availability of Prescription Drugs for the State's Elderly" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-657)**

(H.P. 392) (L.D. 523) Bill "An Act to Implement Recommendations of the Maine Indian Tribal-State Commission Relating to Child Welfare Services for Indian Children" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-658)**

(H.P. 1115) (L.D. 1574) Bill "An Act to Improve Access to Education for Parents as Scholars Program Participants" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-656)**

Under suspension of the rules, Second Day Consent Calendar notification was given.

There being no objection, the Senate Papers were **PASSED TO BE ENGROSSED AS AMENDED** in concurrence and the House Papers were **PASSED TO BE ENGROSSED AS AMENDED** and sent for concurrence.

CONSENT CALENDAR

Second Day

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

(S.P. 307) (L.D. 909) Bill "An Act to Amend the Laws Governing the Land Application of Municipal Wastewater Treatment Plant Sludge" (C. "A" S-317)

(S.P. 440) (L.D. 1277) Bill "An Act Concerning Technical Changes to the Tax Laws" (EMERGENCY) (C. "A" S-329)

(S.P. 716) (L.D. 2038) Bill "An Act to Amend the Water Quality Laws to Establish a New Standard for Mercury Discharges" (C. "A" S-316)

(H.P. 932) (L.D. 1309) Bill "An Act to Make Technical Changes and Improvements to the Employment Tax Increment Financing Program"

(H.P. 143) (L.D. 205) Bill "An Act to Require Electronic Recording of Closed Sessions of Public Bodies" (C. "A" H-635)

(H.P. 271) (L.D. 379) Bill "An Act to Provide Tax-exempt Status to Organizations That Teach Reading" (C. "B" H-647)

(H.P. 371) (L.D. 496) Bill "An Act to Abrogate the Rule Against Perpetuities" (C. "A" H-636)

(H.P. 1076) (L.D. 1523) Bill "An Act to Amend Criminal Law Procedures Regarding Defendants Found Incompetent to Stand Trial" (C. "A" H-637)

(H.P. 1078) (L.D. 1525) Bill "An Act to Improve Medical Support for Children" (C. "A" H-655)

(H.P. 1150) (L.D. 1647) Bill "An Act to Reimburse Collectors of Sales and Use Taxes" (C. "A" H-646)

(H.P. 1279) (L.D. 1840) Resolve, Authorizing the State Tax Assessor to Convey the Interest of the State in Certain Real Estate in the Unorganized Territory (C. "A" H-645)

(H.P. 1518) (L.D. 2166) Bill "An Act to Enhance Communications Between the Department of Corrections, the

Judiciary and Law Enforcement Agencies" (EMERGENCY) (C. "A" H-634)

(H.P. 1527) (L.D. 2180) Bill "An Act to Promote Participation in the Maine Residents Property Tax Program" (C. "A" H-648)

(H.P. 1528) (L.D. 2181) Resolve, to Help Homeless Young People Returning to Home or Safe Living Situations (C. "A" H-654)

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

BILLS IN THE SECOND READING

Senate

Bill "An Act to License Interpreters for the Deaf and Hard-of-Hearing"

(S.P. 833) (L.D. 2233)

House

Bill "An Act to Implement the Recommendations of the Department of Inland Fisheries and Wildlife Regarding Surface Use on Great Ponds" (EMERGENCY)

(H.P. 1590) (L.D. 2235)

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

ENACTORS

Emergency Measure

An Act to Amend the Charter of the Norridgewock Water District

(S.P. 718) (L.D. 2040)

(C. "A" S-297)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 118 voted in favor of the same and 3 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Amend the Maine Residents Property Tax Program

(S.P. 776) (L.D. 2175)

(C. "A" S-293)

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

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

The SPEAKER: The Representative may pose her question.

Representative **KASPRZAK**: Mr. Speaker, Men and Women of the House. To anyone on Taxation, could you explain the difference between the amendment and the bill please? Thank you.

The SPEAKER: The Representative from Newport, Representative Kasprzak has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Waterville, Representative Gagnon.

Representative **GAGNON**: Mr. Speaker, Men and Women of the House. I am trying to find my notes here, but as I recall what this bill does is it makes an adjustment for the Circuit Breaker Program, not the Homestead Program. We ran into a problem where people, elderly folks, were choosing to leave their homes and maybe going to some type of a retired or nursing home care. They were finding that they don't like that. They returned back to their homes to find out that they no longer qualify for circuit breaker because they had a break for like a month or two months. What this bill does is it corrects that problem. Thank you.

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 127 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.

Acts

An Act to Define Paralegals and Legal Assistants

(H.P. 517) (L.D. 724)

An Act to Amend 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)

An Act to Minimize the Harmful Effects of Lead

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

(S. "A" S-298 to C. "A" H-566)

An Act to Provide Computers for Use in the Legislature

(H.P. 666) (L.D. 922)

(C. "A" H-320)

An Act to Improve Snowmobile Trail Grooming

(H.P. 763) (L.D. 1086)

An Act to Require Additional Vaccines for Employees of Health Care Facilities

(H.P. 846) (L.D. 1180)

(C. "A" H-603)

An Act to Strengthen the Kinship Laws

(H.P. 886) (L.D. 1243)

(C. "A" H-599)

An Act to Improve Consumers' Opportunities to Hire and Retain Personal Care Attendants

(H.P. 935) (L.D. 1312)

(C. "A" H-596)

An Act Relative to Freedom of Employment in the Broadcasting Industry

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

(C. "A" S-282)

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

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

(C. "B" H-580)

An Act to Amend the Health Care Receivership Laws

(H.P. 1410) (L.D. 2015)

(C. "A" H-610)

An Act to Enhance Access to Technology for Maine Schools and Libraries

(H.P. 1516) (L.D. 2164)

(C. "A" H-594)

An Act to Implement an Atlantic Salmon Conservation Plan

(H.P. 1549) (L.D. 2206)
(C. "A" H-606)

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, Authorizing the Commissioner of Administrative and Financial Services to Sell or Lease the Interests of the State in the Maine Criminal Justice Academy in Waterville; Part of the Kennebec Arsenal in Augusta; Part of the Maine Youth Center in South Portland; and 2 parcels in Gray near the Pineland Center and to Purchase Land for Wetland Mitigation Purposes in Connection with the Construction of the Maine State Prison at Warren

(H.P. 1203) (L.D. 1713)
(H. "A" H-516 to C. "A" H-413)

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

(H.P. 1313) (L.D. 1896)
(H. "A" H-625 to C. "A" H-602)

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; H. "A" H-639)

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 Increase the Deer Hunting Day by 15 Minutes

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

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

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

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

An Act Regarding Fish Stocking

(H.P. 361) (L.D. 486)
(C. "A" H-607)

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

On motion of Representative DUNLAP of Old Town, was **SET ASIDE**.

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

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

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

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **Committee Amendment "A" (H-607)** was **ADOPTED**.

The same Representative presented **House Amendment "A" (H-665)** to **Committee Amendment "A" (H-607)** 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. This is a technical amendment to reflect the wishes of the committee in its Committee Amendment dealing with the request to individuals for information from the Department of Fisheries and Wildlife when long-term management objectives on varies bodies of water are being changed. People who have concerns about that can request information. The way the Committee Amendment was mistakenly written, it said that one person could move for a public hearing under the APA process, which is not in keeping with Maine law. This basically clarifies that. Thank you.

House Amendment "A" (H-665) to **Committee Amendment "A" (H-607)** was **ADOPTED**.

Committee Amendment "A" (H-607) as Amended by **House Amendment "A" (H-665)** thereto was **ADOPTED**.

The Bill was **PASSED TO BE ENGROSSED** as Amended by **Committee Amendment "A" (H-607)** as Amended by **House Amendment "A" (H-665)** thereto in **NON-CONCURRENCE** and sent for concurrence.

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

(H.P. 663) (L.D. 919)
(C. "A" H-358)

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

Representative **TREADWELL**: Mr. Speaker, Ladies and Gentlemen of the House. I would just like to make two quick points. First of all, I don't know of any other retirement system available that pays partly Medicare premiums. Point number two, the fiscal note on this bill is approximately \$3.5 million. 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. 275

YEA - Ahearne, Bagley, Belanger, Berry DP, Berry RL, Bolduc, Brennan, Brooks, Bryant, Bull, Bumps, Carr, Chick, Chizmar, Clark, Colwell, Cote, Cowger, Davidson, Davis, Desmond, Dudley, Dugay, Dunlap, Duplessie, Etnier, Fisher, Frechette, Fuller, Gagne, Gagnon, Gerry, Gillis, Goodwin, Gooley, Green, Hatch, Honey, Jabar, Jacobs, Kane, Labrecque, LaVerdiere, Lemoine, Lemont, Lovett, Madore, Mailhot, Matthews, Mayo, McAlevey, McDonough, McGlocklin, McKee, Mendros, Mitchell, Murphy E, Muse, Norbert, Nutting, O'Brien JA, O'Brien LL, O'Neal, O'Neil, Perkins, Perry, Povich, Powers, Quint, Richard, Richardson J, Rines, Samson, Sanborn, Savage C, Savage W, Saxl JW, Saxl MV, Sherman, Shiah, Sirois, Skoglund, Stanley, Stevens, Sullivan, Tessier, Tobin J, Townsend, Tracy, Tripp, Twomey, Usher, Volenik, Watson, Wheeler GJ, Williams, Mr. Speaker.

NAY - Andrews, Bowles, Bragdon, Bruno, Buck, Cameron, Campbell, Cianchette, Clough, Collins, Cross, Daigle, Foster, Glynn, Heidrich, Jodrey, Joy, Kasprzak, Kneeland, MacDougall, Mack, Marvin, McKenney, McNeil, Murphy T, Nass, Peavey, Pinkham, Plowman, Richardson E, Rosen, Schneider, Shields, Shorey, Snowe-Mello, Stanwood, Stedman, Tobin D, Trahan, Treadwell, True, Waterhouse, Weston, Wheeler EM, Winsor.

ABSENT - Baker, Bouffard, Duncan, Jones, Lindahl, Martin, Pieh, Thompson, Tuttle.

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

97 having voted in the affirmative and 45 voted in the negative, with 9 being absent, the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

An Act to Allow Three Hunters to Hunt Deer Together

(H.P. 704) (L.D. 971)

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

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

Representative **DUNLAP**: Mr. Speaker, Men and Women of the House. I think everyone knows where I stand on these particular issues and I am not going to belabor the point too much further. I would like to add something that I heard this week, which I thought was rather compelling. I was on a radio show this week on this particular topic. The telephone guest on the radio show was Gary Anderson, who was the safety director of the department for 26 years. His name has been brought up in these debates several times. He got very emotional about this. He said that if you ever stood in the woods where a person was shot and killed in a hunting accident and you realize it was for absolutely nothing, for a deer, you would never want to go back to that place. I only ask you to not go back to this place to where we were 30 years ago when a lot of people were dying in the woods. It seems like a small step, but it is not that small. You only have to have one accident and then another accident and then another accident before we are going to be back here trying to wring the blood off our hands for trying to do something that seemed small at the time. I ask you to oppose Enactment and vote no. Thank you.

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

Representative **PERKINS**: Mr. Speaker, Colleagues of the House. I would just like to stress again, since my good friend from Old Town brought it up, the safety factor. We are talking about allowing three people to walk through the woods. It has been the traditional way of hunting forever in the State of Maine. I would ask the good chair of our committee, Representative Dunlap of Old Town, there are two aspects of moving deer or driving deer, but it is hard to drive deer with three people. The two aspects of driving deer are somebody walks through the woods and the other aspect is somebody waits. I would like to ask the good Representative from Old Town which of those are the most dangerous, walking through the woods or standing and waiting?

The **SPEAKER**: The Representative from Penobscot, Representative Perkins has posed a question through the Chair to the Representative from Old Town, Representative Dunlap. The Chair recognizes that Representative.

Representative **DUNLAP**: Mr. Speaker, Men and Women of the House. I will try to answer that question as best I can. There are so many intangibles involved in the sport of hunting, the different conditions, whether or not you are on a hilled area or a cedar swamp, early in the morning or late in the day. One of the arguments in favor of doing this is you have these three people working together everybody knows where everybody else is. It actually makes it safer. The problem is there are a lot of people hunting in a lot of these areas. What if there is a fourth person in the mix that nobody knows about and comes through ahead of the people that are pushing the deer. The person who is sitting and waiting gets excited and fires. That is one of the components that we haven't discussed. We laid it out in black and white and we say that this is what is going to happen.

I had a friend of mine that studied German for three years in school and then got off the plane in Homburg and couldn't understand why the people didn't go by the dialog that he had learned in his textbook. It doesn't always work by a formula. I don't think it matters whether you are walking through the woods or sitting in a tree stand or sitting by the side of the road. It is going to be dangerous if somebody is pointing a rifle at you. That is the bottom line. It is going to be dangerous if you are on the receiving end of that bullet. Thank you.

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

Representative **TRACY**: Mr. Speaker, Ladies and Gentlemen of the House. Here we go again. All I have heard about this morning is driving deer. This bill has nothing to do with driving deer. This allows three people to go into the woods and be together. Driving deer is illegal in this state. We are trying to get back to the family tradition. As far as not knowing if there is anybody else in the woods, I have no control over how many people hunt in the woods. I have often gone to places where I hunt and see various vehicles and count numerous people, way beyond the legal limit, and have left that area. I do not believe this is a safety issue with all the fluorescent orange that has to be worn in this state during the open season on big game. Thank you.

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

Representative **TRUE**: Mr. Speaker, Ladies and Gentlemen of the House. I certainly hope that you will vote to enact this particular bill. If you don't, as I said before, it will prevent those of us that like to take our children and grandchildren into the woods because you are going to plan with them when you go to make sure that all the safety things are recapitulated. That is very important to many of us. The law says if you plan a hunt, you are in violation. I would like to ask my good chair, I know he is a duck hunter, should we then prevent only one duck hunter in a blind? I have seen more than one in a blind. Maybe that too is unsafe as he says so we shouldn't go hunting that way.

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

Representative **CROSS**: Mr. Speaker, Ladies and Gentlemen of the House. I am asking you to do me a favor. Please pass this act so that I will stop breaking the law. Thank you very much.

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

Representative DUNLAP: Mr. Speaker, Men and Women of the House. Representative True from Fryeburg asked me a question and I will try to answer it. It is against the law to drive ducks with a boat. That is clearly printed in Title 12. In terms of hunting together versus driving deer, I think people are under the impression that right now you can't go hunting with your friends. You can. You just can't drive deer. Read the bill. It says, driving deer in 12 MRSA, Section 7458, Subsection 10, "A person is guilty of driving deer if that person participates with three or more other persons in a hunt for deer during which an organized or planned effort is made to drive deer." That is not planning a hunt, not deciding Saturday morning to go hunting with a couple of your friends, but to drive deer. This is deer driving. Let's get that clear for the record. It says deer driving, not planning to hunt. Thank you.

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

Representative ETNIER: Mr. Speaker, Men and Women of the House. Gary Anderson's name has come up again today. I am glad it has. I wasn't going to raise it, but since somebody else did, what the heck. As much as I would like to do my good friend from Dover-Foxcroft, Representative Cross, a favor, I certainly owe him one from last Friday. This will not be one that I can do for him. I concur completely with the good chair of this committee. I have the bill here in front of me. Nothing is plainer than if you read the bill. This does apply to driving deer. That is in a chapter of law that it does amend. The current law does not prohibit you from hunting with your family member or whatever as long as it is not "an organized or planned effort being made to drive deer." That is quite a bit different than going out there with your son or a couple of friends and just hunting in the woods. If you are not an organized or planned effort to drive deer, then you are not driving deer. You have nothing to worry about. It is quite clear that this bill will allow three people in total to drive deer. It will be completely illegal.

Those of you who say that nobody ever drives deer, it is impossible to drive deer with three people. It doesn't work, can't happen and won't be a problem. I can personally vouch that that is not true. I have seen it happen on islands. I have taken photographs of people driving deer on this island in particular. It certainly can happen on islands. It certainly can happen in a small enough woodlot that three people can effectively drive deer. I have seen that and I know that is not true. Even if it didn't work, maybe it isn't very effective. I am sure it isn't very effective in 90 percent of the cases, but a lot of people will still go out there and they will still try to do it even if it doesn't have the desired effect for them in the end of getting the deer. They will still try to do it with just three people. They won't know it won't have the desired affect, but it still can have a disastrous affect on a member of their hunting party if this law passes. I urge you to vote against the pending motion. Thank you.

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

Representative TRAHAN: Mr. Speaker, Honorable Members of the House. I was on the Majority Report. This is my committee. I feel I must stand and get my two cents in. I think this bill came out of what we in the hunting fraternity call the gray area. In the past, there have been small groups of people that have been out there hunting together, not driving deer, who get summonses for driving deer simply because they are together in

a piece woodland. For some of us it just didn't seem practical or unreasonable to say that three people could hunt together safely in a piece of woodland, the same piece of woodland and not be considered driving deer. I hunt in a piece of woodland where there are between 12 and 15 people. It is very popular area. I hunt alone, but I know there are other people hunting in the area. They often jump deer and they will go by me. Am I guilty of driving deer because I know that those deer are going to be jumped by another hunter? This just gives a little bit of protection to those guys out there. A couple of them might hunt in the same piece of woodland so they won't be considered hunting deer by driving. 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. 276

YEA - Andrews, Belanger, Berry DP, Berry RL, Bolduc, Bouffard, Bowles, Bragdon, Brennan, Brooks, Bruno, Bryant, Buck, Bumps, Campbell, Carr, Chick, Chizmar, Cianchette, Clark, Clough, Collins, Colwell, Cote, Cowger, Cross, Daigle, Davidson, Davis, Desmond, Dugay, Duncan, Duplessie, Fisher, Foster, Frechette, Gagne, Gerry, Gillis, Glynn, Goodwin, Gooley, Heidrich, Honey, Jabar, Jacobs, Jodrey, Joy, Kane, Kasprzak, Kneeland, Labrecque, LaVerdiere, Lemoine, Lemont, Lovett, MacDougall, Mack, Madore, Mailhot, Marvin, Matthews, Mayo, McAlevey, McDonough, McGlocklin, McKee, McKenney, McNeil, Mendros, Murphy T, Muse, Nass, Nutting, O'Brien JA, O'Brien LL, O'Neil, Peavey, Perkins, Pinkham, Plowman, Povich, Richardson E, Rines, Rosen, Samson, Sanborn, Savage C, Savage W, Schneider, Sherman, Shiah, Shields, Shorey, Sirois, Skoglund, Snowe-Mello, Stanley, Stedman, Sullivan, Tessier, Tobin D, Tobin J, Tracy, Trahan, Treadwell, True, Usher, Volenik, Waterhouse, Weston, Wheeler EM, Wheeler GJ, Williams, Winsor.

NAY - Ahearne, Bagley, Bull, Cameron, Dudley, Dunlap, Etnier, Fuller, Gagnon, Green, Hatch, Mitchell, Murphy E, Norbert, O'Neal, Perry, Powers, Quint, Richard, Richardson J, Saxl JW, Saxl MV, Stanwood, Stevens, Thompson, Townsend, Tripp, Twomey, Watson, Mr. Speaker.

ABSENT - Baker, Jones, Lindahl, Martin, Pieh, Tuttle.

Yes, 115; No, 30; Absent, 6; Excused, 0.

115 having voted in the affirmative and 30 voted in the negative, with 6 being absent, the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Resolve, Establishing a Commission to Study the Needs and Opportunities Associated with the Production of Salmonid Sport Fish in Maine

(S.P. 332) (L.D. 986)
(C. "A" S-296)

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

On motion of Representative DUNLAP of Old Town, was **SET ASIDE**.

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

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

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

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **Committee Amendment "A" (S-296)** was **ADOPTED**.

The same Representative presented **House Amendment "A" (H-641)** to **Committee Amendment "A" (S-296)** 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. This is a technical amendment dealing with the protocols in naming members of the Fish and Wildlife Committee to a study committee. It simply puts it into the standard protocol that is used for all of its study committees. This is the intent of the committee. I am making a correction to the committee amendment. Thank you.

House Amendment "A" (H-641) to **Committee Amendment "A" (S-296)** was **ADOPTED**.

Committee Amendment "A" (S-296) as Amended by **House Amendment "A" (H-641)** thereto was **ADOPTED**.

The Resolve was **PASSED TO BE ENGROSSED** as Amended by **Committee Amendment "A" (S-296)** as Amended by **House Amendment "A" (H-641)** thereto 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:

SENATE PAPERS

Bill "An Act to Ensure Civil Rights and Prevent Discrimination"

(S.P. 840) (L.D. 2239)

Came from the Senate, **REFERRED** to the Committee on **JUDICIARY** and ordered printed.

REFERRED to the Committee on **JUDICIARY** in concurrence.

Bill "An Act to Clarify the Solid Waste Laws as They Relate to the Exception to the Ban on New Commercial Landfills" (EMERGENCY)

(S.P. 839) (L.D. 2238)

Came from the Senate, **REFERRED** to the Committee on **NATURAL RESOURCES** and ordered printed.

REFERRED to the Committee on **NATURAL RESOURCES** 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 Ensure Adequate Nutrition Services for Maine's Elderly and to Create the Senior One-stop Program"

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

- In House, 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)** on May 5, 1999.

- In Senate, Senate **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**.

TABLED - May 20, 1999 (Till Later Today) by Representative **TOWNSEND** of Portland.

PENDING - FURTHER CONSIDERATION.

Subsequently, the House voted to **RECEDE AND CONCUR**.

An Act to Amend the Laws Relating to Notaries Public

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

(C. "A" H-411)

- In House, **PASSED TO BE ENACTED** on May 14, 1999.

- In Senate, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-411) AND SENATE AMENDMENT "A" (S-314)** in **NON-CONCURRENCE**.

TABLED - May 21, 1999 (Till Later Today) by Representative **AHEARNE** of Madawaska.

PENDING - FURTHER CONSIDERATION.

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

Senate Amendment "A" (S-314) was **READ** by the Clerk.

On motion of Representative **AHEARNE** of Madawaska, **Senate Amendment "A" (S-314)** was **INDEFINITELY POSTPONED**.

The same Representative presented **House Amendment "A" (H-662)** to **Committee Amendment "A" (H-411)** which was **READ** by the Clerk.

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

Representative **AHEARNE**: Mr. Speaker, Ladies and Gentlemen of the House. This amendment basically strips out part of the bill, which requires that notaries keep a firmly bound book. There was great concern over that. Furthermore, we indefinitely postponed Senate Amendment "A" because that applied to that section so there wasn't a need for it. I ask you for your support.

House Amendment "A" (H-662) to **Committee Amendment "A" (H-411)** was **ADOPTED**.

Committee Amendment "A" (H-411) as Amended by **House Amendment "A" (H-662)** thereto was **ADOPTED**.

The Bill was **PASSED TO BE ENGROSSED** as Amended by **Committee Amendment "A" (H-411)** as Amended by **House Amendment "A" (H-662)** thereto in **NON-CONCURRENCE** and sent for concurrence.

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

JOINT RESOLUTION MEMORIALIZING CONGRESS TO SECURE A NUCLEAR WEAPONS ABOLITION TREATY

(H.P. 1441)

TABLED - May 21, 1999 (Till Later Today) by Representative McKEE of Wayne.

PENDING - **ADOPTION**.

Subsequently, Representative McKEE of Wayne **WITHDREW** her Joint Resolution.

HOUSE REPORT - **Ought to Pass as Amended by Committee Amendment "A" (H-652)** - Committee on LABOR on Bill "An Act to Amend the Laws Relative to Vesting in the Maine State Retirement System"

(H.P. 189) (L.D. 267)

TABLED - May 21, 1999 (Till Later Today) by Representative CAMPBELL of Holden.

PENDING - **ACCEPTANCE OF COMMITTEE REPORT**.

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

The Bill was **READ ONCE**. **Committee Amendment "A" (H-652)** was **READ** by the Clerk.

Representative HATCH of Skowhegan **PRESENTED House Amendment "A" (H-670) to Committee Amendment "A" (H-652)**, which was **READ** by the Clerk.

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

Representative HATCH: Mr. Speaker, Ladies and Gentlemen of the House. This amendment replaces the original fiscal note in order to correctly reflect the impact of the Committee Amendment. It is a technical amendment. Thank you.

House Amendment "A" (H-670) to Committee Amendment "A" (H-652) was **ADOPTED**.

Representative GLYNN of South Portland **PRESENTED House Amendment "B" (H-671) to Committee Amendment "A" (H-652)**, which was **READ** by the Clerk.

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

Representative GLYNN: Mr. Speaker, Ladies and Gentlemen of the House. Very briefly, I have taken a good hard look at the legislation that is pending before us. I found that many of the provisions were very well thought out. However, there was one portion of it that I did take quite an exception to. That was the changing of the vesting for Maine State Retirement System and reducing it from 10 years to 5 years. Currently we are looking at approximately a \$2.6 billion deficit in the Maine State Retirement System. That is funds that we, the Legislature, robbed from the Retirement System and have not, as of this date, put back. To be looking today at adding an additional \$1.6 million of additional benefits seems to me a promise that is going to be very hard to keep. I believe it is one that we shouldn't make until we have made the system solvent and whole.

I am very much committed that the Legislature funds the money that we have taken from the Retirement System whether we were here or not here when that money was taken. I think that no way impacts the awesome responsibility we have in paying that back. Before we decide whether or not how fast we are going to pay that back and make that commitment to return

that money, I believe that we should not be taking on additional fund responsibilities and extending benefits in this manner. I ask for your consideration of this amendment. Thank you.

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

Representative HATCH: Mr. Speaker, Ladies and Gentlemen of the House. There is no one, I believe, in this body that has had more feeling and has worked any harder on these retirement issues than those of us who served on the Labor Committee over the last few years. This is a good bill. This has been a long time in the process. It was agreed to by all committee members. The point that was made is good, going from 10 to 5 says we do have a little bit of faith. The \$2.6 billion unfunded liability on the Retirement System, this will not impact that. This has to be paid up front. It will be paid. Anytime that you can do something to help your employees, whether it is lowering the vesting age to keep good employees or what. Believe me folks we lose a lot of good people because our benefit package isn't anywhere as good as private industry. Anytime that you can keep good people from leaving state service then you need to do that. We fought long and hard two years ago, going at it from two different points of view on a Constitutional Amendment an ERISA trying to provide some equity for our employees. We got that far. This is the bill that will finally do it. I ask for your support. This bill was worked on by the state employees, the teachers, the Executive Department and several members of the Labor Committee. It is a good solid bill. I would ask that you vote against this amendment. Mr. Speaker, I ask for a roll call.

Representative HATCH of Skowhegan **REQUESTED** a roll call on the motion to **ADOPT House Amendment "B" (H-671) to Committee Amendment "A" (H-652)**.

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

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

Representative DAVIS: Mr. Speaker, Men and Women of the House. If we really believe that K-12 education should improve, I would think we would want to have happy and contented teachers. You can't do that by making them wait 10 years to be vested in retirement. What other profession has to wait that long? Moral is a very important idea. People who have already retired, this bill doesn't affect. People who are now entering the system, if you want to hold onto good bright young people to teach, you need to have the vested and quickly and five years is certainly long enough.

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 apologize if I didn't hear it in earlier discussion, but does this bill, if it passes, increase the unfunded liability?

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

Representative HATCH: Mr. Speaker, Men and Women of the House. This will definitely not pose any threat to the

unfunded liability. It has to be paid up front. To my knowledge, the Executive has already said they will find the funding for this bill. 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. As a member of the Labor Committee, I have signed onto the original bill, which was the unanimous committee agreement. What the bill's main purpose is to provide state employees protection against their pension fund being raided by the Legislature. That happened back in 1993 when state government had almost shut down and the Legislature was looking for funds and found it in their pensions. We all agree that they deserve protection on that so that we cannot raid their funds. The benefits they have earned are theirs to keep. The big debate was whether that protection needs to be constitutional or in statute. We ended up with a compromise making that protection in the statute tying in with the contract clause of the Constitution. We all want to protect the state employees benefits. However, when it comes to the 5 year vesting, I have to agree with my good friend from South Portland, on second thought, that we should keep the vesting at 10 years. We will be giving state employees great new protections for their retirement pension. It is not exactly a raise, but assurance of your retirement benefits. It is a great extra thing to have in your contract and in the law. It is something that no other private employees have for their pensions. When we are saying that we will never be able to change this in the future that this protection that we are giving them in the meat of the bill will say that what they have when they hit vesting will never be able to be changed. By changing the vesting, we will never be able to go back in the other direction. I think it is important to give them the protection from what they have earned, but not new benefits by lowering the vesting. There are other options on changing the vesting time.

There is a bill that we have held over until next year that I have introduced that would have instant vesting. It would change the way the Retirement System is done. It gives state employees a choice to be in a plan with instant vesting. We will get to that next year. There are other options and other ways to do this. We all agree that they need these protections so their funds are not raided, but giving them another new benefit by lowering the vesting is not urgent at this time. That money could be better spent as my Right Honorable friend from South Portland said, by paying down some of the \$2.4 billion unfunded liability on state employee retirement. That should be our priority for the money. Thank you and I urge you to vote for the pending motion.

Representative MUSE of South Portland moved that **House Amendment "B" (H-671) to Committee Amendment "A" (H-652) be INDEFINITELY POSTPONED.**

Representative GLYNN of South Portland **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "B" (H-671) to Committee Amendment "A" (H-652).**

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 Indefinitely Postpone House Amendment "B" (H-671) to Committee Amendment "A" (H-652). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 277

YEA - Ahearne, Bagley, Belanger, Berry DP, Berry RL, Bolduc, Bouffard, Bragdon, Brennan, Brooks, Bruno, Bryant, Bull, Bumps, Cameron, Carr, Chick, Chizmar, Clark, Colwell, Cote, Cowger, Daigle, Davidson, Davis, Desmond, Dudley, Dugay, Dunlap, Duplessie, Etnier, Fisher, Frechette, Fuller, Gagne, Gagnon, Gerry, Gillis, Goodwin, Gooley, Green, Hatch, Honey, Jabar, Jacobs, Joy, Kane, Labrecque, LaVerdiere, Lemoine, Lemont, Madore, Mailhot, Martin, Marvin, Mayo, McAlevey, McDonough, McGlocklin, McKee, McNeil, Mendros, Mitchell, Murphy E, Murphy T, Muse, Norbert, Nutting, O'Brien JA, O'Brien LL, O'Neal, O'Neil, Peavey, Perkins, Perry, Pieh, Povich, Powers, Quint, Richard, Richardson J, Rines, Samson, Sanborn, Savage C, Savage W, Saxl JW, Saxl MV, Schneider, Sherman, Shiah, Sirois, Skoglund, Stanley, Stevens, Sullivan, Tessier, Thompson, Tobin D, Townsend, Tracy, True, Twomey, Usher, Volenik, Watson, Weston, Wheeler EM, Wheeler GJ, Williams, Winsor, Mr. Speaker.

NAY - Andrews, Bowles, Buck, Campbell, Cianchette, Clough, Collins, Cross, Duncan, Foster, Glynn, Heidrich, Jodrey, Kasprzak, Kneeland, Lovett, MacDougall, Mack, McKenney, Nass, Pinkham, Plowman, Richardson E, Rosen, Shields, Shorey, Snowe-Mello, Stanwood, Stedman, Tobin J, Trahan, Treadwell, Waterhouse.

ABSENT - Baker, Jones, Lindahl, Matthews, Tripp, Tuttle.
Yes, 112; No, 33; Absent, 6; Excused, 0.

112 having voted in the affirmative and 33 voted in the negative, with 6 being absent, **House Amendment "B" (H-671) to Committee Amendment "A" (H-652) was INDEFINITELY POSTPONED.**

Committee Amendment "A" (H-652) as Amended by House Amendment "A" (H-670) thereto was ADOPTED.

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

Representative MACK of Standish **REQUESTED** a roll call on **PASSAGE TO BE ENGROSSED.**

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

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

Representative MACK: Mr. Speaker, Right Honorable Men and Women of the House. Although I disagree with the part about changing vesting from 10 years to 5 years, this is still a good bill. It gives the state employees the protection they deserve. I urge you to support the pending motion. Thank you.

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

ROLL CALL NO. 278

YEA - Ahearne, Andrews, Bagley, Belanger, Berry DP, Berry RL, Bolduc, Bouffard, Bowles, Bragdon, Brennan, Brooks, Bruno, Bryant, Buck, 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, Fisher, Foster, Frechette, Fuller, Gagne, Gagnon, Gerry, Gillis, Glynn, Goodwin, Gooley, Green, Hatch, Heidrich, Honey, Jabar, Jacobs, Jodrey, Joy, Kane, Kasprzak, Kneeland, Labrecque, LaVerdiere, Lemoine, Lemont, Lovett, MacDougall, Mack, Madore, Mailhot, Martin, Marvin, Mayo, McAlevey, McDonough, McGlocklin, McKee, McKenney, McNeil, Mendros, Mitchell, Murphy E, Murphy T, Muse, Nass, Norbert, Nutting, O'Brien JA,

O'Brien LL, O'Neal, O'Neil, Peavey, Perkins, Perry, Pieh, Pinkham, Plowman, Povich, 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, Stedman, Stevens, Sullivan, Tessier, Thompson, Tobin D, Tobin J, Townsend, Tracy, Trahan, Treadwell, True, Twomey, Usher, Volenik, Waterhouse, Watson, Weston, Wheeler EM, Wheeler GJ, Williams, Winsor, Mr. Speaker.

NAY - NONE.

ABSENT - Baker, Jones, Lindahl, Matthews, Tripp, Tuttle.

Yes, 145; No, 0; Absent, 6; Excused, 0.

145 having voted in the affirmative and 0 voted in the negative, with 6 being absent, the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-652) as Amended by House Amendment "A" (H-670)** thereto in concurrence.

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

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

SENATE DIVIDED REPORT - Majority (10) Ought to Pass as Amended by Committee Amendment "A" (S-326) - Minority (3) Ought to Pass as Amended by Committee Amendment "B" (S-327) - Committee on JUDICIARY on Bill "An Act to Promote Effective Management of Occupational Exposure to HIV"

(S.P. 626) (L.D. 1791)

Which was **TABLED** by Representative BULL of Freeport pending his motion to **ACCEPT** the Majority **Ought to Pass as Amended Report**.

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

Representative **PLOWMAN**: Mr. Speaker, Men and Women of the House. Both of the reports out of our committee were Ought to Pass. This bill is very important. We learned during the public hearing that someone who has been exposed to HIV in a bona fide job related injury now has the ability to be treated. If treated within one hour of exposure, there is a 100 percent chance that they will not be affected by HIV by a needle stick, blood in spill or a splash. The original bill came to us asking us to cover employees in the health care setting. We expanded the bill to cover EMTs and other emergency service personnel. Based on some of the OSHA regulations, which requires that employees throughout the country must train and prepare workers to deal with blood borne pathogens such as HIV. They range everywhere from a maid cleaning a room being stuck with a needle to a police officer to someone having to clean up after a fight in a bar.

The Minority Report asks that these situations be covered as well. We wholeheartedly agreed that as soon as possible a person should be able to be tested. The person who was the source of the splash or the source of the contamination from the needle should be tested. The information should be given to the new person at risk. We thought that was very important considering we now have the technology to treat someone within an hour. Believe it or not, after two to three hours the

percentage goes up 50 to 75 percent. After two to three days, there is no change if you start the treatment at that point.

I would like to see us cover all employees, whether they be maids in hotels or they be nurses in operating rooms. Every employee should have the opportunity to avail themselves to this law that says we can get the person that you may believe is contaminated tested so that you may be counseled and you may begin your treatment as soon as possible. In order to do that, I would ask you to vote against the Majority Ought to Pass and to vote for the Minority Ought to Pass so that OSHA covered employees will also be part of this amendment. Thank you.

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 support the Majority Ought to Pass as Amended Report. As the good Representative from Hampden indicated, the reports are very similar. The difference is whom the bill applies to. The Majority Report follows along with the recommendations of the sponsor of the bill to deal with issues in health care settings. The reason it was brought forward in that way and we are uncomfortable in expanding it beyond the intended purpose of the bill. The Minority Report is also on the same issue. It is the same bill except for it expands the scope of the bill to apply to more businesses. The committee members on the Majority Report felt that this was beyond the scope of the original bill. We need to have an additional public hearing on another bill to see what affects it may have on other businesses that we may not be aware of. We would ask that you support the Majority Report bill and clearly the committee intends to go back to this issue next session and see if it is possible to broaden this protection to other workplaces. Thank you.

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

Representative **SCHNEIDER**: Mr. Speaker, Men and Women of the House. I urge you to vote against the Majority Ought to Pass so the Minority Ought to Pass as Amended Report can pass through this Legislature. This bill was brought to us as a great idea. It was prompted by improvements in technology that allow a person if treated rapidly for exposure to HIV to have an extremely good chance to beat getting infected with the disease. This is an extremely important development. The Majority Ought to Pass Report would limit its application to only health care workers in a health care setting. The Minority Ought to Pass would open it up to anybody in any occupation who is exposed to blood borne pathogens. This is a very important piece of legislation. It is very important to have it applied to as many people as possible. Therefore, I urge you to vote against the pending motion. Thank you.

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

Representative **DAIGLE**: Mr. Speaker, Ladies and Gentlemen of the House. I also urge you to vote against the pending motion so we can consider Committee Amendment "B." In the industrial environment we train many of our employees in how to handle blood borne pathogens because we are looking at situations where an employee may be injured in an industrial accident and we want coworkers to go to their aid very quickly. I think having the ability for a coworker to take advantage of this technology and to know that is going to make them more comfortable responding to an emergency situation. There are people right now when I have been involved in training people with blood borne pathogens, they have expressed their

reluctance to get involved, because the technology of wearing gloves and being careful can only get you so far. It can't get you to 100 percent. It is a wonderful advance in technology to say to them that if something goes wrong there is something else to fall back on. Unfortunately, the motion before us will not cover those workers. Keep in mind as you vote how you would feel should you be in situation where you may respond to an injured worker, would you want this protection afforded to you also? It will enable more people to act resulting in better good for all. Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative BERRY: Mr. Speaker, Men and Women of the House. Does Amendment "A" cover educators?

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

Representative BULL: Mr. Speaker, Ladies and Gentlemen of the House. In response to the question, no, it does not. Again, I will remind you that the Majority Report does have a report coming back to us next year from the Department of Human Services looking at expanding this and giving us the authorization to report out legislation. If it is appropriate that next year we want to go ahead and cover more occupational exposures, we will do that. There is some hesitation on the part of the department regarding the implication of this and how it would be managed, run and there are some unanswered questions that they were simply not comfortable going ahead with. Hopefully we will be able to address these issues next year and expand it to other occupations. I urge your support for the Majority Ought to Pass Report. Thank you.

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

Representative SAXL of Portland 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 Bridgton, Representative Waterhouse.

Representative WATERHOUSE: Mr. Speaker, Ladies and Gentlemen of the House. I am not going to say much more, except the difference between the two bills, they are both good, is that in the second amendment, Amendment "B" more people will be protected.

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

ROLL CALL NO. 279

YEA - Ahearn, Bagley, Berry RL, Bolduc, Bouffard, Brennan, Brooks, Bryant, Bull, Chizmar, Colwell, Cote, Cowger, Davidson, Desmond, Dudley, Dugay, Dunlap, Duplessie, Etnier, Fisher, Frechette, Fuller, Gagne, Gagnon, Green, Hatch, Jabar, Jacobs, Kane, LaVerdiere, Lemoine, Madore, Mailhot, Martin, McDonough, McGlocklin, McKee, Mitchell, Norbert, O'Brien LL, O'Neal, O'Neil, Perry, Pieh, Povich, Powers, Quint, Richard, Richardson J, Rines, Samson, Sanborn, Savage W, Saxl JW,

Saxl MV, Shiah, Sirois, Stanley, Stevens, Sullivan, Tessier, Thompson, Townsend, Twomey, Usher, Volenik, Watson, Williams, Mr. Speaker.

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

ABSENT - Baker, Collins, Jones, Lindahl, Matthews, Tripp, 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 to Pass as Amended Report was NOT ACCEPTED.

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

The Bill was READ ONCE. Committee Amendment "B" (S-327) was READ by the Clerk and ADOPTED. The Bill was assigned for SECOND READING Tuesday, May 25, 1999.

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

Bill "An Act to Amend Maine's Family and Medical Leave Law"

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

Which was TABLED by Representative MATTHEWS of Winslow pending FURTHER CONSIDERATION.

On motion of Representative HATCH of Skowhegan, the House voted to RECEDE AND CONCUR.

On motion of Representative TREADWELL of Carmel, the House RECONSIDERED its action whereby it voted to RECEDE AND CONCUR.

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

Representative DAIGLE: Mr. Speaker, Ladies and Gentlemen of the House. Having taken some time to study the bill before us now, I urge you to vote in opposition to the pending motion to pass this bill. It has some problems. Its intentions are honorable. I understand what we were trying to achieve here, but I am afraid if this bill goes forward as currently written, there will be more problems than there will be solutions to the situation of accommodating a family in today's workplace. Please let me tell you what some of these situations would be that would not be addressed in this legislation. First off, there is no exemption for critical employees. There are some occupations where you have got to understand that the people have got to be at work. The repercussions are just something that is out of proportion to the issue with the family, for example, policemen, firemen, air traffic controllers and pilots. All those skills under this current bill, there is no language whatsoever that allows the company to say, you are a pilot flying a scheduled airline, we need you to be there. What about a critical skill like an air traffic controller? There is just nothing in here. It could be done, but it is not in this current form.

A second issue, there is no requirement in this bill for a reasonable accommodation. It calls all occasions where family medical leave may be requested to be considered equal. Obviously if your child is injured in an accident, your place should be at your child's side. In fact, that is already covered under existing law because it would be a medical emergency. Isn't it appropriate that if we are going to require companies to accommodate it, that we give balance to this thing. If you are looking for a routine dental appointment made months in advance, that you can make one that may be perhaps outside of the normal work schedule, especially if you are a critical employee, but any employee. It is one matter when you have to see a doctor who is a specialist and he can only see you at 2 in the afternoon. If you can get your teeth done at 4 p.m. after you finish the job, what is the harm in saying a reasonable accommodation, that phrase alone in this language would help it be more palatable and not seem like such an onerous act of government to require the employer to let every employee leave whenever that employee has scheduled any medical or dental appointment or any occasion where they wish to meet with a teacher.

Finally, the documentation requirements in this bill are also problematic. There is some language in the current Medical Leave Act, which requires a person to seek from their physician medical proof that there was cause for the employee to be out using current medical leave provisions. It doesn't include adopting these same requirements for documentation of meeting with a teacher, meeting with dentists or the type of health care providers. There are all factors, which I think if we sat down and gave this thing some additional thought, we would want to include in any bill establishing a medical leave program of this sort. They are not in this bill. They are not in these amendments.

I have spoken to several people who work with this legislation in the hallways before today. I have mentioned these and nobody has told me these aren't founded. Nobody has said these aren't issues that ought to be there. The response I got was submit a House Amendment. Time is short. This is not my bill and this is not committee. I am trying to give you the perspective of what it is like out there in the environment that you are trying to write a law for. This is what it would mean to me trying to run my factory and all of a sudden I am told these allowances must be given to my employees. I am speaking for them. Given more time, we can fix this. Passing it like this, it is broke. Ultimately, its affect will be not only the chaos when these situations occur, but ultimately, I believe it will cause resentment in the workplace towards those employees who avail themselves to this requirement and employees who do not have children in this situation. They will look at their coworkers as getting some unwarranted concessions. Remember, they will be back at work picking up the slack when that employee is gone to get their kid's teeth cleaned. They will no it is not a consideration to their level of work. That resentment will build.

The second thing that will happen is companies who will be forced to comply with this law will do what we always did. We started to write it down in strict policies. Since it is this difficult to deal with, you start to write down every little thing you have got to and every time an employee comes up with a situation, you have to rereference the policy. I used to work for a company that was very liberal with family medical leave situations. All the situations with reasonable accommodations for non-critical employees, they were freely given the time off. With a bill

passed like this, you have to start keeping records. You start to look at the formula. What happens if you don't meet the formula? They can't give it to you. The more progressive companies in this state will have to standardize in order to ensure compliance. Compliance will be the number one priority once this law is passed, not working with the employees. To achieve compliance, you will give up that flexibility. There will be less reasonable medical leave for all those things you are talking about that aren't explicitly covered in this bill. You will set it back. The resentment will set it back. The difficulty it will cause in the workplace it will set it back. I think we can do a better job than this. Bringing out an incomplete work product like this won't get you where you want to go. I urge that we vote against this pending motion. We can adhere at this point and we can work to make this bill a little bit better before we start to tell the businesses of the state how they are supposed to be family friendly. Thank you.

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

Representative TREADWELL: Mr. Speaker, Ladies and Gentlemen of the House. During the public hearing and work sessions on this bill there was no testimony that would indicate that the provisions of this bill would cure a problem. As a matter a fact, there was no indication that there was a problem in this area during our hearings on the Labor Committee. In the 118th Legislature we reduced the size of a firm and you probably have heard me say this, that is going to be covered by the Family and Medical Leave Act to 15 employees. That brought 6,000 new employers in under the act. The federal limit is 50 employees. We were at 25, one-half the federal standard and now we are down to 15. The small business community in the State of Maine is not very happy at all with this legislation. They see it as a real problem in being able to do business here in the state. I would ask you to vote against the Recede and Concur motion. Thank you.

Representative CAMPBELL of Holden 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. 280

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

NAY - Andrews, Belanger, Berry DP, Bowles, Bragdon, Bruno, Buck, Bumps, Cameron, Campbell, Carr, Chick, Cianchette, Clough, Collins, Cross, Daigle, Davis, Duncan, Foster, Gillis, Glynn, Gooley, Heidrich, Honey, Jodrey, Joy, Kasprzak, Kneeland, Labrecque, Lemont, Lovett, MacDougall, Mack, Madore, Marvin, Mayo, McAleyey, 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, Winsor.

ABSENT - Baker, Jones, Lindahl, O'Brien LL, Pieh, Skoglund, Tripp, Tuttle.

Yes, 74; No, 69; Absent, 8; Excused, 0.

74 having voted in the affirmative and 69 voted in the negative, with 8 being absent, the House voted to **RECEDE AND CONCUR**.

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

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

An Act to Increase the Deer Hunting Day by 15 Minutes
(H.P. 30) (L.D. 39)

Which was **TABLED** by Representative SHIAH of Bowdoinham pending **PASSAGE TO BE ENACTED**.

On motion of Representative MARTIN of Eagle Lake, the rules were **SUSPENDED** for the purpose of **RECONSIDERATION**.

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

The same Representative **PRESENTED** House Amendment "A" (H-664) which was **READ** by the Clerk

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

Representative **MARTIN**: Mr. Speaker, Members of the House. Let me explain how I got to where I am on this particular amendment. I, as you may know, spoke neither for nor against, but I responded to a question that had been posed by the Representative from Rome when we were discussing this bill. I ended up voting against the 30 minutes, but was in favor of the 15 minutes. The next day I received a phone call from northern Maine who proceeded to inform me that what we had managed to do because the laws of Maine in reference to the time zone is actually found in the law book. It says that the time that you will use is the time that is found in Augusta. The phone call said, "Aren't you aware that you have less lightness in the afternoon in Caribou than you do in Augusta?" Frankly, the answer to that was I didn't know. To carry out the rest of this story, I found out on November 30, the sun goes down in Augusta at 4:02 p.m., but in Caribou, which is where you get the information for those of us who live in northern Maine its 3:46 p.m. There is a difference between the two obviously of 16 minutes. You add the 16 minutes to the 15 and you are now night hunting. That was a pleasant thought for me to find out. So, we talked to the department and we worked out an amendment, which you have before you so that we will strike out Augusta from the law and they will then set it by rule. Everyone will get 15 minutes. If you live in Augusta, you will get 15 minutes. If you live in Caribou, you will get 15 minutes, but the time will be adjusted backward for those of us in northern Maine. Those of you who want to know, it is even worse in Washington County. I think it is a couple minutes more in Eastport. The line will be somewhere around Augusta. In order to get to the rest of it to straighten it out, you actually are close to St. Pamphile in order to get that in

the proper dimension of the time zone so you are not going to be night hunting.

That is a long explanation for what I think is a simple amendment. I would ask you to adopt House Amendment "A."

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 Eagle Lake, Representative Martin, is absolutely correct. For those people in this chamber who had doubts about the 15 minutes and the safety factor, consider what the good Representative from Eagle Lake has just said. For all those years, they have been legally breaking the law in northern Maine. Thank you.

House Amendment "A" (H-664) was **ADOPTED**.

The Bill was **PASSED TO BE ENGROSSED** as Amended by House Amendment "A" (H-664) 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 **LEGAL AND VETERANS AFFAIRS** reporting **Ought Not to Pass** on Bill "An Act to Privatize the Liquor Industry"

(S.P. 205) (L.D. 594)

Signed:

Senators:

DAGGETT of Kennebec

CAREY of Kennebec

FERGUSON of Oxford

Representatives:

TUTTLE of Sanford

CHIZMAR of Lisbon

FISHER of Brewer

GAGNE of Buckfield

LABRECQUE of Gorham

MAYO of Bath

PERKINS of Penobscot

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (S-335)** on same Bill.

Signed:

Representatives:

HEIDRICH of Oxford

McKENNEY of Cumberland

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

READ.

Representative CHIZMAR of Lisbon moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

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

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

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

ROLL CALL NO. 281

YEA - Ahearne, Andrews, Bagley, Bolduc, Bouffard, Brennan, Brooks, Bryant, Chizmar, Clark, Colwell, Cote, Cowger, Davidson, Desmond, Dudley, Dugay, Dunlap, Duplessie, Fisher, Frechette, Fuller, Gagne, Gagnon, Goodwin, Gooley, Green, Hatch, Jabar, Kane, Labrecque, LaVerdiere, Lemoine, Lemont, Lovett, Madore, Mailhot, Martin, Matthews, Mayo, McAlevey, McDonough, McGlocklin, McKee, McNeil, Mendros, Mitchell, Murphy E, Muse, Norbert, O'Neal, O'Neil, Perry, Povich, Powers, Quint, Richard, Richardson J, Rines, Rosen, Samson, Sanborn, Savage C, Savage W, Saxl JW, Saxl MV, Sherman, Shiah, Sirois, Skoglund, Stanley, Stevens, Sullivan, Tessier, Townsend, Tracy, True, Twomey, Usher, Volenik, Watson, Wheeler GJ, Williams, Mr. Speaker.

NAY - Belanger, Berry DP, Bowles, Bragdon, Bruno, Buck, Bull, Bumps, Cameron, Campbell, Carr, Chick, Cianchette, Clough, Collins, Cross, Daigle, Davis, Duncan, Etnier, Foster, Gerry, Gillis, Glynn, Heidrich, Honey, Jacobs, Jodrey, Joy, Kasprzak, Kneeland, MacDougall, Mack, Marvin, McKenney, Murphy T, Nass, Nutting, O'Brien JA, Peavey, Pieh, Pinkham, Plowman, Richardson E, Schneider, Shields, Shorey, Snowe-Mello, Stanwood, Stedman, Thompson, Tobin D, Tobin J, Trahan, Treadwell, Waterhouse, Weston, Wheeler EM, Winsor.

ABSENT - Baker, Berry RL, Jones, Lindahl, O'Brien LL, Perkins, Tripp, Tuttle.

Yes, 84; No, 59; Absent, 8; Excused, 0.

84 having voted in the affirmative and 59 voted in the negative, with 8 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**.

Ought to Pass Pursuant to Joint Order (H.P. 1584)

Representative GAGNON from the Committee on **TAXATION** on Resolve, to Modify the State Valuation for the Sappi Plant in the City of Westbrook for Purposes of Education Funding (**EMERGENCY**)

(H.P. 1593) (L.D. 2241)

Reporting **Ought to Pass** pursuant to Joint Order (H.P. 1584).

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

The Resolve **READ ONCE**.

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

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

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.

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

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

(C. "A" H-371; S. "A" S-295)

TABLED - May 21, 1999 (Till Later Today) by Representative SHIAH of Bowdoinham.

PENDING - **PASSAGE TO BE ENACTED**.

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

HOUSE DIVIDED REPORT - Report "A" (7) **Ought to Pass as Amended by Committee Amendment "A" (H-354)** - Report "B" (4) **Ought to Pass as Amended by Committee Amendment "B" (H-355)** - Report "C" (1) **Ought to Pass as Amended by Committee Amendment "C" (H-356)** - Report "D" (1) **Ought Not to Pass** - Committee on **LABOR** on Bill "An Act to Treat All Employees Equitably with Respect to Leaves of Absence for Legislative Service"

(H.P. 235) (L.D. 339)

TABLED - May 21, 1999 (Till Later Today) by Representative SAXL of Portland.

PENDING - Motion of Representative MACK of Standish to **INDEFINITELY POSTPONE** the Bill and accompanying papers.

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

Representative **HATCH**: Mr. Speaker, Ladies and Gentlemen of the House. I rise today to ask you to vote against the pending motion and to move on to accept Report "A," which would allow legislators four leaves of absence. In this House, by way of occupation, the 119th is composed of 18 educators, while another three are in education administration. There are nine attorneys in the House, one farmer, two social workers, eight people who work in the field of health care and one retired physician. Seven legislators are involved in the pulp and paper industry while another five are involved in forestry. There are 15 members that are business people, two are homemakers and five are self-employed. Overall there are 26 retirees, many of those members having come from the ranks of business and local state and federal government. After having added up all of these, I find that about half the House are people who can serve. What we don't have are a lot of workers from the small businesses in the state. I am talking about the mom-and-pop stores, other than the owners. We don't have a lot of people who work in shoe shops. We don't have a lot of average people. We have a few young people, but not anywhere near the third of the population that they actually are.

I am not saying this bill will cure all ills, what I am saying is that if you go through an election and are elected to serve to this body, I think that in itself it is a great honor. We have all kinds of ways of filling positions if someone takes terminally ill and still holding that position open for them or if they have to take a leave of absence for some other reason to serve in the National Guard or if they are called away for other service in the nation's interest. To be elected in this body you have to realize that it is a lot like playing the Maine State Lottery. There are very few of us from the population of this state.

I called the Workers' Comp Division and the Labor Department to find out how many businesses there were in the state. Overall there are over 44,000 who actually pay unemployment taxes and workers' comp. They told me there are probably another 10,000 who are business, but are not listed as such. It could be two people running a small operation that paying neither unemployment nor workers' comp. We are talking somewhere between 50,000 and 55,000 businesses. I am talking about 75 people who might want to serve in this body.

There are several businesses in the state who have more than one employee who is down here and also have their contracts that if they don't earn as much as they would on the job, they will make sure that their money is matched so they don't lose any money. Those industries realize what an honor it is to be here. I just want to recognize them for the good citizens that they are. They are the former S.D. Warren Plant in Skowhegan, the SAPPI Plant, BoWater has two, Westbrook SAPPI has at least one. I think there are a lot of industries who can do well without one employee, even smaller operations with five or more employees.

We all hear a lot about the employed people in the state and how hard it is to get good workers. I am asking you today to pass a leave of absence for four terms for a legislator to come here and serve without losing their job. I don't think it is too much to ask. I think it is time that it was done. I would ask you to Indefinitely Postpone so we can move on to Report "A." Thank you.

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

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

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

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

Representative WATERHOUSE: Mr. Speaker, Ladies and Gentlemen of the House. To the good Representative from Skowhegan, I heard her run down a list of different people who serve in the Legislature right now. I am one of those she mentioned that is self-employed. While I am up here, I don't make any money except for what we get up here. I understand that a lot of us take a financial loss, but that is part of public duty. My question to the good Representative is, how would not passing this bill help the people she was describing as the workers if they had a chance to come up here through a leave of absence, the employers still have no responsibility to pay them in law, other than just the contractual agreement that they make between them, I can't understand how extending leave of absence to four terms would help people come up here if they financially couldn't afford it in the first place? Could she answer that please?

The SPEAKER PRO TEM: The Representative from Bridgton, Representative Waterhouse has posed a question through the Chair to the Representative from Skowhegan, Representative Hatch. The Chair recognizes that Representative.

Representative HATCH: Mr. Speaker, Men and Women of the House. To answer the good Representative from Bridgton's

question, actually there would be no financial gain except they would be able to keep their job. We currently have a member of this House, I don't know if they are going to speak today, who had to give up their job when they were re-elected. They were told to be a legislator or be your occupation, but you can't be both. This is a rather big entity that told them this. I can't even surmise in my wildest dreams that they couldn't have done without them for the six-month period or the five-month period that it would take to be here. There is no financial gain. I am not looking to have any financial gain. The only way that there would be would be if it was contractual in a union agreement. There are some of them out there. As far as the average person, just to serve here, I think that is enough of a blow to their finances without having their employer after they had gone to the trouble of getting elected to tell them either they could quit as a legislator or quit as an employee. I think anytime you can give someone a helping hand so that they can realize their possibilities because I feel that this is probably one of the greatest things that anyone in the state can attain and that is to be elected to this great House. Therefore, I would like to open the door to more people if they would like to do so. I don't expect a rush. Believe me, I think it is hard enough to get people to come here with the low pay that we have. I would definitely say that probably if one or two could come here under this criteria that at least the body will be better for that.

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

Representative DUPLESSIE: Mr. Speaker, Ladies and Gentlemen of the House. I rise today to ask you not to Indefinitely Postpone this bill and to vote against the pending motion and then to vote for the Majority Report, Report "A." I will give you some quick history on this bill, my good friend the dear Representative that is not with us today, Representative Tuttle. In 1980, Representative Tuttle was a firefighter in the Town of Sanford. He was elected to the Legislature and he lost his job. At that time, I was representing the firefighters here in the Legislature on the other side of the doors from where I stand today. I talked with various people and submitted legislation. It is interesting to note that on that legislation in 1981, the Representative from Sanford, Representative Tuttle, was a sponsor. The cosponsors were Representative Murphy of Kennebunk, Senator Carpenter of Aroostook, Representative Pierson of Old Town. In 1981 that bill did not make it through the legislative process. We did not give up. In 1983, we came back with another bill and the same thing happened. We were able to pass that bill in 1983, because of the protections that are in the law, the current law.

If an employer feels that it would be a hardship to have their employee serve the citizens of Maine, there is a lengthy appeal process for that employee to go through. The employer can ask the Maine Board of Arbitration and Conciliation for an appeal. They call the appeal within 30 days. If the employer can show why that employee is so vital to their operation, I have no doubt that that employer would win. In the 16 years that that this law has been in place, there has been one appeal. That was three years ago. A large employer, a manufacturing firm in Auburn, an employee applied and gave them the legal notice of 10 days after filing the paperwork in March. The employer appealed to the Labor Board, Board of Arbitration and Conciliation, the employer did not show any cause or strong reason why they could not give that employee a leave. The employee that wanted to leave lost in the primary that June. It was a mute

question after that. Since that time there has been one phone call last year, an inquiry, from one employer. That is it, ladies and gentlemen, in the 16 years.

The original bill when it went through the House on March 18, 1983, was Divided Report from the Labor Committee, 12 to 1 Ought to Pass. The roll call was 80 to 21. It was in the Senate March 30, 1983 with a roll call vote of 18 to 10. That current law has worked very well. The problem is with a two-year limitation. If an employee applies and gets the leave and then if the employer does not want to extend it so the employee can run for his second or third term, then we have a hardship on an employee trying to serve the citizens of Maine. That did happen to one of the good Representative's amongst us this past year. I ask you to please vote against the current motion and then accept Committee Report "A," the Majority Report. Thank you.

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

Representative **MACDOUGALL**: Mr. Speaker, Ladies and Gentlemen of the House. I have had some time to reflect on this issue and when the issue came to our committee, being an employee myself who has a voluntary agreement with my employer to serve here. I actually was very open to expand the current law. I, myself, ended up on Report "B," which would open it up to two terms, but employer limit would be 15 or more employees. I felt that with term limits being a factor and the fact that it does take a while for even the brightest of us, which I don't pretend to be, to get up to speed and be able to affect legislation and policy for the State of Maine. A reasonable first step would seem to me to expand that to more than one term. That is why I initially supported the two-term basis as a good reasonable first step.

My concern here this morning and why I will support the current motion is I believe that the four terms and the five employer plateau is too much too soon. I will take a few moments to explain why. There is an incredible cost for a business to give up an employee to serve in the Legislature even when they do agree to do it. In my own case, we have almost 700 employees. My particular field of expertise is a very narrow, but important one. It is not that easy to fill. Fortunately we do have the resources to make it work and we do get by. I do work weekends and make up a lot of time during the rest of the year making up time on projects. That fits my particular situation for my particular company that we came to an agreement on our own. I think that is very important. I have their support every step of the way and I have my coworkers support every step of the way, although they don't always agree with my votes.

Small businesses do not necessarily have those resources. That is very important for us to consider as you vote today. A small businessman such as my good friend from Sanford, Representative Bull, has a small successful business. I believe it would be a lot more difficult for an employee of his to come up here and serve than say where I work. Perhaps his competitor down the street might have an easier time or a more difficult time. You don't know. Maine is full of small businesses. With what we have done in this particular Legislature and still have bills yet to decide upon that have impacted business such as the one earlier today on amending the Family Leave Act. We continue to chip away with the employer that basically says that we say in one hand that most employers are good and fine and do the right things, but we are passing things for those that we consider fall short of that mark. I think that this would be another step in that direction even though it doesn't have the impact with

as many employees, because it would be a small pool when we are dealing with the Legislature.

Another thing I would like you to consider too is there are four reports out of the committee. That suggests to me that the idea needs to be discussed more. There are four different ideas from our committee. That tells me this is not done. I would urge your support for the Indefinite Postponement for the reasons I have alluded to and others. Thank you.

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

Representative **MUSE**: Mr. Speaker, Men and Women of the House. Frankly I am rather surprised that we are debating this bill that I consider to be one of the most bipartisan bills that we have seen in this body, much less considering Indefinite Postponement. As much as I would love to see many of my friends on the other side of the aisle stay home in the next term, I want to see that done through the ballot and not as a result of a decision made by their employer. I sat in that boat prior to this past election when my employer told me that I could not run. You need to make the decision. It is work or go. It took a great deal of time and energy to straighten that out and to convince him as well as the county commissioners to allow me to go. It took a great deal of work on the part of many other people.

It wasn't because there was a hardship. If there were a hardship, they would have taken the proper route and brought it to the state board of arbitrators. It was purely personality driven 100 percent. It was a miserable feeling, but I was ready to terminate my employment to maintain my position here. We made that very clear. There are still provisions in the law that will allow an employer to appeal if you want to go. The people in the State of Maine have given us term limits, four terms. There is no reason in the world why we can't have our employer regard this the same way. This is still the people's Legislature. This bill addresses that. This bill opens that door for people to have an opportunity to come and serve in this great body. We shouldn't be closing that door. We should be doing everything we can to keep that door open for everybody to enjoy the experience that we have. I would encourage everybody very strongly to follow Representative Hatch's light on this. Thank you Mr. Speaker.

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

Representative **CLARK**: Mr. Speaker, Ladies and Gentlemen of the House. I rise before you this afternoon as kind of a unique individual. My contract back home where I work is not honored. All the other eight unions do. Like the Representative from Northport, Representative MacDougall, pointed out, I do go home on the weekends and I work and try to keep peace with the people I work with. They have special assignments for me when I go back. Before 1980, people in both mills used to get compensated for when they were down here. That is no longer there anymore. The good Representative from Medway, Representative Stanley, and the good Senator in the other body, their contracts honor it. When I first decided to run, I had to sit down with my boss and tell him what was going on. It is a good thing that my father, which was here for 16 years, had a good relationship with the people I work with. They saw how everything came down the line. It is good for an employer to have somebody here to help them be represented. They know what the ins and outs are. When I first decided to run, I was kind of up in the air. Yes, I was young and I didn't really care if I lost my job, which I had only held for a year. That means I could move anywhere if I lost the job. I had a primary race with two

other people and then I had a general election. Fortunately, I did win.

The company that I work for does not hold it close to a contract. Yes, they expect me back whenever I get done here. If it is June 16 at 1 in the morning, they expect me to report to work on June 17 at 6:30 in the morning. When you vote here today, I hope that you follow the good chairwoman from Skowhegan and follow her light. Thank you.

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

Representative CHICK: Mr. Speaker, Ladies and Gentlemen of the House. I would like to share with you some of my experiences over time where the question if a person was going to be allowed to be absent from his assignment to serve here in either of the two bodies. This occurred first to me when I was in the service and somebody was missing. A few of the people asked questions where the person might have gone and he had been elected to a high office. He was given the privilege to serve. That was many years ago during World War II. With my time on school boards, many things changed from 1949 until now. It is due process from 1949 for school employees wasn't heard very much at all. Over time as a member of school boards, I had an occasion along with other people to talk about someone who might be a candidate for office trying to search the way if they would be taken care of if they were elected. I always stood on the side of the candidate, because I believed that any citizen of Maine that has the desire to be a candidate for office, wherever it may be, accommodations usually should be made so they can attend meetings or whatever.

This afternoon I can't stand and support the current motion. I would suggest that you defeat this motion and go on to the bill. Thank you.

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

Representative DAIGLE: Mr. Speaker, Men and Women of the House. I think I have a valid point of view with this issue. I thought at first earlier speakers were referring to my situation as a freshman. I am currently on an unpaid leave of absence from my employer. The agreement we have is that if I run for office again and get re-elected, I will not be returning. This is a position that I took willingly. I knew this when I submitted my nomination papers that succeeding in office meant leaving my job. Deciding to run again means quitting this job. It is a job that I like very much. I did so because of a basic philosophical difference with the premise of this bill. Don't get me wrong, I think my boss is making a very big mistake. I guess I should say my former boss. There is a very good principle at stake here. We have a constitutional right to be stupid. An employee has a right to run for office. The employer does not have to understand what that means. If he doesn't want to keep them, then he doesn't have to keep them. My employer did not owe me a job. He owed me a paycheck if I was there working for him at that job. When I decided to do something else, then that informal contract was severed. I ask you to vote in favor of the current motion to Indefinitely Postpone this. I think we are strong enough as a government, society and state to be able to operate our government without forcing people to accommodate us. I think the only motive I can understand that would lead us to want to mandate cooperation is because we are insecure that we can get it through any other means of educating, convincing or showing our worth. I think we are stronger than that. Thank you.

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

Representative TRACY: Mr. Speaker, Ladies and Gentlemen of the House. I would like to give you a little overlay of my past experience when I worked over to Statler Tissue when I ran for public office. Of course, at that time I had to give them a notice that I was running and all of that stuff to comply with the law. After I got elected, my first term over here, the management was ecstatic. As a matter a fact, they really didn't want to give me a leave of absence. They asked me if I would be willing to go out to the other end of the mill and change positions from lead man and go up to the finishing and converting department and work up there with another gentlemen so as not to interfere with going in and out of the mill disturbing the crews. I agreed to that, but I also agreed to work every weekend and every holiday and everything that came down the pike. I thought it was a great honor and a privilege to be here and I thought it was also a great honor for them to accommodate me. I did do that. If the session was in at 11:00, I would have to go down to the mill and work until 10:30 in the morning, then I would take my shower and shave up and put my suit on and then I would walk out and come over here. That went on for approximately eight years. I had to work Saturdays and Sundays like I said. Now that I am up to SAPP I am proud to say that I am the first elected official out of SAPP, the Somerset Plant, thanks to the good Representative Hatch's husband, Paul, and the rest of the members of the union, plus management working out an agreement to put into the contract that any elected official would be able to come down and serve.

While I am up, I would like to say about Statler, they never compensated me for wages lost. I had to earn my wages, but they were willing enough to compensate me for benefits lost. When I was out they would take the whole year and comply it on my vacation time exactly as if I had worked there with no lost time. My retirement, they paid 100 percent in so I didn't lose anything there. Up to SAPP it is the same thing. I have to go in on the days that I have to work on the weekend and this coming weekend if we are not here I will have to go in Saturday night, Sunday night and then Monday night. I just go through working this past weekend. I believe that each and every individual should have a right to serve. It is a burden on some individuals and as a matter a fact, a burden on some companies. When the individual management are ecstatic and I hadn't even been down here for a couple of months and we had a meeting in the morning, I have this beeper thing on me because management wanted to use that in case they had to get in contact with me. I foresee no problem with the eight years. I would hope you would vote against the pending motion and if it works for me, I am sure it is going to work for somebody else. Thank you very much.

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

Representative BROOKS: Mr. Speaker, Ladies and Gentlemen of the House. Let me start off by saying that I bear no ill will to the company that I worked for. As a matter a fact, we have an excellent relationship in that after as many years as I served with them, I did get a reasonably good separation package. Let me tell you that on August 9, 1961, when I went to work for that company the first two, maybe five years that I was there, I was a member of the Maine Army National Guard. My boss told me that in order for me to take the annual summer training, I had to do it during my vacation. For the first five of my employment, I didn't get any vacation in summer. That is all I

ever earned was two weeks. I took most of my weekend training duty during time when I had to take time off, a day off that week. Little did I know and that law was changed many years ago, that 37 years later I would be faced with the same kind of choice. When I ran for the Legislature for the 118th, I was given the blessings of the company and came down here and I served that two-year term. I thought I did a pretty good job. I was able to maintain both jobs, I thought, very well. When it came time for me to run for the 119th, I was taken into my supervisor's office and like another Representative who testified earlier, this was not a personality problem, but a work quality problem. They didn't feel as though they could lose one of their supervisors for six months in the first year and three or four months during the second. By that time I was Director of Special Publications and had put out several publications and newspapers, etc. for the news.

I guess my position here has to be that we vote against the Indefinite Postponement. It seems to me that if we are going to give people the time off to do the kinds of things that I mentioned before, military duty and other duties, such as jury duty or funerals, then why is we are not allowed to continue with our free will in concert with the company to negotiate some kind of an agreement over those four terms that we are limited to to be absent from that company. I would hope that that is exactly the message that goes across. This isn't punitive and something that came out of the fact that I had to make a decision, but this, in fact, is something that is appropriate to the people of the State of Maine. I think the four terms, eight years, which I believe is Report "A." Hopefully we can vote yes on that. When I was told last year that it would be the end of my career if I was elected and had to make a choice. It was probably one of the hardest days of my career at that company, because I didn't believe it was happening. I honestly didn't know about the law. I went out and looked and found it was only two years. I didn't feel like I had any recourse. Frankly, I would be very pleased to see that we have eight years on the books. It would give people like me a leg to stand on, an opportunity to continue to serve their state and I believe we all deserve the right and that opportunity. Thank you Mr. Speaker.

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

Representative SHIAH: Mr. Speaker, Colleagues of the House. A few brief comments here on this LD. In the last several election cycles I have worked hard traveling statewide to try to encourage people to run for this citizen Legislature, this Legislature that we are not paid all that much for. I run into so many people who really want to be down here, but could not because their employers were unable, unwilling or have very good reasons to say no or if you are going to run, you have to quit. These were people that would make excellent legislators. I just believe we should go on and discuss the reports. There are four on this bill. We are not supposed to discuss them with this pending motion, but I think the appeals process we all know about in current law is well documented in the reports. I think that is a way that if an employer does have a hardship, they can bring that forward. I think that particular person could then not run because the employer proved a hardship. I think with that language in the bill and with the hurdles that are out there to get people to run for this institution already, I certainly hope we can vote to oppose this current motion to Indefinitely Postpone and move on to discuss the bill. Thank you.

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

Representative MCKEE: Mr. Speaker, Men and Women of the House. When my daughter was teaching at an Agricultural University in China she wrote me letter about what it was like to be a teacher there. She was astounded that when she walked into the classroom everyone rose, bowed and spoke to her. She was amazed that in the cafeteria the moment she walked in, she walked to the head of the line. I can tell you that in my classroom and classrooms all over the state that doesn't happen. In fact we are so egalitarian as teachers now, we stand at the end of the line and wait patiently. Many of us don't have parking spaces in parking lots anymore. We are treated just like any other student. I got to thinking about the esteem with teachers are held in China and I began to see a parallel to the way we are regarded as lawmakers. We are regarded just as we regard ourselves. I think in teaching we are too. We don't think we are so terribly important or ought to be held in high esteem and we don't expect the kids to open the doors for us nor sometimes to be polite with us.

I think as lawmakers we don't honor with laws the regard with which anyone who is in our position should be held. I say that with great respect. We want everyone to want to be a part of the process. We should be able to raise our salaries to adjust to the cost of living allowance. We should be able to pass a law, which would allow us all to be here for four terms. At the end of the next session we will all participate in something, which is very moving. I can tell you that I was enormously surprised by what I saw. It is the lighting of the roll call at the end of the session. All these lights dim and the Clerk calls our names. We press our light for the last time. If we are coming back, we press green. If we don't, we press red. When it started last session, I was touched. I thought, nice ending. When it was finished, I was completely saddened and discouraged. Why? For a person who had voted for term limits for eight years, I was shocked. There were names on the board of people who had only been here one or two terms and they were going. When it was all over and I went to the back and asked, what happened? Most people said, I can't afford it. I won't have my job if I don't go back. This is the toughest job I ever had. The pay is lousy. The hours are long. My family has difficulty with it. This is a tough job. How are we going to encourage people to come and be here a length of time in order to be effective unless we pass laws that will encourage them to be here?

I looked at that list of the occupations and professions that we represent here. Guess what? It is about the same as it was 25 years ago. Look at your selectmen in your mind and your school boards. Go down the list. What do those people do? Many of them have been sitting on that board for 15 or 20 years doing a wonderful job for your community earning great favor in the community. How many of them are here? How many of them can we persuade to be here? How many folks from an HMO do we have here? How many hospital administrators do we have here? How many practicing nurses, boat builders, carpenters, salesmen and roofers? It is a great honor and privilege to be here to serve in this place and to be chosen by our communities as their representative is an awesome responsibility. You must know your communities well. All people deserve an opportunity to be here. We should be doing everything that we possibly can.

I am on an unpaid leave of absence. As a part of the citizen Legislature, I must still work. Just like you, I have to work every

day. If I don't work everyday or if you don't work everyday, you have to work on the weekends, which is even worse. It might be hard for me to get up early in the morning, but I think it is even harder for you to have to work nights and weekends. As citizens, we have to work. I cannot afford not to work. I want all citizens to have what I have, which is an unpaid leave of absence guarantee for the eight years. It is what many of you already have. It might not be through a contract or an agreement, but you have it. I have it. Let's make it so that everyone can have it. 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 in favor of the pending motion. I would just like to say, how important are we individually as members of the Legislature? We are a citizen Legislature. I know, as far as myself, that the State of Maine did just fine before I was here. When I am no longer serving in the Legislature, the State of Maine will do just fine. There is no one person in this Legislature that is indispensable and the Legislature cannot function without. It was read off the good mix of people that we have serving in the Legislature now and I think it is a good mix. We are a citizen Legislature. If I am not here, I can think of at least a dozen people from my district who I think would do an excellent job serving in the Legislature. I know I am not indispensable. I don't think there is anyone here who is indispensable also. I would urge you to vote for the pending motion. Mr. Speaker, when the vote is taken, I request a roll call.

Representative MACK of Standish REQUESTED a roll call on the motion to INDEFINITELY POSTPONE the Bill and all accompanying papers.

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

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

Representative FRECHETTE: Mr. Speaker, Ladies and Gentlemen of the House. I urge you to defeat the pending motion and go on to accept Report "A," which is the Majority Report of the committee. I believe this bill would allow citizens who want to serve to be eligible to be able to get legislative leave for more than one term from their employers. This would open up the process of maybe enticing citizens to run for the Legislature. I believe this is a small step to opening up the political process and increasing participation from the public. To address the employers needs there is a method for employers who feel that by granting the leave of absence would cause a hardship on their business. They could file an appeal. I also feel that no individual would try to hold their employer hostage and cause a hardship if they knew that by running for the Legislature they would be hurting their employers business because after they get out of the Legislature, that is their bread and butter, how they make their livelihood. For these reasons, I urge you to vote against the pending motion and support the Majority Report. Thank you Mr. Speaker.

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

Representative TRUE: Mr. Speaker, Ladies and Gentlemen of the House. I am not going to ask you to vote one way or another because I think this particular bill you must make up your own mind. However, nearly everyone that has talked about something being equal. When this LD was presented and is being presented now, it says, "Treat all employers equitably."

Equitably means fair or just. It doesn't say equal. Of course, it has to be more thought of in that manner in each individual's case. We serve eight years, four terms, then you are out two and you can have four more. Does this particular bill take care of that or are we talking only about four. As I remember it and there are some of you people that have retired since I have and I retired 10 years ago, but individual teacher unions even have different responsibilities for those people if they do come here or did unless doubted. Some had to pay their perks. Is that fair or just? Some of the substitutes had to pay the substitutes. Do they still do that? Is that fair or just? I think that maybe we ought to think about it a little more. Maybe it needs some people to look at it more in depth. I leave that up to you because I don't know how you can ever get it equal. Thank you very much.

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

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

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

Representative DAIGLE: Mr. Speaker, Men and Women of the House. I would like somebody to help me understand if the requirements in this bill should pass, would they be applicable to those of us currently in the Legislature or only for people who seek to run in the future?

The SPEAKER PRO TEM: The Representative from Arundel, Representative Daigle has posed a question through the Chair to the Representative from Standish, Representative Mack. The Chair recognizes that Representative.

Representative MACK: Mr. Speaker, Right Honorable Men and Women of the House. It would apply 90 days after the Legislature adjourns so it would take affect for any of us current serving.

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

Representative MCALEVEY: Mr. Speaker, Ladies and Gentlemen of the House. I rise with some trepidation to speak against my friend the Representative from Skowhegan, but I would urge that we do vote to Indefinitely Postpone. Life is made of choices from the time we enter school to the time we pass this realm. We are here to make choices. I think the fact that each and every one of us make a sacrifice to come here. I didn't cognitively believe that I was going to be spending half a year away from home. Each one of us makes a sacrifice to be here to do the very best job we can. We ask our spouses to sacrifice or our significant others to sacrifice along with our families and our children. Many people who have come before us since the inception of this state and made those sacrifices and I think that we, as legislators, are stronger. It is not easy getting elected to this Legislature. It takes a lot of work, planning and sacrifices. It takes a lot of work to stay here to do our work daily whether we travel back and forth from home everyday or we stay up during the week. I think that tests our metal. It shouldn't be easy to get here in that sense of you want people who can balance a life, political life, family life and a public service life. I think that the fact that each one of us here make a sacrifice somehow in some small way or some large way everyday to be here to do the people's business. It makes us as stronger individuals. I don't want to put up barriers for people not being able to get here. I don't think guaranteeing them a job is putting up a barrier or vice versa. I think we are better people for being here making the sacrifices.

I look around the room and I have done this in the past sessions when we are here late at night and we all have a collective feeling. We all suffer together while we are waiting for the paper. That is like a play for the moment. It will never happen again. We all go through an experience in the latter days of this session or any session, you can't explain it to people back home. They haven't been here and they haven't done it. Regardless of your political feeling, there is a slight bonding in that respect, but the thing is we recognize that we are making sacrifices to be here. I think because we make those daily sacrifices and we ask our family to make those sacrifices we are better public servants as a result of it. I hope that doesn't sound too convoluted, but I think if you ask yourself where you have been and how long you have been here and the totality of the sacrifices you have made to remain here on a daily basis or hourly basis, you are going to feel good about that. You know what, we are not doing anything right now that a good many good people who came before us did day in and day out. Thank you.

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

Representative RINES: Mr. Speaker, Men and Women of the House. According to the Secretary of State's Office, fewer people ran for the Legislature in 1996 than in 1994 and even fewer candidates ran in 1998. We need to find ways to reverse that trend if this state is to protect what is cherished by most of us in the citizen's Legislature. No one should be denied the opportunity to serve in this Legislature for fear of losing their jobs. LD 339 submitted by the good Representative from Skowhegan, Representative Hatch, solves that problem from the working men and women of this state. I agree with the good Representative from Waterboro, Representative McAlevey, that life may be full of choices, but no one should ever have to choose between their job and serving in the Legislature. Fewer and fewer citizens are running for the Legislature. This LD might be the answer or part of the answer to that unhealthy trend. I would encourage everyone to vote down the pending motion and go ahead and improve Committee Amendment "A." 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 would urge you not to support the pending motion to Indefinitely Postpone. A vast majority of the members in committee, whether they differ on the amount of leave, at least supported making a change in the existing law. It has been 16 years since we have made a chance. If we go by the incremental basis, we will see the millennium come and we will be way into it before we extend another couple of years. I offered the amendment in the committee to go to four terms to make it consistent with the existing term limitation law passed by the voters. This is a citizen's house. We do the citizen's business. I hope and I pray that this Legislature, I have made so many good friends on both parties, Republicans and Democrats, there are statesmen and stateswomen on both sides of the aisle always willing to listen and do the right thing. I hope and I pray that this body will always be the people's house representative of all Maine people. We are not the same state that we were 200 years ago. We don't tie up the horse and buggy outside here, but you know ladies and gentlemen as a student of history, I am very, very proud of the great things done 200 years ago and in 1820 and in 1920 in the Maine Legislature. It hasn't always made the right decision, ladies and gentlemen, but I would

surmise and state that most of the time we have made the right decision. We are a government and a people's body that recognizes the changes of our society. We recognize the kinds of give and take and tension on our families.

I will leave you with just one parting statement to think about. In my opinion, as I look at the trials and tribulations of our society and our government and I know we will surmount whatever obstacle we shall encounter. I believe, ladies and gentlemen, that our country and our citizens are saying open the doors of government up, don't close them. Open the process up. Be less partisan as much as possible. Stay to the issue and be an elected body that stands up on issues, stands up for principle and yes, represents me on the street in Winslow, Millinocket or down in the southern part of the state in Portland. Let's be a representative body that deals with issues. How can you do that, ladies and gentlemen, if this House becomes a House of one economic strata or one mindset or one other kind of other qualification? Lord knows what you can come up with. Keep it the people's House. This was the best that we could do in the committee, four terms. The motion, I ask you strongly to oppose, but at least look at the vast majority members of the committee in 16 years and extend it a little more. Open those doors up a little bit more. Thank you Mr. Speaker.

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

Representative MCKEE: Mr. Speaker, Men and Women of the House. Just one brief remark in response to the good Representative McAlevey, life is made of choices. It is true that we already have to make a lot of sacrifices. It is true that we all sit here in the last evenings and we suffer together. At the end of eight years some of us will suffer more than others. If you have no job and you still need to work for 5 or 10 more years, you really suffer. That is too much of a sacrifice. Thank you.

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

ROLL CALL NO. 282

YEA - Andrews, Belanger, Berry DP, Bowles, Buck, Bumps, Cameron, Campbell, Carr, Cianchette, Clough, Collins, Cross, Daigle, Davis, Duncan, Foster, Gillis, Glynn, Gooley, Heidrich, Honey, Jodrey, Joy, Kasprzak, Kneeland, Lindahl, Lovett, MacDougall, Mack, Marvin, McAlevey, McKenney, McNeil, Mendros, Murphy E, Nass, Nutting, O'Brien JA, Peavey, Perkins, Pinkham, Plowman, Richardson E, Rosen, Sherman, Shields, Shorey, Snowe-Mello, Stanwood, Stedman, Tobin D, Tobin J, Trahan, Treadwell, True, Waterhouse, Weston, Wheeler EM, Winsor.

NAY - Ahearne, Bagley, Berry RL, Bolduc, Bouffard, Bragdon, Brennan, Brooks, Bruno, Bryant, Bull, Chick, Chizmar, Clark, Colwell, Cote, Cowger, Davidson, Desmond, Dudley, Dugay, Dunlap, Duplessie, Etnier, Fisher, Frechette, Fuller, Gagne, Gagnon, Gerry, Goodwin, Green, Hatch, Jabar, Jacobs, Kane, Labrecque, LaVerdiere, Lemoine, Lemont, Madore, Mailhot, Martin, Matthews, Mayo, McDonough, McGlocklin, McKee, Mitchell, Murphy T, Muse, Norbert, O'Neal, O'Neil, Perry, Pieh, Povich, Powers, Quint, Richard, Richardson J, Rines, Samson, Sanborn, Savage C, Savage W, Saxl JW, Saxl MV, Schneider, Shiah, Sirois, Skoglund, Stanley, Stevens, Sullivan, Tessier, Thompson, Townsend, Tracy, Tripp, Twomey, Usher, Volenik, Watson, Wheeler GJ, Williams, Mr. Speaker.

ABSENT - Baker, Jones, O'Brien LL, Tuttle.

Yes, 60; No, 87; Absent, 4; Excused, 0.

60 having voted in the affirmative and 87 voted in the negative, with 4 being absent, the motion to **INDEFINITELY POSTPONE** the Bill and all accompanying papers **FAILED**.

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

Representative **GLYNN**: Mr. Speaker, Ladies and Gentlemen of the House. Thank you for your indulgence when I did not rise as quickly as I should have. I am rising in opposition to the pending motion of adoption of the amendment to lengthen the amount of legislative stint to four terms very strongly. I take very seriously my service here in the Legislature, as I know all of you do. What I see is very rapidly happening, especially as a freshman coming in with eyes wide open. As somebody who is serving their tenth year of public office, from that perspective, I can tell you that there is very much a diminishment of the office going on here in Augusta. What I mean by that is the arrogance to believe that we are above other people in as much as we can order businesses that we have a right to be here. I don't believe we have a right to be here. I think it is a privilege to here and it is a privilege that we need to negotiate with out employers.

I am full-time employed. In fact, I am on vacation for the two weeks. This is my vacation. Other people choose to spend it in Florida or possibly camping, while many of you will be doing your summer activities, I will be working, because I have chosen to spend my vacation here in service of my city and in service of my state. That doesn't make me anymore special than anyone else, but what it does say is that it is a level of commitment to this office. That scene out there by the people in the districts that want to see people that believe, that care and people that are committed to make the sacrifices to make the tough decisions to do what is right for their people and to do what is right for their districts. We see our offices diminished when we put forth proposals to raise our pay saying that we deserve a pay increase. We are already making more than people in my district make in a year on minimum social security. We will stand and look the public right in the eye and say we deserve a raise. We look our employers in the eye and say we are entitled to have our jobs held and not come to work and negotiate with them.

I think it is a slippery slope. What I would like to see is a commitment towards making our time and stay here efficient. If you want to help me as a full-time employed person in my 30s, as a manager in my company, you are not going to help me by saying it is okay for me to shirk my duties and responsibilities at my job. How you are going to help me is you are going to be an efficient legislator with me? How can we do this? Let's talk about time management. Time management is really what this bill ought to be addressing. Let's talk about the fact that here on legislative time when we start our day at 9 in the morning, we don't start at 9, we start at 10. That is no reflection at all to our Speaker, but more of a reflection to us as a body, because that is considered the norm in Augusta. That is incorrect. We are not respectful of people's time. We also are a Legislature that just loves to meet for no reason. I looked at the beginning of the session and we had days when all we did was refer bills to committee. Couldn't we come up one day in a week and referred all of the bills? Did we actually have to be here everyday away from our families and our jobs.

Lengthening the say we are allowed away from our employers without their consent is not a good idea, because what we have to do is focus on the other half of the problem, which is time management. You will find that that is how we will

get our pay raise. We will be less hours up here. We will be more efficient and do more for our districts. Thank you.

Representative McNEIL of Rockland **REQUESTED** a roll call on the motion to **ACCEPT** Report "A" **Ought to Pass as Amended**.

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

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

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

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

Representative **BOUFFARD**: Mr. Speaker, Men and Women of the House. Since the subject was brought out as to the equality of a legislator having to serve this state, the members of the National Guard who were just recently up in Bangor made active duty, it is my understanding that when they come back no matter how long it is going to take, they are guaranteed their jobs. Is it no less that the legislator's duties here in serving the people is a lesser important matter than the people that are in the National Guard?

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

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

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

Representative **MENDROS**: Mr. Speaker, Men and Women of the House. As I understand Committee Amendment "A" and Committee Amendment "B," Committee Amendment "A" brings it to four terms that you can serve and have the leave of absence. Committee Amendment "B" allows for the first two terms. It means that anyone who is in their first term now is on the original leave of one term and this would allow their next term. My question is, is there anyone in this body that would be affected by Committee Amendment "A" and not by Committee Amendment "B?" As I understand Committee Amendment "B" will suffice and let it go into affect for the next legislative session. If we decided we need the full eight years, we can change it in the legislative session. I can't even figure out how anybody could possibly be affected by "A" and not be affected "B." If anyone could answer that for me, I would really appreciate it.

The **SPEAKER PRO TEM**: The Representative from Lewiston, Representative Mendros has posed a question through the Chair to the Representative from Skowhegan, Representative Hatch. The Chair recognizes that Representative.

Representative **HATCH**: Mr. Speaker, Ladies and Gentlemen of the House. To save time, I am sure we will all be affected by four terms or two terms, except for a few of us who are term limited out and would not be affected by anything this bill does. I guess that more or less is your answer. Thank you.

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

ROLL CALL NO. 283

YEA - Ahearne, Bagley, Bolduc, Bouffard, Bragdon, Brennan, Brooks, Bruno, Bryant, Bull, Chick, Chizmar, Clark, Colwell, Cote, Daigle, Davidson, Desmond, Dudley, Dugay, Dunlap, Duplessie, Etnier, Fisher, Frechette, Fuller, Gagne, Gagnon,

Goodwin, Green, Hatch, Jabar, Jacobs, Kane, Kneeland, Labrecque, Lemont, Mailhot, Martin, Matthews, Mayo, McAlevey, McDonough, McKee, Mitchell, Murphy E, Muse, Norbert, O'Neal, Perry, Povich, Powers, Quint, Richard, Richardson J, Rines, Samson, Sanborn, Saxl JW, Saxl MV, Schneider, Shiah, Sirois, Skoglund, Stanley, Stevens, Sullivan, Tessier, Thompson, Townsend, Tracy, Tripp, Twomey, Usher, Volenik, Watson, Wheeler GJ, Williams, Mr. Speaker.

NAY - Andrews, Belanger, Berry DP, Bowles, Buck, Bumps, Cameron, Campbell, Carr, Cianchette, Clough, Collins, Cowger, Cross, Davis, Duncan, Foster, Gerry, Gillis, Glynn, Gooley, Heidrich, Honey, Jodrey, Joy, Kasprzak, LaVerdiere, Lemoine, Lindahl, Lovett, MacDougall, Mack, Madore, Marvin, McGlocklin, McKenney, McNeil, Mendros, Murphy T, Nass, Nutting, O'Brien JA, O'Neil, Peavey, Perkins, Pieh, Pinkham, Plowman, Richardson E, Rosen, Savage C, Savage W, Sherman, Shields, Shorey, Snowe-Mello, Stanwood, Stedman, Tobin D, Tobin J, Trahan, Treadwell, True, Waterhouse, Weston, Wheeler EM, Winsor.

ABSENT - Baker, Berry RL, Jones, O'Brien LL, Tuttle.

Yes, 79; No, 67; Absent, 5; Excused, 0.

79 having voted in the affirmative and 67 voted in the negative, with 5 being absent, Report "A" **Ought to Pass as Amended was ACCEPTED.**

The Bill was **READ ONCE**. **Committee Amendment "A" (H-354)** 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-354)** 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:

SPECIAL SENTIMENT CALENDAR

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

Recognizing:

Tony McLaughlin, of Wilton, who is retiring as Director of Admissions at the University of Maine at Farmington after 27 years of dedicated service. Through his outreach efforts, Tony has raised the aspirations of countless Maine students and has assisted Maine families in realizing their dream of higher education. We extend our appreciation to Tony and our best wishes on his retirement;

(SLS 193)

On **OBJECTION** of Representative LaVERDIERE of Wilton, was **REMOVED** from the Special Sentiment Calendar.

READ.

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

Representative **LAVERDIERE**: Mr. Speaker, Men and Women of the House. As you know, I don't rise very often in this body, but I do today because I want to honor someone who is a consummate professional who is a credit to his community and who I am proud to say is a friend. Tony McLaughlin or Jay

Anthony McLaughlin is retiring as the Director of Admissions at the University of Maine at Farmington. In the mid-70s when I was Director of Financial Aide at the University of Maine at Farmington, Tony and I worked closely together. I can tell you that Tony is truly a professional, an outstanding professional. As many of you know, the University of Maine at Farmington is rated as one of the finest small public colleges in the east and, in fact, the country. Most of that is due to the recruiting efforts of Tony McLaughlin as Director of Admissions.

Tony also has a funny side too. I have to tell you that when we were both working as employees at that institution, Tony and I had a fellow employee who was retiring. When we asked that retiree what they wanted for a retirement party, they said they wanted a sponge cake. Well, Tony and I proceeded to take a sponge, cover it with frosting and serve it to the individual who actually did not appreciate it as much as Tony and I thought the individual might. That is an example of the kind of thing that Tony was doing for years. Tony loves to play poker. I think I bought at least one new car for him over the years. He is an absolutely wonderful individual. He is the kind of person that the University System is proud to have. I am proud to call him a friend. I hope that when the time is right that you will join with me in wishing Tony a happy retirement after 28 years at the University of Maine at Farmington. Thank you.

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

Representative **TRUE**: Mr. Speaker, Men and Women of the House. I, too, want to recognize this young man. He has certainly paid his dues and has done them in an exemplary manner. He is always a gentleman. I have known him for many years. Two of my children graduated from the University of Maine Farmington and he is respected by everyone. I did not know that this was being done or I certainly would have had my name listed there. Tony, it has been a privilege to be a friend.

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

Representative **BELANGER**: Mr. Speaker, Men and Women of the House. I would be remiss if I did not stand to congratulate Tony on his retirement. Although I don't know if Tony is in the gallery, but I am much younger than he, we were undergraduate students together many, many years ago. I wish him and long and happy retirement.

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

Representative **WILLIAMS**: Mr. Speaker, Ladies and Gentlemen of the House. I, too, rise to sing the praises of Tony McLaughlin. I work in the Admissions Office at the University of Maine and Tony has been a true colleague and a true friend. When I first began considering running for the Legislature, the person that I went to first was Tony to talk about the implications of being a legislator and being in the Admissions Office, because he has had some experience with that dealing with former Representative Wendy Ault who is here today. I figure if he can deal with her, he can deal with me. That is not going to be a problem. He has had some experience with that and I thank him. The Representative from Wilton, Representative LaVerdiere, alluded to Tony's achievements at the University of Maine at Farmington. I can tell you that the success that they enjoy today is due in no small part to the work that Tony has done. We were just talking and some of you may know that the University of Maine at Farmington's enrollment is capped at 470 or 490. They received for the first time 1,500 applications. That may not mean

a lot to you, but in the world of admissions when you receive that many applications for those few spots, that really tells you something. I can tell you that the reason that has happened is because of the tireless efforts of Tony McLaughlin. I say to you Tony that the University of Maine System and the University of Maine Farmington is going to miss you very much, as will I.

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

Representative GOOLEY: Mr. Speaker, Men and Women of the House. I want to say that UMF is a great institution and Tony McLaughlin has been a large part in making it a great institution. Reference has been made to the Honorable Wendy Ault who served in this body for eight years, four terms. That was a great move. I think that Tony deserves everything that he wants after his retirement and I wish him well. Thank you.

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

Representative MARTIN: Mr. Speaker, Members of the House. I am sure you are wondering what I have to with Farmington. Actually, it is a little matter of competition. The University of Maine at Fort Kent tends to get involved with a little competition in terms of enrollment. As you know, some of you have been acting for the last couple years as the Director of Enrollment Management at the University of Maine at Fort Kent. I just want to wish him the best. I think that those of us at the various campuses other than Farmington, we will have great joy seeing now that we can beat Farmington. We certainly wish him the best in his retirement. I am sure he is looking forward to it.

PASSED in concurrence.

ORDERS

On motion of Representative COLWELL of Gardiner, the following Joint Order: (H.P. 1594)

ORDERED, the Senate concurring, that Bill, "An Act to Create the Sex Offender Registration and Notification Act of 1999," S.P. 597, L.D. 1721, and all its accompanying papers, be recalled from the Engrossing Division to the House.

READ and PASSED.

Sent for concurrence.

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

The Speaker resumed the Chair.

The House was called to order by the Speaker.

The 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.

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Revoke Voting Rights of Convicted Felons While they are in Prison

(S.P. 545) (L.D. 1607)

- In House, Bill and accompanying papers **INDEFINITELY POSTPONED** on May 12, 1999.

- In Senate, Senate **INSISTED** on its former action whereby the Majority (9) **OUGHT TO PASS AS AMENDED** Report of the Committee on **LEGAL AND VETERANS AFFAIRS** was **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-172)** and **ASKED FOR A COMMITTEE OF CONFERENCE** in **NON-CONCURRENCE.**

TABLED - May 21, 1999 (Till Later Today) by Representative SAXL of Portland.

PENDING - Motion of Representative ANDREWS of York to **RECEDE** and **CONCUR.**

Representative CHIZMAR of Lisbon **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: The Chair recognizes the Representative from York, Representative Andrews.

Representative ANDREWS: Mr. Speaker, Men and Women of the House. I would ask that you would go along with this motion to Recede and Concur to pass this bill. I know there are strong feelings regarding this issue. I, myself, have strong feelings regarding this issue. I find it hard to accept that my husband's civil rights were taken away, his right to vote, by his murder, yet we are going to give a murderer the right to vote. Ladies and gentlemen, something is wrong with this picture.

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

Representative CHIZMAR: Mr. Speaker, Men and Women of the House. One of the many purposes of sentencing is to create opportunities for personal growth and eventually the return of the prisoner to the community. An important part of citizenship is making positive contributions to the state and town you reside in. Exercising the right to vote is one of the acts of an involved and concerned citizen. The ability to vote while incarcerated has assisted prisoners in feeling connected to a world outside of the closed world of the penal institution. Fewer than 3 percent of the prisoners take advantage of their right to vote. Those that do gain much from being involved in the political process by maintaining a lively interest and concern for their hometown, their state and their country. This is a positive exercise of one of our basic rights as citizens. I don't feel it should be taken away without careful consideration of the benefits of this exercise to the prisoner and the potential harm to the community. I view this legislation in resulting referendum as a solution looking for a problem that does not exist. Thank you.

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

Representative MCALEVEY: Mr. Speaker, Ladies and Gentlemen of the House. Just a brief reminder that there are people in our prisons who are despicable, but ship away the fact that this is the group we are taking away the right to vote and substitute class. We are voting to take away the voting rights of a class of people. Prisoners today, who is tomorrow? It is a slippery slope. I think the people in our institutions have a tough road at times and sometimes they have an easy road. I don't particularly like the idea that we are people who are incarcerated who are murderers that are voting. The broader issue is we are taking away the right to vote from a class. Who is next?

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

Representative MAYO: Mr. Speaker, Ladies and Gentlemen of the House. I don't think in five years I have risen to take issue with a position of my seatmate, but I find myself having to do that. This issue had a considerable amount of committee discussion. It was a 9 to 4 committee report in support of LD 1607 as amended. I would urge the people in this body to support the Recede and Concur, which will, I believe, lead to a Committee of Conference and possibly something can be worked out on this. To not do this continues the current situation, which is allowing felons to vote. This bill is based on a very, very simple premise. Those who disregard our laws have violated a social contract and should not have the privilege of helping make those laws while paying for their crime in prison. It is a very simple concept. I would hope that you would support the motion of the good Representative from York to Recede and Concur. Let's see if a Committee of Conference cannot iron this situation out. Thank you.

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

Representative MENDROS: Mr. Speaker, Ladies and Gentlemen of the House. The last speaker pointed out that this is just a Recede and Concur to create a Committee of Conference. I spoke against this legislation. I voted against it. I see nothing wrong with letting it go to Committee of Conference and see if we can work something out with the other body. If we are not happy with what is worked out, we can always vote it down then when it comes out of committee. We should at least follow the system and try to work out some kind of compromise. I urge you to vote for the pending motion.

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

Representative MARTIN: Mr. Speaker, Members of the House. I have not been involved in this debate, nor do I particularly want to, but I think that where we are procedurally we ought to just think about it. Recede and Concur would not get us in any position to agree with the other body. The motion to Insist, obviously we could then join a Committee of Conference. Quite frankly, that would just prolong its life because the final enactment of this bill will require a two-thirds vote, even if we were to get the motion to Insist and join a Committee of Conference. Obviously everyone would have to come from the prevailing side, which means that those would be three people selected from those who voted against the bill originally. My gut feeling is to recommend that we vote against the motion to Recede and Concur and Adhere and puts this bill out of its misery.

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

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

The SPEAKER: The Representative may pose his question.

Representative MCALEVEY: Mr. Speaker, Men and Women of the House. How should our government respond should this become enacted when a person comes forward with a lawsuit that says that I have already been punished? I have been sentenced to 12 years in jail. This is now a new punishment. Is that where we want to be?

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. 284

YEA - Andrews, Belanger, Berry DP, Bolduc, Bowles, Bruno, Buck, Bumps, Cameron, Campbell, Carr, Chick, Cianchette, Clough, Collins, Cross, Daigle, Davis, Duncan, Foster, Fuller, Gagne, Gerry, Gillis, Glynn, Gooley, Heidrich, Honey, Jacobs, Jodrey, Joy, Kasprzak, Kneeland, Labrecque, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, Marvin, Mayo, McKenney, McNeil, Murphy E, Murphy T, Nass, Nutting, Peavey, Pinkham, Plowman, Richardson E, Rosen, Savage C, Schneider, Sherman, Shields, Shorey, Snowe-Mello, Stanwood, Stedman, Tobin D, Tobin J, Tracy, Trahan, Treadwell, True, Waterhouse, Weston, Wheeler EM, Wheeler GJ, Winsor.

NAY - Ahearne, Bagley, Berry RL, Bouffard, Brennan, Brooks, Bryant, Bull, Chizmar, Clark, Colwell, Cote, Cowger, Davidson, Desmond, Dudley, Dugay, Dunlap, Duplessie, Etnier, Fisher, Frechette, Gagnon, Goodwin, Green, Hatch, Jabar, Kane, LaVerdiere, Lemoine, Mailhot, Martin, Matthews, McAlevey, McDonough, McGlocklin, McKee, Mendros, Mitchell, Muse, Norbert, O'Brien JA, O'Neal, O'Neil, Perkins, Perry, Pieh, Povich, Powers, Quint, Richard, Richardson J, Rines, Samson, Sanborn, Savage W, Saxl JW, Saxl MV, Shiah, Sirois, Skoglund, Stanley, Stevens, Sullivan, Tessier, Thompson, Townsend, Tripp, Twomey, Usher, Volenik, Watson, Williams, Mr. Speaker.

ABSENT - Baker, Bragdon, Jones, O'Brien LL, Tuttle.

Yes, 72; No, 74; Absent, 5; Excused, 0.

72 having voted in the affirmative and 74 voted in the negative, with 5 being absent, the motion to **RECEDE AND CONCUR FAILED**.

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

Representative MACK of Standish moved that the House **RECEDE**.

Representative SAXL of Portland **REQUESTED** a roll call on the motion to **RECEDE**.

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

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

Representative MACK: Mr. Speaker, Right Honorable Men and Women of the House. I would urge your support for my motion to Recede. If the motion to Recede does prevail, I will be offering an amendment to the bill to take away prisoners right to vote if they are convicted of treason.

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

ROLL CALL NO. 285

YEA - Andrews, Buck, Campbell, Clough, Collins, Foster, Gerry, Gillis, Glynn, Heidrich, Kasprzak, Kneeland, MacDougall, Mack, Murphy T, Nass, Pinkham, Plowman, Schneider, Snowe-Mello, Stanwood, Tracy, Trahan, Treadwell, Waterhouse, Winsor.

NAY - Ahearne, Bagley, Belanger, Berry DP, Berry RL, Bolduc, Bouffard, Bowles, Brennan, Brooks, Bruno, Bryant, Bull, Bumps, Cameron, Carr, Chick, Chizmar, Cianchette, Clark, Colwell, Cote, Cowger, Cross, Daigle, Davidson, Davis, Desmond, Dudley, Dugay, Duncan, Dunlap, Duplessie, Etnier, Fisher, Frechette, Fuller, Gagne, Gagnon, Goodwin, Gooley, Green, Hatch, Honey, Jabar, Jacobs, Jodrey, Joy, Kane, Labrecque, LaVerdiere, Lemoine, Lemont, Lindahl, Lovett, Madore, Mailhot, Martin, Matthews, Mayo, McAlevey, McDonough, McGlocklin, McKee, McKenney, McNeil, Mendros, Mitchell, Murphy E, Muse, Norbert, Nutting, O'Brien JA, O'Neal,

O'Neil, Peavey, Perkins, Perry, Pieh, Povich, Powers, Quint, Richard, Richardson E, Rines, Rosen, Samson, Sanborn, Savage C, Savage W, Saxl JW, Saxl MV, Sherman, Shiah, Shields, Shorey, Sirois, Skoglund, Stanley, Stedman, Stevens, Sullivan, Tessier, Thompson, Tobin D, Tobin J, Townsend, Tripp, True, Twomey, Usher, Volenik, Watson, Weston, Wheeler EM, Wheeler GJ, Williams, Mr. Speaker.

ABSENT - Baker, Bragdon, Jones, Marvin, O'Brien LL, Richardson J, Tuttle.

Yes, 26; No, 118; Absent, 7; Excused, 0.

26 having voted in the affirmative and 118 voted in the negative, with 7 being absent, the motion to **RECEDE FAILED**.

Representative SAXL of Portland **REQUESTED** a roll call on the motion to **INSIST** and ask for a **COMMITTEE OF CONFERENCE**.

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 Kennebunk, Representative Murphy.

Representative **MURPHY**: Mr. Speaker, Men and Women of the House. Sometimes it is important to take a stand at principle. Thank you.

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

Representative **MENDROS**: Mr. Speaker, Men and Women of the House. As I said before, I didn't vote for this legislation. I didn't support it, but I think it is only common courtesy to allow for a Committee of Conference to see if they can work something out. It can always die later. That is why we have a deliberative body and that is why we have a process. I urge you out of courtesy to let this go. Thank you.

The **SPEAKER**: A roll call has been ordered. The pending question before the House is to Insist and ask for a Committee of Conference. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 286

YEA - Andrews, Belanger, Berry DP, Bowles, Bragdon, Bruno, Buck, Bumps, Cameron, Campbell, Carr, Chick, Cianchette, Clough, Collins, Cross, Daigle, Davis, Duncan, Foster, Gerry, Gillis, Glynn, Gooley, Heidrich, Honey, Jacobs, Jodrey, Joy, Kasprzak, Kneeland, Labrecque, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, 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, Tracy, Trahan, Treadwell, True, Waterhouse, Weston, Wheeler EM, Winsor.

NAY - Ahearne, Bagley, Berry RL, Bolduc, Bouffard, Brennan, Brooks, Bryant, Bull, Chizmar, Clark, Colwell, Cote, Cowger, Davidson, Desmond, Dudley, Dunlap, Duplessie, Etnier, Fisher, Frechette, Fuller, Gagne, Gagnon, Goodwin, Green, Hatch, Jabar, Kane, LaVerdiere, Lemoine, Mailhot, Martin, Matthews, McAlevey, McDonough, McGlocklin, McKee, Mitchell, Muse, Norbert, O'Neal, O'Neil, Perry, Pieh, Povich, Powers, Quint, Richard, Richardson J, Rines, Samson, Sanborn, Savage W, Saxl JW, Saxl MV, Shiah, Sirois, Skoglund, Stanley, Stevens, Sullivan, Tessier, Thompson, Townsend, Tripp, Twomey, Usher, Volenik, Watson, Wheeler GJ, Williams, Mr. Speaker.

ABSENT - Baker, Dugay, Jones, O'Brien LL, Tuttle.

Yes, 72; No, 74; Absent, 5; Excused, 0.

72 having voted in the affirmative and 74 voted in the negative, with 5 being absent, the motion to **INSIST** and ask for a **COMMITTEE OF CONFERENCE FAILED**.

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

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

HOUSE DIVIDED REPORT - Majority (7) **Ought Not to Pass** - Minority (5) **Ought to Pass** - Committee on **CRIMINAL JUSTICE** on Bill "An Act to Modify the Laws on Negotiating a Worthless Instrument"

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

TABLED - May 21, 1999 (Till Later Today) by Representative **POVICH** of Ellsworth.

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

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

Representative **POVICH**: Mr. Speaker, Men and Women of the House. LD 1245 does a couple of important things and I have moved the Majority Ought Not to Pass Report. I think it is important in a negative way. Section one of LD 1245 changes the notice of this provision from requiring the issuer of the check to actually requiring the return of the instrument to a bank for collection to be considered sufficient notice. I don't understand that either and I will explain what that means in English in a second. Section two of the bill, still in cryonics and not English, amends the crime of negotiating a worthless instrument by decreasing the minimum amount of the face value of the bounced check for a Class D and E crime.

The translation is in current Maine law if you bounce a check and I think it is fair to assume although I won't look at anybody specifically that everybody from one time or another has bounced a check for any number of reasons and sometimes they are good reasons. The merchant or the receiver of the check must send you notice that you bounced the check. You have five days to make that check good. If you do not do that, then the merchant or the receiver of the check can take this check to the police or the sheriff to start the prosecution. In this provision of notice, it is recalled. Passage of this bill will allow the prosecution to move forward without receiving notice. You will not receive notice that you bounced a check. You could be away from your home in the Legislature, on vacation, not to assume that being in the Legislature is a vacation, hospital or whatever. You come home and you find yourself summonsed for a Class D offense. It is one step short of a felony for bouncing a check. In my mind and in the mind of the majority, this is bad, bad policy. It is also very unfair to people who sometimes make a mistake and bounce a check.

Section two of the bill worried members of the majority because this bill makes theft by a bad check worse than any other type of theft. For example, it is probably an inside joke to the committee, stealing merchandise from my store. If you steal five movies from my store, in this bill you will have committed a lesser crime than if you paid for those five movies and the check bounced. Again, in my mind this is bad public policy. In my mind it confuses and weakens the criminal code. We have a very good criminal code in the State of Maine. It serves as a model for the nation. This does not improve or strengthen the

criminal code. Theft, in the mind of the majority, should be at least the same or greater gravity of offense than is bouncing a check.

The majority of the committee determined that there are an abundance of laws to punish these people. The committee communicated with each DA in Maine and that we considered this action, which merits their higher attention and we mean it. I urge you to please support the pending Ought Not to Pass motion. Thank you very much.

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

Representative O'BRIEN: Mr. Speaker, Men and Women of the House. I hate to stand and disagree with my honorable chair, but I must do so with strong opposition. I believe that the message he is conveying is not what I heard. I want to say first of all that I am on the Minority Ought to Pass Report. It really did surprise me when we were discussing this bill. One of the members of our committee asked several questions. It was as if he had never bounced a check. That very much surprised me. I know the process. This is not for those of us who do it by mistake or those of us who have with our spouses carry the same checking account and don't know the balance and are busy with legislative business and aren't balancing out checkbooks. It is not meant for those.

This is the most important legislation this session. It was brought to us by the Maine Merchants Association. They feel very strongly about this piece of legislation. This is for the small mom-and-pop and country stores. It is not for the Wal-Marts of the world who have the staff to track down these people. This is for the small stores that don't have the staff. They came to us. Many of them came to us or wrote to us and explained that this is very, very expensive for them. They are losing thousands of dollars.

Many people make this a game. What they do is they go from county to county up to \$500 and then they move to another county. They play the game and they get away with it. It is admittedly an enforcement problem. The DA has decided this isn't high on their priority list. Indeed, as the good Representative from Ellsworth pointed out, we did write a letter to the DAs expressing that it is our hope that would consider this higher on their priority level. It is more than an enforcement issue in the view of several of us on the committee. Again, I hope that none of you were scared knowing in your heart, but not admitting it that you do, have in the past and probably will again bounce a check. This is not meant for us. It is meant for those who use this and play a game with it and really take thousands and thousands of dollars out of the pockets of Maine merchants.

I would urge you very strongly to defeat the Majority Ought Not to Pass Report so we can go on to support the small stores in our districts and accept the Minority Ought to Pass Report.

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

Representative MCALEVEY: Mr. Speaker, Ladies and Gentlemen of the House. I urge you to not accept this so we can move the other report. Let me assure you what this bill does and doesn't do. The criminal code is made up of two parts. You have the elements of the crime and then you have to have a culpable state of mind. The sponsor of the bill and the people who are interested in the other report are not interested in going after people who make honest mistakes bouncing checks. That is a fact of life. In fact, you couldn't even prosecute someone who bounced a check if they didn't knowingly, intentionally,

willingly or recklessly do it. There is no prosecution there. What we are looking at is an organized group of people who will go to Augusta open up a bank account for \$1,000 and get starter checks and within 20 to 40 minutes, they have spent \$5,000. The merchant calls the bank and says I have a check here for \$800, is there enough money in the bank? The bank doesn't tell them that they have had three other phone calls before. They just say, yes, there is enough money in the account. These people skip. There are organized groups who work southern and central Maine doing this everyday.

Who gets stuck with the bill? We do through higher bank fees and law enforcement efforts that are thwarted. What this bill is designed to do is go after these people who are intentionally operating a criminal operation, ripping of mom-and-pop stores and other stores by intentionally causing this to occur. The other scam that they do is they will close an account and do the same thing. We are not after the person who mistakenly bounces the check. It would take an act of Congress to get our DAs to prosecute one of these people because they said they wouldn't prosecute. That is why we have this legislation so that we can illustrate and show to the DAs that they are an organized group of people who are intentionally and knowingly running a check scam for the purposes of theft.

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

Representative BOWLES: Mr. Speaker, Ladies and Gentlemen of the House. This is my bill. I have to say that after I heard the good Representative from Ellsworth, I was ready to vote against it. If you listened to the Representative from Ellsworth, you would think that there wasn't any redeeming social value in this bill, but, in fact, there is. I would like to clear up a couple of things that I have heard. One, the good Representative from Augusta indicated that this was very high on the Maine Merchants Association list. That turns out to be true, but I am here to tell you that that is not why this legislation was introduced. The fact that they are supporting it is wonderful. I introduced it because this is a major problem that occurs throughout York County and throughout my district. Ladies and gentlemen, it occurs throughout your districts as well. Every small and medium size merchant in Maine has been faced with this problem. This is not the most important piece of legislation that we are dealing with this session. It is not even the most important piece of legislation that we are hearing today. It is important to every small and medium sized merchant in your district and in mine. It should be important to you and I for that reason.

Let me just repeat what this bill is not. This bill is not an attempt to punish the honest person who overdraws, unintentionally, inadvertently, their checking account. No merchant is going to punish his customers because they make an honest attempt that is silly. Additionally, no merchant wants to go through criminal prosecution. We would much rather go through a civil collection procedure because we can then perhaps collect our money. If we go through a criminal prosecution, we will not collect in most cases. You generally don't get a judgment for collection in a criminal prosecution. This is a last resort for merchants. This bill is clearly targeted at criminals, ladies and gentlemen, criminals. These are people who prey on honest merchants. There is no accident here. These people open accounts and write checks immediately far in excess of the money that they put into those accounts and then they move on somewhere else. They will write checks in one

jurisdiction and then go to another town and write checks. If they are smart, they usually are smart, they know which District Attorneys in which counties are aggressive in prosecuting these crimes and which are not.

Ladies and gentlemen, I stand here to tell you that I know enough that I could write bad checks almost forever in certain counties in this state and I will never, never be prosecuted. Why? These are not glamorous crimes. District Attorneys don't get headlines by prosecuting people who write bad checks. This is a very low priority. The good gentleman from Ellsworth stated that if I walked in his store and stole \$100 worth of merchandise, that that is a certain level of crime. If I walk into a store and purchase it and write him a bad check, this bill elevates it to the next level of crime. That was the original intent of this bill. During the proceedings, I realized and recognized by listening to the testimony that that part of the bill was flawed. The whole bill is not flawed. The first part of the bill is very appropriate. The first part of the bill will assist small merchants in being able to bring a criminal prosecution. Contrary to what the gentleman from Ellsworth said, it does not eliminate the merchant having to notify you. It simply eliminates the fact that the merchant has to prove that you received the notification.

There is an amendment to this bill that I hope to present if we can defeat the Majority Ought Not to Pass Report. The amendment will strip away the objectionable parts of this bill that were brought out in testimony. It will leave the parts of the bill that the minority members of a bipartisan report of the committee felt was a good aspect of the bill. I urge you to work with me in overturning the Majority Ought Not to Pass Report so that I can bring forth an amendment to correct the errors that are in the bill and we can turn out a piece of legislation that is going to be helpful to all the small business people in your area. Thank you. Mr. Speaker, I request a roll call.

Representative BOWLES of Sanford **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 Buxton, Representative Savage.

Representative **SAVAGE**: Mr. Speaker, Men and Women of the House. As a small business owner I am not unsympathetic to the plight of the shop owner. In fact, many of my bounced checks have been as a result of checks that have been bounced on me. However, as a criminal defense attorney, I often look at the penalties and sometimes the class of the offense. I think to myself what is the reason that this particular conduct is a higher class than that particular conduct. I agree with the good Representative from Ellsworth when he tells us that Maine has a code that is striving for consistency and is well respected for that. We have a lot of work to do in that. I just want to point out that we have just recently tried to reassess the levels of offense in the theft offenses. Right now is not a time to go tinkering with it. If you look at the type of conduct you are talking about, it seems to me that if we are going to be consistent, we are going the wrong way. It seems to me that walking up to a register with an article and paying for it with a bad check just doesn't seem to be quite as bad as just shoplifting and walking away with it. If we were trying to come up with something here, I think we are going the wrong way. I am not sure we even need to change what we have right now, which is quite consistent. Thank you.

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

Representative **O'NEAL**: Mr. Speaker, Men and Women of the House. I am standing to urge you to defeat the pending motion and accept the Minority Report. As a business owner, I have seen this happen. I have talked to other business owners from my area. The DA is not handling this because of the priority. People are not only losing what the shoplifting would be, they are losing what it is costing them for the check and they never get the money back. This is a profession. It is not anybody that is doing it for any other reason. I hope that you will defeat the pending motion.

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

Representative **PEAVEY**: Mr. Speaker, Men and Women of the House. I hope you will support this Majority Ought Not to Pass Report. While I agree in great extent with Representative Bowles, this is a very serious problem for businesses. Current statute in the criminal code already allows the DA to prosecute those cases of negotiating a worthless instrument. Under our definition a person is guilty of negotiating a worthless instrument by writing a bad check, which he intentionally intends to negotiate as a worthless instrument. They have to know that the check will not be honored. This bill does not change the DA's ability to prosecute or their ability to prove they are guilty. It makes the two changes that Representative Povich stated.

One, the notice of dishonor and right now that means a certified notice. The person needs to absolutely receive it. Under this bill, just having the check returned to the bank would be sufficient notice. There is time period and the time clock starts ticking. I don't think the intent of this legislation is to get those of us who bounced the occasional checks. Nevertheless, it is possible and it is very important in our criminal code that proof be done very, very carefully. We need that certified notification for that proof.

The second part changes the thresholds. Consistency in the criminal code is very, very important. It can't be a greater crime to write a check that bounces than to steal the television that is worth \$500. It should not be a less crime than writing a check that bounces for \$500 for the television. The DAs have the tools right now to prosecute all the people that we have talked about. The issue is really enforcement and are they being prosecuted. It is not a good idea to change criminal code to get people to prosecute something that they already can prosecute. Thank you very much. I hope you will support the Ought Not to Pass report.

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

Representative **MCALLEVEY**: Mr. Speaker, Ladies and Gentlemen of the House. Part of the problem is that certified copy. That element that was making this a criminal profession can't be found. They don't want to be found. They have passed the bad check and they are hiding. They have a false name or a bogus account. That is part of the problem of going after these career criminals. The final decision to prosecute always rests with the District Attorney. That has to be weighted over the crime. Can you prove the crime? What was the intent of the individual when he did this? I think if we can defeat this and go on to the other report and adopt a potential amendment, we will find that second part of the bill that causes us problems will disappear. We can make that second part disappear. The reality is we are trying not to make it easier. We are changing

the rules. The bad guys aren't living by the rules. We can't catch him. We need to deal with this notice when we do have someone who is legitimately passing thousands and thousands of dollars worth of bad checks and thumbing their nose at the system because the system can't quite catch up to the sophistication of the crime. I am not offended that I have been made a fool out of as a legislator. I am kind of defended when the Judiciary and the criminal code of this state is made fun at. That is what is happening here. It is as simple as that. The sophistication of the crime is greater than our ability not to catch him, because we can catch him. It is greater than our ability to prosecute them because our law isn't working.

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

Representative **POVICH**: Mr. Speaker, Men and Women of the House. We talk about an enforcement problem, not a problem of law and current penalties. There are many remedies for businesses. Five years ago, to carry the DAs water or to carry small business water, I came here to do the best possible job that I thought I could do. We polled the DAs and we found that they are doing a pretty good prosecuting bad checks and still we learned that more work needs to be done. We need to computerize our judicial system so these laws that skip and go from county to county, we heard testimony of a band of those thieves could be found more easily. To think that the DAs are not interested in prosecuting those criminals, I think you just need to ask your local DA. Give them a call. Find out what they are doing. I don't want anyone to sympathize with me as a small business owner, my business has been in business for 102 years. My real-time experience with the process has been very positive. The problem with bad checks can be minimized in several ways. Don't take the check. We are not here to hold small businesses hand. I know members of the Business and Economic Development Committee might be surprised to hear me say that, but I conquered my bad check problem. I worked with the Ellsworth Police Department in establishing a check cashing policy in my store. My clerks are trained to recognize problem checks. They check their approved checklist. They often call the bank to see if the check is good. They check the Ids and they record the Id information. If they are not satisfied with the check or the way the person looks, smells or whatever, they don't take the check. They refuse the check.

Boy do I get angry when my clerks take a check. They don't want to see that little envelope come back. They know it is from the bank. I have a bad check every two or three months. My DA is now very motivated. My DA is my brother. He was quite stubborn in prosecuting my checks about four or five years ago. He said that the DA is not a collection agency. This is not a question of collection, this is a collection of ripping my off. My DA is now very motivated to prosecute bad checks and we polled the DAs and we found that their policies are reasonable. As a business owner, I recognize my responsibility to protect my interest. I don't want the Legislature to hold my hand. As a citizen, I recognize my expectations from the criminal law. I expect the DAs to prosecute those bad check writers. Someone who rips me off for \$50 or someone who steals \$500 from another business, they are thieves. It doesn't matter if it is \$50 or \$500 in my mind. I urge your local businesses to communicate better with law enforcement and to test existing law. People came to our committee and said that we can't get any satisfaction. I asked if they went to DA and they said they didn't feel they ought to and it was a waste of time. Since this is

an issue of communication between the banks, DAs and law enforcement organizations, you can assist us in this education process. Alert the businesses in your district that if they are having a problem getting their bounced checks prosecuted to contact any member of the Criminal Justice Committee and we will call that DA for you. Maybe this is the Criminal Justice Committees annual gift to this body. Please support the pending motion. Thank you very much.

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

Representative **STEDMAN**: Mr. Speaker, Ladies and Gentlemen of the House. I would suggest that we defeat this Ought Not to Pass motion and hear what the amendment is and then if we don't like it, then defeat it. Out of respect to the sponsor of the bill and out of respect to the five people who voted for the bill in committee, we should give them that chance at this point in time. I would urge you to vote against the Ought Not to Pass motion.

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

Representative **THOMPSON**: Mr. Speaker, Men and Women of the House. I urge you to support the Majority Ought Not to Pass Report. The reason I am voting for it is quite simply. The criminal code is meant to be a code where people can understand the consistency in our laws. For every theft crime up to \$500 is a Class E crime. It is punishable by up to six months in jail. What we are saying is let's single out the issue of theft by check and make it a Class D crime of up to \$500. Let me tell you what the other crimes are under theft provisions. It is theft by unauthorized taking or transfer should be treated less than a check. These are theft by deception, theft by extortion, theft by lost, mislaid or mistakenly delivered property, theft of services, theft of utility services, theft by misapplication of property and by receiving stolen property. All of those crimes right now are treated the same based on their dollar value. You have a certain level of crime for a certain dollar amount.

We are going to single out one type of theft and say let's put a higher priority just on this one kind of theft. Is that going to result in more enforcement by the DAs? Having dealt with the DAs, I know better. They don't care if it is a Class E crime or a Class D crime. Are the penalties too low right now? Someone is getting six months and the judge wishes they could give them more. No. It is not happening. A valid reason for raising would be if we were using the maximum penalty and it is not having a deterrence. We are not using the maximum penalty we have now. Bad checks have always been a problem with business. We did something in the 118th to try to help that. This is a great idea of trying to help business, but it is the wrong direction to take. It is not the way to go to single out one particular type of theft and make it a more heinous crime than the other types of theft. I would urge you support the Majority Ought Not to Pass Report.

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

Representative **BOWLES**: Mr. Speaker, Ladies and Gentlemen of the House. I want to concede the points that the Representative from Naples has just made regarding the elevation of this to a higher level of crime. He is correct. That is exactly what was brought out in the committee. That is exactly what my amendment will address. I urge you to overturn the Majority Ought Not to Pass Report so we can get to the amendment. I would just say one thing to you and that is

regarding the level of crime here. If I walked into the Representative from Ellsworth's store and stole \$100 worth of merchandise and was apprehended, I would be prosecuted. If I walked into his store and wrote a bad check, I may be prosecuted in his county because his brother is the District Attorney, but in my county and your county unless that merchant happens to have a relative in the District Attorney's Office, it isn't going to happen ladies and gentlemen. You will not be prosecuted. That is where things are not equitable.

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. 287

YEA - Bagley, Berry RL, Bolduc, Bouffard, Brennan, Brooks, Bryant, Chizmar, Cote, Dudley, Dunlap, Duplessie, Fisher, Fuller, Gagne, Gagnon, Goodwin, Hatch, Jabar, Jacobs, Kane, Mailhot, Matthews, McGlocklin, McKee, Mitchell, Norbert, Peavey, Perry, Pieh, Povich, Powers, Richard, Richardson J, Rines, Samson, Sanborn, Savage W, Saxl JW, Saxl MV, Sherman, Shiah, Skoglund, Stevens, Sullivan, Tessier, Thompson, Townsend, Twomey, Volenik, Watson, Williams, Mr. Speaker.

NAY - Ahearne, Andrews, Belanger, Berry DP, Bowles, Bragdon, Bruno, Buck, Bull, Bumps, Cameron, Campbell, Carr, Chick, Cianchette, Clark, Clough, Collins, Colwell, Cowger, Cross, Daigle, Davidson, Davis, Desmond, Dugay, Duncan, Etnier, Foster, Frechette, Gerry, Gillis, Glynn, Gooley, Green, Heidrich, Honey, Jodrey, Joy, Kasprzak, Kneeland, Labrecque, LaVerdiere, Lemoine, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, Martin, Marvin, Mayo, McAlevey, McDonough, McKenney, McNeil, Mendros, Murphy E, Murphy T, Muse, Nass, Nutting, O'Brien JA, O'Neal, O'Neil, Perkins, Pinkham, Plowman, Quint, Richardson E, Rosen, Savage C, Schneider, Shields, Shorey, Sirois, Snowe-Mello, Stanley, Stanwood, Stedman, Tobin D, Tobin J, Tracy, Trahan, Treadwell, Tripp, True, Usher, Waterhouse, Weston, Wheeler EM, Wheeler GJ, Winsor.

ABSENT - Baker, Jones, O'Brien LL, Tuttle.

Yes, 53; No, 94; Absent, 4; Excused, 0.

53 having voted in the affirmative and 94 voted in the negative, with 4 being absent, the Majority **Ought Not to Pass** Report was **NOT ACCEPTED**.

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

The Bill was **READ ONCE**.

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

Representative BOWLES of Sanford **PRESENTED** House Amendment "A" (H-638), which was **READ** by the Clerk.

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

Representative **BOWLES**: Mr. Speaker, Ladies and Gentlemen of the House. Let me try to clear up a little bit of the confusion. Thank you for the opportunity to present this. Pleasantly the law requires the victim, the recipient of the bad check, to notify the check issuer that the check was returned by the bank. The check writer then has five days to correct the problem. This is done by means of a notice. This notice is called a notice of dishonor. The law requires that the notice of dishonor be acknowledged by the check writer as having been received. In other words, the merchant who is the victim in this case is placed in the position of having to obtain an

acknowledgement from the check writer that he or she has committed a crime. The District Attorney's position is that the merchant should request his or her local law enforcement agency to deliver this notice of dishonor. That would be fine, but many, if not most law enforcement agencies in this state are not willing to perform that function. Their reasoning is this puts them in a position of becoming a debt collection agency. They say to the merchant that they sympathize, but they are not able to help.

The merchant has two choices. He can go knock on the door of the bad check writer and attempt to hand him the notice of dishonor and ask him or her to sign it. Do you really want merchants going after these people? There are going to be confrontations and this is not a good approach. What do most merchants do? They send out certified return receipt letters, which the check writer then has to sign for. Contained therein is the notice that the check has bounced. I have witnessed firsthand people at the post office open up their post office box pull out certified return receipt letters, take a look at them and they know what is inside, they are not going to take that. They don't take that. Many of these people are transients. They don't have permanent addresses.

Some comments were made earlier, the gentleman from Ellsworth, about what merchants can and should do to protect themselves. He is absolutely right. He is dead on with his suggestions. Every District Attorney in the state has worked with local merchants and local law enforcement agencies to try to get merchants to do a better job. Most merchants try to do a good job in screening checks. Ladies and gentlemen, as I told you earlier, these are criminals. These are people who know the law better than the merchants. This amendment strips away the last three items of the four items it had attempted to address. It leaves only this notice, the change of the notice in place. We have now taken this back to the same level of crime that it should be at. This amendment will not allow it to be considered a higher level of crime. We have stripped away the objections that the Representative from Naples and the Representative from Buxton raised. We are left with just the notice of dishonor.

The important thing that I wish you would remember when you are thinking about this is that no merchant wants to go through a criminal prosecution. Please bear that in mind. All the merchant wants to do is collect the money that is owed to him when he, in good faith, sold his merchandise and he, in good faith, accepted a check from the check writer. Thank you ladies and gentlemen.

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

Representative **POVICH**: Mr. Speaker, Men and Women of the House. This is becoming a love fest I think. Everybody is respectful of everybody else and it is hard to vote against the motion. I have got plenty of notes. I respectfully move that this amendment and all its accompanying papers be Indefinitely Postponed and I will tell you why. I am confused. We just went through 20 minutes of debate discussing the merits of a bill that the good sponsor wants to now disarm. Generally I dislike floor amendments. They are frightening to chairs. They are frightening to committees and they frighten the public process. Floor amendments do not have the benefit of public scrutiny. One of the things I am proud to say that the Criminal Justice Committee does debate a lot on the floor, but we do debate like crazy in our committee. This report came out and it is the worst report we ever had. This is the first vote that has ever gone against the majority in the four years that I have chaired this

committee. I look at this amendment and I don't have the benefit of getting public input, but at first blush this amendment doesn't do what the sponsor wants it to do. As I read this provision, it would add five days to the provision, but it takes away the decrease in the threshold amount. I suppose I should let that go through because section two is the real part that bothered me. It practically increases the time because the time starts, from the amendment, from the time you send the notice, not when the person received the notice. If you are looking for 10 days, you probably don't get the 10 days and you are still back at the five days. There are lots of questions in my mind and I would like to have our committee look at it. Our committee didn't look at it so that is why I respectfully have moved my motion to Indefinitely Postpone. I request a roll call vote.

Representative POVICH of Ellsworth moved that **House Amendment "A" (H-638) be INDEFINITELY POSTPONED.**

The same Representative **REQUESTED** a roll call on his motion to **INDEFINITELY POSTPONE House Amendment "A" (H-638).**

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 Indefinitely Postpone House Amendment "A" (H-638). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 288

YEA - Bagley, Bouffard, Bryant, Chizmar, Dudley, Dunlap, Gagnon, Hatch, Jabar, Jacobs, Matthews, Mendros, Norbert, O'Brien JA, Peavey, Pieh, Povich, Rines, Sanborn, Saxl MV, Sherman, Shiah, Tobin D, Volenik.

NAY - Ahearne, Andrews, Belanger, Berry DP, Berry RL, Bolduc, Bowles, Bragdon, Brennan, Brooks, Bruno, Buck, Bull, Bumps, Cameron, Campbell, Carr, Chick, Cianchette, Clark, Clough, Collins, Colwell, Cote, Cowger, Cross, Daigle, Davidson, Davis, Desmond, Dugay, Duncan, Duplessie, Etnier, Fisher,

Foster, Frechette, Fuller, Gagne, Gerry, Gillis, Glynn, Gooley, Green, Heidrich, Honey, Jodrey, Joy, Kane, Kasprzak, Kneeland, Labrecque, LaVerdiere, Lemoine, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, Mailhot, Martin, Marvin, Mayo, McAlevey, McDonough, McGlocklin, McKee, McKenney, McNeil, Mitchell, Murphy E, Murphy T, Muse, Nass, Nutting, O'Neal, O'Neil, Perkins, Perry, Pinkham, Plowman, Powers, Quint, Richard, Richardson E, Richardson J, Rosen, Samson, Savage C, Savage W, Saxl JW, Schneider, Shields, Shorey, Sirois, Skoglund, Snowe-Mello, Stanley, Stanwood, Stedman, Stevens, Sullivan, Tessier, Thompson, Tobin J, Townsend, Tracy, Trahan, Treadwell, Tripp, True, Twomey, Usher, Waterhouse, Watson, Weston, Wheeler EM, Wheeler GJ, Williams, Winsor, Mr. Speaker.

ABSENT - Baker, Goodwin, Jones, O'Brien LL, Tuttle.

Yes, 24; No, 122; Absent, 5; Excused, 0.

24 having voted in the affirmative and 122 voted in the negative, with 5 being absent, the motion to **INDEFINITELY POSTPONE House Amendment "A" (H-638) FAILED.**

Subsequently, **House Amendment "A" (H-638) was ADOPTED.**

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by House Amendment "A" (H-638)** and sent for concurrence.

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

On motion of Representative **ETNIER** of Harpswell, the House adjourned at 6:06 p.m., until 9:00 a.m., Tuesday, May 25, 1999 in honor and lasting tribute to Ronald E. Johnson, of Harpswell.