

# 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  
SECOND REGULAR SESSION  
12th Legislative Day  
Thursday, March 9, 2000

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

Prayer by Father Paul Plante, St. John's Church, Winslow.  
National Anthem by Marshwood High School Chorus, Eliot.  
Pledge of Allegiance.

Doctor of the day, John T. Dow, M.D., Pittsfield.

The Journal of Tuesday, March 7, 2000 was read and approved.

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

**CONSENT CALENDAR**

**First Day**

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

(H.P. 1776) (L.D. 2487) Bill "An Act to Amend the Jurisdiction of the District Court" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-861)**

On motion of Representative THOMPSON of Naples, was **REMOVED** from the First Day Consent Calendar.

The Committee Report was **READ**.

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

Representative **THOMPSON**: Mr. Speaker, Men and Women of the House. I wanted to let you know what we're trying to do here this morning on this bill. We're hoping to get it through this body, send it to the other end and then bring it back for enactment today. The bill does two things and it is a Unanimous Report of the Judiciary Committee. The first item is that it adds the issue of equitable patrician to the jurisdiction of the District Court which is a correction of something which was reflected in a recent Supreme Court decision indicating that it wasn't specifically spelled out in the statute that that jurisdiction lies there. So we are correcting that issue.

The larger issue in the bill is the issue of the Administrative Court. Currently we have an administrative court in the State of Maine, which consists of two judges, which spend about 10 percent of their time on administrative court issues and 90 percent of their time on District Court issues. What we are doing as a committee is eliminating that issue, that court known as the Administrative Court and transferring the judge positions into the District Court where realistically that's where they're spending their time. Fiscally it saves \$1,000 a year because of the two judges. One of them is a Chief Judge and receives an extra \$1,000 stipend because he is the Chief Judge of the Administrative Court. Practically what it does is transfer the issues currently held by the Administrative Court to the District Court and we made it clear in the bill that those issues would also be scheduled on an expedited manner to receive an expedited hearing because that is sometimes necessary in the area of license suspensions. The reason a bill is necessary today is that there is currently a vacancy in the Administrative Court Judge position. The bill is expected to pass and if we did that and reappointed a judge to that position we would have the situation of eliminating the Administrative Court yet having a

judge of the Administrative Court sitting for the next seven years. The committee felt now is the time to eliminate that associate position and then eliminate the entire court next year when the second Administrative Court Judge position becomes vacant. So what we're doing is eliminating an Administrative Court position, making a new District Court position out of that and doing that on an emergency basis so that the Chief Executive can nominate someone to the District Court to fill that position instead of appointing someone to an Administrative Court position which is going to be inaccurate at best. I would hope that you will support the Unanimous Report of the Judiciary Committee on this matter. Thank you.

**ACCEPTED.** The Bill was **READ ONCE.** Committee Amendment "A" (H-861) 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-861)** and sent for concurrence. **ORDERED SENT FORTHWITH.**

**SENATE PAPERS**

**Non-Concurrent Matter**

Bill "An Act to Clarify Repair and Inspection Standards for Punctured Tires"

(H.P. 1732) (L.D. 2438)

Majority (10) **OUGHT TO PASS** Report of the Committee on **TRANSPORTATION** was **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED** in the House on March 3, 2000.

Came from the Senate with the Minority (3) **OUGHT NOT TO PASS** Report of the Committee on **TRANSPORTATION READ** and **ACCEPTED** in **NON-CONCURRENCE.**

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

**COMMUNICATIONS**

The Following Communication: (H.C. 362)

**STATE OF MAINE**

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

March 7, 2000

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 bill out "Ought Not to Pass":

L.D. 2417 An Act to Improve the Working Effectiveness of the State Employee Health Commission

We have also notified the sponsor and cosponsors 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. 363)

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

March 7, 2000  
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. 166 An Act to Amend the Public Property Tax Exemption
- L.D. 544 An Act to Value Homestead Exemption Farm Land at Current Use
- L.D. 2390 An Act to Target Public Assistance to Responsible Employers
- L.D. 2556 An Act to Increase Public Participation in the Maine Residents Property Tax Program

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

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

**READ and ORDERED PLACED ON FILE.**

**PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE**

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

**CRIMINAL JUSTICE**

Bill "An Act to Adopt a New Interstate Compact Regarding Adults Who are on Probation or Parole"

(H.P. 1875) (L.D. 2612)

Presented by Representative MUSE of South Portland.  
Cosponsored by Representatives: JABAR of Waterville, McALEVEY of Waterboro, O'BRIEN of Augusta, QUINT of Portland, Speaker ROWE of Portland, THOMPSON of Naples, Senators: MURRAY of Penobscot, O'GARA of Cumberland.  
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

**LABOR**

Bill "An Act to Clarify Application of the Employment Leave Law for Victims of Violence"

(H.P. 1877) (L.D. 2613)

Presented by Representative HATCH of Skowhegan.  
Cosponsored by Senator DOUGLASS of Androscoggin and Representative: SAXL of Portland.  
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Bill "An Act to Establish Consistent Requirements in Maine State Retirement System Plans for Minimum Creditable Service for Eligibility to Receive Retirement Benefits"

(H.P. 1878) (L.D. 2614)

Presented by Representative HATCH of Skowhegan.  
Cosponsored by Senator DOUGLASS of Androscoggin and Representatives: CARR of Lincoln, DUPLESSIE of Westbrook, MATTHEWS of Winslow, McDONOUGH of Portland, SAMSON of Jay, TOWNSEND of Portland, Senators: DAVIS of Piscataquis, LaFOUNTAIN of York.  
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

**Pursuant to Statute**

**Department of Environmental Protection**

Representative MARTIN for the **Department of Environmental Protection** pursuant to Maine Revised Statutes, Title 5, section 8072 asks leave to report that the accompanying Resolve, Regarding Legislative Review of Chapter 119: Motor Vehicle Fuel Volatility Limit, a Major Substantive Rule of the Department of Environmental Protection (EMERGENCY)

(H.P. 1879) (L.D. 2615)

Be **REFERRED** to the Committee on **NATURAL RESOURCES** and printed pursuant to Joint Rule 218.

Report was **READ and ACCEPTED** and the Bill **REFERRED** to the Committee on **NATURAL RESOURCES** and ordered printed pursuant to Joint Rule 218.

Sent for concurrence.

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

**ORDERS**

On motion of Representative SIROIS of Caribou, the following House Order: (H.O. 37)

**ORDERED**, that Representative Tarren R. Bragdon of Bangor be excused Tuesday, February 29, 2000 for personal reasons.

**AND BE IT FURTHER ORDERED**, that Representative Janice E. Labrecque of Gorham be excused Tuesday, March 7, 2000 for legislative business.

**AND BE IT FURTHER ORDERED**, that Representative Michael J. McAlevy of Waterboro be excused Tuesday, March 7, 2000 for personal reasons.

**AND BE IT FURTHER ORDERED**, that Representative Kevin L. Shorey of Calais be excused Tuesday, February 29, 2000 for health reasons.

**READ and PASSED.**

**REPORTS OF COMMITTEE  
Divided Report**

Majority Report of the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-849)** on Bill "An Act to Adequately Fund Poison Control Services"

(H.P. 1693) (L.D. 2399)

Signed:

Senators:

MICHAUD of Penobscot  
CATHCART of Penobscot

Representatives:

TOWNSEND of Portland  
STEVENS of Orono  
BERRY of Livermore  
MAILHOT of Lewiston  
POWERS of Rockport  
KNEELAND of Easton  
WINSOR of Norway  
BRUNO of Raymond  
NASS of Acton  
TESSIER of Fairfield

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

Signed:

Senator:

HARRIMAN of Cumberland

**READ.**

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

The Bill was **READ ONCE**. **Committee Amendment "A" (H-849)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Tuesday, March 14, 2000.

Majority Report of the Committee on **BANKING AND INSURANCE** reporting **Ought Not to Pass** on Bill "An Act Regarding Private Long-term Disability Insurance for Mental Illnesses"

(H.P. 1062) (L.D. 1493)

Signed:

Senators:

LaFOUNTAIN of York  
DOUGLASS of Androscoggin  
ABROMSON of Cumberland

Representatives:

SAXL of Bangor  
O'NEIL of Saco  
DUDLEY of Portland  
RICHARDSON of Brunswick  
SULLIVAN of Biddeford  
MAYO of Bath  
JONES of Pittsfield  
GLYNN of South Portland  
NUTTING of Oakland

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

Signed:

Representative:

PERRY of Bangor

**READ.**

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

Majority Report of the Committee on **LABOR** reporting **Ought Not to Pass** on Resolve, to Create a Commission to Study the Hearing Process of the Workers' Compensation Board (EMERGENCY)

(H.P. 959) (L.D. 1357)

Signed:

Senators:

DOUGLASS of Androscoggin  
LaFOUNTAIN of York  
MILLS of Somerset

Representatives:

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

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-843)** on same Resolve.

Signed:

Representative:

GOODWIN of Pembroke

**READ.**

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

## CONSENT CALENDAR

### First Day

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

(S.P. 529) (L.D. 1562) Bill "An Act to Establish the Environmental Leadership Program" Committee on **NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-516)**

(S.P. 933) (L.D. 2383) Bill "An Act to Help Support the Medical Ride Volunteer Service" Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-517)**

(H.P. 466) (L.D. 629) Bill "An Act to Create a Seamless Treatment Plan for the Juvenile Offender with Substance Abuse Problems" (EMERGENCY) Committee on **CRIMINAL JUSTICE** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-851)**

(H.P. 1390) (L.D. 1995) Bill "An Act to Clarify the Workers' Compensation Laws Regarding the Agricultural Laborer Exemption" Committee on **LABOR** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-857)**

(H.P. 1422) (L.D. 2029) Bill "An Act to Update and Amend the Preferred Provider Arrangement Act" Committee on **BANKING AND INSURANCE** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-860)**

(H.P. 1691) (L.D. 2397) Bill "An Act to Expand the Opportunities for State Companies to Provide Distributed Electric Generation Services" Committee on **UTILITIES AND ENERGY**

reporting **Ought to Pass as Amended by Committee Amendment "A" (H-856)**

(H.P. 1708) (L.D. 2414) Bill "An Act to Support and Expand the Maine Writing Project" Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-859)**

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

**CONSENT CALENDAR  
Second Day**

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

(S.P. 883) (L.D. 2298) Bill "An Act to Clarify the Law Relating to the Renewal of Liquor Licenses" (C. "A" S-509)

(S.P. 896) (L.D. 2315) Bill "An Act to Amend the Department of Corrections Statutes" (C. "A" S-512)

(H.P. 1625) (L.D. 2272) Bill "An Act to Increase the Availability of Family Foster Homes"

(H.P. 1813) (L.D. 2544) Resolve, Regarding Legislative Review of Chapter 267: License Fees to Sell Nursery Stock, a Major Substantive Rule of the Department of Agriculture, Food and Rural Resources (EMERGENCY)

(H.P. 1619) (L.D. 2266) Bill "An Act to Provide Equity Between Private and Public Electrical Training Programs" (C. "A" H-846)

(H.P. 1652) (L.D. 2321) Bill "An Act to Provide Special Motor Vehicle Registration Plates for Korean War Veterans" (EMERGENCY) (C. "A" H-845)

(H.P. 1674) (L.D. 2340) Bill "An Act to Specify Eligibility for Land Purchases Under the Agricultural Marketing Loan Fund" (C. "A" H-833)

(H.P. 1677) (L.D. 2343) Bill "An Act to Make a One-time Energy Appropriation to Support Shortfalls in the Low-income Home Energy Assistance Program" (EMERGENCY) (C. "A" H-841)

(H.P. 1685) (L.D. 2352) Bill "An Act to Establish the Administrative Operating Budget for the Maine State Retirement System for the Fiscal Year Ending June 30, 2001" (EMERGENCY) (C. "A" H-844)

(H.P. 1687) (L.D. 2393) Bill "An Act to Appropriate Funding for the Maine School of Science and Mathematics for Fiscal Year 2000-01" (C. "A" H-842)

(H.P. 1765) (L.D. 2471) Resolve, to Recognize Veterans of the Vietnam War in the State House Hall of Flags (C. "A" H-837)

(H.P. 1778) (L.D. 2492) Bill "An Act to Ensure Adequate Funding of Adult Education" (EMERGENCY) (C. "A" H-848)

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  
House As Amended**

Bill "An Act to Amend the Animal Welfare Laws"

(H.P. 1646) (L.D. 2306)

(C. "A" H-834)

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

On motion of Representative **POVICH** of Ellsworth, was **SET ASIDE**.

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

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

The **SPEAKER**: 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. Could any one of the members refresh our memories on what this bill does? Thank you.

The **SPEAKER**: The Representative from Bridgton, Representative **Waterhouse** has posed a question through the Chair to any member who may care to answer.

Representative **FULLER**: Mr. Speaker, Ladies and Gentlemen of the House. I am not on that committee, but this is the animal welfare law bill. One of the major issues is that the licensure fee for dogs has in fact gone up to \$10 and this bill would drop it back to \$5 with the \$10 fee kicking in if it's very, very late in applying for the license. It actually reduces the cost of licensing the dog. That's one of the major things this bill does.

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

**ROLL CALL NO. 452**

**YEA** - Ahearn, Bagley, Baker, Berry DP, Berry RL, Bolduc, Bouffard, Bragdon, Brennan, Brooks, Bruno, Bryant, Bull, Bumps, Cameron, Campbell, Carr, Chizmar, Cianchette, Clark, Colwell, Cote, Cowger, Cross, Daigle, Davidson, Davis, Desmond, Duncan, Dunlap, Duplessie, Etnier, Fisher, Foster, Frechette, Fuller, Gagne, Gagnon, Gooley, Hatch, Heidrich, Honey, Jabar, Jacobs, Kane, Kneeland, Labrecque, LaVerdiere, Lemoine, Lindahl, Lovett, Madore, Mailhot, Martin, Matthews, Mayo, McAlevey, McDonough, McGlocklin, McNeil, Mendros, Mitchell, Murphy E, Murphy T, Nass, Norbert, Nutting, O'Brien LL, O'Neal, O'Neil, Peavey, Perry, Pieh, Pinkham, Povich, Powers, Richard, Richardson J, Rines, Rosen, Samson, Sanborn, Savage C, Savage W, Saxl MV, Shiah, Shorey, Sirois, Skoglund, Stanley, Stanwood, Sullivan, Tessier, Tobin D, Townsend, Tracy, Tripp, True, Tuttle, Twomey, Usher, Volenik, Weston, Wheeler EM, Williams, Mr. Speaker.

**NAY** - Andrews, Bowles, Buck, Chick, Clough, Collins, Dugay, Gerry, Gillis, Glynn, Goodwin, Jodrey, Jones, Joy, Kasprzak, Lemont, MacDougall, Marvin, McKenney, O'Brien JA, Perkins, Plowman, Richardson E, Sherman, Shields, Snowe-Mello, Stedman, Tobin J, Trahan, Treadwell, Waterhouse, Wheeler GJ, Winsor.

**ABSENT** - Belanger, Dudley, Green, Mack, McKee, Muse, Quint, Saxl JW, Schneider, Stevens, Thompson, Watson.

Yes, 106; No, 33; Absent, 12; Excused, 0.

106 having voted in the affirmative and 33 voted in the negative, with 12 being absent, and accordingly the Bill was **PASSED TO BE ENGROSSED as Amended** and sent for concurrence.

**ENACTORS**

**Emergency Measure**

An Act to Clarify Laws Governing Simulcasting

(H.P. 1147) (L.D. 1644)  
(C. "A" H-807)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 120 voted in favor of the same and 9 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

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**Acts**

An Act Concerning State Government Competition with Private Enterprise

(S.P. 179) (L.D. 533)  
(H. "A" H-824 to C. "A" S-478)

An Act to License Certain Aquaculture Activities

(S.P. 567) (L.D. 1634)  
(C. "A" S-508)

An Act to Amend the Low-emission Vehicle Program

(S.P. 868) (L.D. 2278)  
(H. "A" H-839 to C. "A" S-486)

An Act to Amend Maine's Probate Code

(H.P. 1633) (L.D. 2285)  
(C. "A" H-817)

An Act to Direct the State Liquor and Lottery Commission to Pursue Partnerships to Enhance Lottery Revenues

(S.P. 877) (L.D. 2292)  
(C. "A" S-506)

An Act to Repeal the Nondiscrimination in Pharmaceuticals Pricing Law

(H.P. 1678) (L.D. 2344)

An Act Concerning the Possession of Marine Organisms by Aqua Culturists Outside of the Harvest Season

(H.P. 1684) (L.D. 2351)  
(C. "A" H-809)

An Act to Amend the Qualifying Examination for Initial Teacher Certification

(S.P. 937) (L.D. 2387)

An Act to Amend the Felony-operating-under-the-influence Laws

(H.P. 1700) (L.D. 2406)  
(C. "A" H-810)

An Act to Implement the Recommendations of the Joint Standing Committee on Utilities and Energy Arising from its State Government Evaluation Act Review of the Public Utilities Commission

(H.P. 1820) (L.D. 2554)  
(H. "A" H-838)

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.

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An Act to Implement the Recommendations of the Commission to Study Poverty Among Working Parents with Regard to State Earned Income Credit

(H.P. 90) (L.D. 103)  
(C. "B" H-812)

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

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

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

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

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

**ROLL CALL NO. 453**

YEA - Ahearn, Andrews, Bagley, Baker, Belanger, Berry DP, Berry RL, Bolduc, Bouffard, Bowles, Brennan, Brooks, Bruno, Bryant, Buck, Bull, Bumps, Cameron, Campbell, Carr, Chick, Chizmar, Cianchette, Clark, Clough, Collins, Colwell, Cote, Cowger, Cross, Davidson, Davis, Desmond, Dugay, Duncan, Dunlap, Duplessie, Etnier, Fisher, Foster, Frechette, Fuller, Gagne, Gagnon, Gerry, Gillis, Glynn, Goodwin, Gooley, Green, Hatch, Heidrich, Honey, Jabar, Jacobs, Jodrey, Jones, Joy, Kasprzak, Kneeland, Labrecque, LaVerdiere, Lemoine, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, Mailhot, Martin, Marvin, Matthews, Mayo, McAlevy, McDonough, McGlocklin, McKenney, McNeil, Mendros, Mitchell, Murphy E, Murphy T, Muse, Nass, Norbert, Nutting, O'Brien JA, O'Brien LL, O'Neal, O'Neil, Peavey, Perkins, Pieh, Pinkham, Plowman, Povich, Powers, Richard, Richardson E, Richardson J, Rines, Rosen, Samson, Sanborn, Savage C, Savage W, Saxl JW, Saxl MV, Sherman, Shiah, Shields, Shorey, Sirois, Skoglund, Snowe-Mello, Stanley, Stanwood, Stedman, Sullivan, Tessier, Tobin D, Tobin J, Townsend, Tracy, Trahan, Treadwell, Tripp, True, Tuttle, Twomey, Usher, Volenik, Waterhouse, Weston, Wheeler EM, Wheeler GJ, Williams, Winsor, Mr. Speaker.

NAY - NONE.

ABSENT - Bragdon, Daigle, Dudley, Kane, McKee, Perry, Quint, Schneider, Stevens, Thompson, Watson.

Yes, 140; No, 0; Absent, 11; Excused, 0.

140 having voted in the affirmative and 0 voted in the negative, with 11 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

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An Act to Establish Standards and Conditions for Designation of Ecological Reserves on Lands Managed by the Bureau of Parks and Lands

(S.P. 157) (L.D. 477)  
(S. "A" S-510 to C. "A" S-500)

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

On motion of Representative JOY of Crystal, 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 Crystal, Representative Joy.

Representative JOY: Mr. Speaker, Ladies and Gentlemen of the House. This bill is in front of us again for enactment. I'd like to take you back a little bit in history to 1992. There was a tremendous conference of nations in Brazil. Out of that came a document called the Global Biodiversity Assessment, which would establish a Biodiversity Treaty for all nations. The

delegate to that convention was the current Vice-President of the United States, representing the United States. The treaty was brought back and presented the Senate of this country. No one could seem to get the right or wrong answers as to what this treaty was all about. On the final day of the session a copy of the Biodiversity Assessment was brought to Senator Mitchell on the floor of the Senate. Once he saw the document he immediately took the item off the docket. This Biodiversity Treaty has never been ratified by this country. For that I thank Senator Mitchell to the end of my soul. Part of that Biodiversity Treaty was the establishment of ecological reserves with buffer zones connected by corridors where there was to be no human activity. If any of you have seen the maps that have been around from time, the ecological reserves that are proposed for Maine encompass more than half of the state with buffer zones that only allow small portions within the state for residence by humans and for activity on the part of humans. At the present time approximately 43 percent of this country is classified as wilderness. Included in that classification is all of Maine's forestlands. Ladies and Gentlemen by allowing our Bureau of Parks and Lands to move forward and establish ecological reserves we're taking a very dangerous step in the wrong position. I urge you vote against this motion and let's not start the trend to turn over half of Maine into ecological reserves. Thank you.

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

Representative PIEH: Mr. Speaker, Ladies and Gentlemen of the House. Just to refresh you on this bill. This is a bill that was carried over from last session. It was carried over because we were trying to find a way to work it so that it would satisfy all the people that were affected and involved by it. That included people like the Sportsman's Alliance of Maine and the Natural Resources Council of Maine. These reserves could be up to 6 percent of publicly owned land. They could be up to 100,000 acres or whichever is less.

The committee worked very hard. The people involved worked very hard between the sessions to come up with something. People could (can) certainly go on this land. It's not barred to human activity. You can fish there. You can hunt there. You can go there if there are roads through it. Those roads, unless it's very easy to put them around, will continue to go through the ecological reserves. It also includes things like you can still snowmobile through unless, again, it's very, very easy to put it around. In the Forest Services report to us they outlined all the property that they were looking at. Any new property they look at will come by the committee and we'll have the chance to find out what they're doing and what they're looking at. So, I encourage you to follow my light and support enactment. Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative STEDMAN: According to the bill, who is responsible for making the decisions on which ecological areas are going to be set aside for these zones?

The SPEAKER: The Representative from Hartland, Representative Stedman has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Bremen, Representative Pieh.

Representative PIEH: Mr. Speaker, Ladies and Gentlemen of the House. Who makes the decision is that it came in front of our committee, all the current ecological reserves that would be purchased has come before our committee and has been endorsed by us. The designation of land for ecological reserves, and the continuing part of that, when an ecological reserve is continued, that must go before the public through a series of public hearings to which we will be participants and invited. I hope that answers your question. Thank you.

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

Representative JOY: Mr. Speaker, Ladies and Gentlemen of the House. There is a clause in this bill which requires the state to harvest as much timber off the remaining land that is not set in ecological reserves as is put in ecological reserves. Now the true definition of an ecological reserve sets aside a partial of land in which no timber harvesting can take place. One of the things that is not completely clear is that an ecological reserve requires a buffer zone where activities are highly regulated. If the state sets it's ecological reserves out to the limit of state owned land, that means that those buffer zones that become highly regulated then are on privately owned land. Let's take a look and see what happens if the state should create the buffer zones all on their own land. The state owns about 500,000 acres of land in the State of Maine. If they establish ecological reserves up to 100,000 acres and then buffer zones of another 100,000 acres, that leaves about 300,000 acres for them to conduct timber harvesting on. We know that there are very stringent forestry laws in place, because this body has put them in place. I question the ability of those other 300,000 acres of land to be able to make up for the lost timber harvest on those 200,000 acres, first of all the ecological reserves and then the buffer zones. Thank you.

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

Representative PIEH: Mr. Speaker, Men and Women of the House. Just to respond. If you haven't been on the Agriculture Committee you might not be aware of this. One of the problems that's happening on our publicly owned lands is that we are not timber harvesting them adequately. We put into the language of this bill specifically for the Maine Forest Products Council and to encourage us to move forward that any designation of land may not result in a decline in the volume of timber harvested on land under the jurisdiction of the Bureau. A decline in the volume of timber harvested means an annual harvest of less than the average annual harvest volume for the preceding 10 years. We put that in so that exactly what Representative Joy has brought up, which I respect and understand, would not be something that could happen. Thank you very much.

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

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

The SPEAKER: The Representative may pose his question.

Representative CAMERON: Mr. Speaker, Ladies and Gentlemen of the House. To anyone who can answer, reading the title of this bill the purpose seems to be to establish standards only. Yet, as I hear the discussion is seems like that they're not only going to establish the standards but actually go ahead and implement them. I'm confused as to which it is we're going to do. The title doesn't say anything about actually doing



this. It says, "To establish standards and conditions." Thank you.

The SPEAKER: Did the Representative pose a question?

Representative CAMERON: The question is does it establish standards or does it actually put some of this land into the reserve?

The SPEAKER: The Representative from Rumford, Representative Cameron has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Crystal, Representative Joy.

Representative JOY: Mr. Speaker, Ladies and Gentlemen of the House. The answer to the question is it does establish ecological reserves. It doesn't just define the standards. Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative PERKINS: I don't see any amendment on the board and I have the bill in front of me and it just looks to me like all this would do is if these reserves are going to be established then we have to get majority approval of the Legislature. That's all I see here. What am I missing? Thank you.

The SPEAKER: The chair would refer the Representative to the calendar. There are amendments to the bill.

On motion of Representative GOOLEY of Farmington, **TABLED pending PASSAGE TO BE ENACTED** and specially assigned for Tuesday, March 14, 2000. (Roll Call Ordered)

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

**UNFINISHED BUSINESS**

The following matter, in the consideration of which the House was engaged at the time of adjournment Tuesday, March 7, 2000, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

**HOUSE DIVIDED REPORT - Majority (10) Ought to Pass as Amended by Committee Amendment "A" (H-800) - Minority (3) Ought Not to Pass - Committee on INLAND FISHERIES AND WILDLIFE on Bill "An Act to Clarify the Authority of Maine Game Wardens to Stop Motor Vehicles"**

(H.P. 1627) (L.D. 2274)

**TABLED - February 22, 2000 (Till Later Today)** by Representative DUNLAP of Old Town.

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

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

The Bill was **READ ONCE. Committee Amendment "A" (H-800) was READ** by the Clerk.

Representative MARTIN of Eagle Lake **PRESENTED House Amendment "C" (H-852) to Committee Amendment "A" (H-800), 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. If you don't have the material in front of you I'd urge you to pull the bill that was put in, LD 2274, the committee

amendment, which is Committee Amendment "A" H-800, and the amendment, which I'm offering, H-852. If you take a look at the original bill that was offered by the department, what the bill does basically is to strike a sentence out of that law that was enacted last year. What the committee did was to go beyond that, if you look at committee amendment A, and that was to strike out that paragraph and then to add a provision which basically says that they can stop a vehicle pursuant to Title 29A if the Warden has reasonable suspicion of a violation of law. Then they added another paragraph, which says that the primary function of a Game Warden is to enforce Fish and Wildlife laws. What I find ironic is that they left in there that Wardens, like Deputy Sheriffs, can serve basically summonses. I shouldn't say a summons but documentation for example, for having not covered your check or your mortgage isn't paid because it says that they can have the same powers and will collect the same fee as Sheriffs. That's in the existing amendment. There are some of us over the years, especially in the last three or four years, who have been concerned with what some of the Wardens have been doing and how they've been treating some of the citizens of this state and non-residents. I don't blame the Wardens. The Wardens have basically not gotten direction from the department. So they're out in the field and they have to make decisions based on their own conclusion, assumptions or what they've heard or have been told.

I can relate to you some rather horrible horror stories about how some of the citizens in this state have been treated. Including, I might point out, a State Trooper who was treated unbelievably by the Warden Service on East Grand. I can give you some stories about how hunters from out of state were treated in Bridgewater. I've got more horror stories than perhaps you want to hear and I won't divulge into some of them unless you want to hear them or else someone tells you that these are not going on.

What the amendment basically does, that I am offering, is simply saying to the department "Enough is enough. What you must do is draft rules and procedures under which stops will be made, under how you are going to treat the citizens and you must bring those rules back for legislative approval." Because I'm basically requiring, under this amendment, that they are substantive rules. That's all I'm doing. I'm not telling the department what to do, even though I'd love to. I'd like to make those decisions right here today, now. Not doing that, simply saying to the department "Go write your rules, how you're going to treat citizens and bring them back for approval by this Legislature." And giving them time to do that.

Some will say, "That's too long a time." Guess what, we've got a month that we're going to be here. Maybe a little longer. They've had three years to do it. They haven't done it. This says "Do it now." If they want to do it in a month and bring it back in a month we can approve it in a month. That's all. I'm not telling them how to write it. But if they don't then they've got to deal with the fact that they've got to come back to this body. That's what my amendment does, no more, no less. Regardless of what you may be told after I sit down. I urge you to adopt House Amendment "C" to Committee Amendment "A".

Representative DUNLAP of Old Town moved that **House Amendment "C" (H-852) to Committee Amendment "A" (H-800) be INDEFINITELY POSTPONED.**

Representative CLARK of Millinocket **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House**

**Amendment "C" (H-852) to Committee Amendment "A" (H-800).**

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

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

Representative PERKINS: Mr. Speaker, Members of the House. This is a good amendment. I had a pending amendment that I thought would make things clear. I don't think my amendment needs to be brought forward. I think this is a very comprehensive piece of work here. I do want to say, as far as I can see it does not change the wording as far as the powers and duties as far as Sheriffs go. I am the author of Committee Amendment "A" and if anybody is curious as to why I voted against it in the committee, it came out unanimous at first when it was first presented and then a few days later I understood that there was a great lack of consensus on the committee of what it actually meant. If you have it in your hand, it was my intent when I wrote it that they could only stop a vehicle with reasonable suspicion of a violation. What it would give them is all the powers and duties of Sheriffs. That is, by the way, been on the books since 1967, that language. I thought it was a little curious that it was given to them in 1967, the powers and duties of Sheriffs as the good Representative from Eagle Lake pointed out. Sheriffs have lots of duties having to do with presenting papers and so forth. That was the language on there in '67 so we kept it. One of the main provisions, as he also pointed out, was that this gave direction that their main responsibility was in the enforcement of Fish and Wildlife regulations. I do, however, want to say a little bit of the history on this. There have been abuses. I'm sure you've all gotten calls and maybe you've had some experiences yourself. I have. I have had my rights violated a couple times by Wardens over the last 35 years or so. By in large most of them, of course, are hard working, dedicated and do everything they can to protect and work within the Fourth Amendment and our own Constitution, that's clear on search and seizure. The courts have ruled over the years that stopping a vehicle is a seizure. Under the Constitution it is a seizure. We have to protect our Fish and Wildlife resource. That is one of our strongest mandates. We can't do it at the expense of trampling on the Constitution. We absolutely can't. That is our primary responsibility.

I would just like to take a second to mention that one of the other problems with our bill as it is written, the committee amendment doesn't say anything about road blocks. If you read it to imply that they can only stop with suspicion of a violation that rules out roadblocks. My amendment would have mentioned that but I still think that we ought to go with this amendment that's on the board now.

I do wish people could get out and speak into the record what our intent is of this. There is no legislative record of the law that was put in place in 1965. It said that they could only stop with a suspicion of a violation of a Fish and Game law. That was in '65. In 1967 the Sheriffs duties and powers were added. In 1989 the language was changed from probable cause, for stopping a vehicle, to probable suspicion mainly based on court rulings, the language. In none of those there is no legislative record. I've searched in the library. There is absolutely no legislative record on any of those dates and those times. I think it's imperative, whatever we do here today, that several people, I'd especially love the committee people, get up and speak into the record what our intent is. That will give direction to the department

when they do write their policy. Representative Martin from Eagle Lake also said that he wished we could write the policy here today. My friends we can in intent. If people would speak into the record what their intent is. Is it your understanding that this will only mean, that they can only stop with suspicion of a violation or are there other situations? That will give them the direction, even more direction for when they write the policy.

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

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

The SPEAKER: The Representative may pose his question.

Representative CLARK: Thank you Mr. Speaker. For anyone that may answer. Do we have policy and rules now for the Maine State Police, the Marine Patrol and for any other law enforcement agencies out there today?

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

Representative MCALEVEY: Mr. Speaker, Ladies and Gentlemen of the House. These other departments do have rules and regulations but beyond that we have a US Constitution that deals very clearly with seizure of property and deals with when a police officer or law enforcement officer can stop a motor vehicle. It's called probable cause. May I pose a question Mr. Speaker.

The SPEAKER: The Representative may pose his question.

Representative MCALEVEY: Thank you Mr. Speaker. When People talk about a reasonable suspicion are they talking about probable cause or are they talking about something else. Perhaps a committee member can articulate that.

The SPEAKER: The Representative from Waldoboro, Representative McAlevey has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Old Town, Representative Dunlap.

Representative DUNLAP: Mr. Speaker, Men and Women of the House. I'll try to answer that question as best as I can. I believe we are talking about probable cause. The whole premise that we've operated under here throughout these discussions over the last year has been essentially using the Constitution as a guidepost for what law enforcement can do. We are not trying to go beyond that. We are not trying to stop short of it. The committee amendment that we just approved a few moments ago simply clarifies that Game Wardens are law enforcement officers and have the powers and duties of law enforcement officers. That's all it does. I don't believe that while other agencies may have policies and rules, I don't believe that they are major substantive rules. I guess that's one of the things I find, as a failing of this amendment that's before us right now is that it's asking the Warden Service to do something far beyond what any other law enforcement agency in the state has to do. It also says that any evidence seized in violation of those rules cannot be used in court. Which I think is redundant under the exclusionary rule as adopted in *Boyd v. Ohio* over 110 years ago. I think there's also a question as to whether or not this may be in conflict with separation of powers enabling the Executive to set it's own policies based on the statutes that we give them.

Getting back to a little bit of history about where this all came from. I think it's important for everyone to know, before we vote, that this was brought to us over a year ago. It was because

there was a conflict in the statute. There are two sections of law. An older section says that Game Wardens could only use Title 12 and then another section that said they had the same powers and duties as a Sheriff and that was enacted later on. They never struck out the older language. There existed a conflict. All we intended to do was to clear up that conflict because the problem, as it was brought forward to the committee, was that in many rural areas where the Game Warden is dependent upon as a first responder in an emergency situation. If someone was to pass a school bus with the lights flashing in front of a Game Warden, the Game Warden may not have the power to enforce that law. We wanted to make sure that in those emergency situations everyone understood the Game Warden did have that authority and I lost my train of thought, I'm sorry. Essentially that's all we are trying to do, is that they would be able to enforce those laws but also with the understanding that fish and wildlife was their first priority. State Troopers have the ability and the authority to stop night hunters, for example. That's not something they spend a lot of time doing. If they happen to see someone dragging a deer across the interstate they're going to stop the person. But they're not out working night hunters. That's the Game Wardens jurisdiction and we expect them to do that. I hope that you'll vote to indefinitely postpone this amendment. It is unnecessary and redundant. We already have plenty of guideposts within the Constitution. We don't need to go beyond the Constitution, I believe, and I think that all we need to do is simply clarify what a Game Warden is able to do.

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

Representative **MARTIN**: Mr. Speaker, Members of the House. I'd like to respond to the question of probable cause. It depends which day, which Game Warden and where you are. If you believe probable cause is having a canoe on top of your truck, vote with the Representative from Old Town. If you believe having an orange hat and going down the road is probable cause, vote with the Representative from Old Town because that is what the Game Wardens have been doing and assuming. If that's what you want then, by the way, vote against my amendment. My amendment doesn't tell the department what to do today. It just says "Come back and draw up some rules. Make sense out of them and we'll support them and we'll adopt them." It's constitutional.

The SPEAKER: The Chair recognizes the Representative from Wilton, Representative LaVerdiere.

Representative **LAVERDIERE**: Mr. Speaker, Men and Women of the House. Many of you know that I don't rise very often in this body. I am on this occasion because I feel very strongly about the issue. I have to start by telling you that I have a soft spot in my heart for the Maine Warden Service. The Maine Warden Service is, in my opinion, one of the finest institutions in this state. The men and women who are in the Maine Warden Service are among the best people in our country in terms of protecting us and protecting the resource that we all own. Many Game Wardens are close personal friends of mine and I delight in spending time with them hunting, fishing and enjoying the outdoors. So, I don't want to do anything that would harm the Maine Warden Service or the people who are trying to perform that very important function.

At the same time I have a soft spot in my heart for the Constitution of the United States and for the Bill of Rights in particular. So I'm torn. I need to try to find a balance between protecting the warden and protecting all of us and our resources

but also doing it in a way that does not violate the Constitution. There's a conflict today. I talked to Wardens. I talked to sportsmen. I'm a registered guide. I can tell you that they're all telling me the same thing. They need clarity right now. The Wardens want to know what the rules are. "Tell me what the rules are. I'll abide by them but I need to know what they are. I need to know what the public expects of me as a Warden. What am I supposed to be doing." And sportsmen are saying, "We need to know what to expect when we're in the woods." So there's great uncertainty right now as to how the whole issue of stops and the whole issue is developing. As a result of that I had a hand in helping to offer this amendment, which basically says to the Commissioner "Develop some rules. Get some of your Wardens together. Get Constitutional scholars together. Get Sportsmen together. Get a bunch of people together. Sit down and determine what the rules should be." This does not preordained what those rules should be. It merely says, "Develop them. Come up with them. Give them to Wardens. Give them to the public so that everybody knows what the rules are." It doesn't matter what you come up with, in my opinion just develop them. Come up with reasonable rules. Bring it back to the good Committee on Inland Fisheries and Wildlife. Let them review those. We'll enact them and once we've done that then everybody will know what the rules are. That's what this amendment does. I very strongly urge you to endorse this amendment, to defeat the motion to indefinitely postpone and to support this amendment so that we can get rules in place and move on. Mr. Speaker and Ladies and Gentlemen thank you very much for your attention.

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

Representative **SAVAGE**: Mr. Speaker, Men and Women of the House. I'm going to be asking you to support this amendment but first I want to talk a little bit about my perspective on law enforcement in general. When the men and women who enforce the laws of this state go into the field, whether that's the urban field, the rural field, whichever field it is, they do take on a great deal of responsibility. They take on a great deal of risk. There's no doubt in my mind that there's nothing ill intentioned about a law enforcement officer trying to get as much evidence as they can within the constraints of the Constitution. As the good Representative from Wilton just stated, this is not about saying something negative about the Warden Service. This is about answering a question, which has been raised time and time again. The confusion about what that question is has become quite evident in this body as we talk about probable cause and suspicion of a criminal offense and we talk about all of these issues. There has been claimed to be a distinction between a regulatory stop and an investigatory stop. There is very little case law on the issue of regulatory stops and whether or not some of the stops that have been proposed as legitimate by the Wardens Service are in fact legitimate. Most of the case law that is being referred to is what we call dicta. It's extraneous statements made in cases that don't really have anything to do with the majority opinion in the case. They don't have anything to do with the actual holding of the case. To that extent there's a major question out there about what the Constitution actually says about regulatory stops.

I want to read to you an example of a regulatory stop as opposed to an investigatory stop. Question posed to the Colonel of the Maine Warden Service, "Colonel, if during fishing season I watch a vehicle with a canoe on top drive away from a landing at

a remote trout pond, can I check the persons in the vehicle for a fishing license or any fish they may have caught?" Answer, "Yes. Given the setting and time of the year any reasonable person would believe the persons in the vehicle might have been fishing in the pond. It is part of your job to make a brief inspection of such persons for compliance with the bag limits and license requirements." Now folks, that's the definition of a regulatory stop. They're saying we can stop and check to make sure there's a license. They're not saying they have any suspicion of a crime. They're just saying, "We want to see if they've got a license. We want to see if they've got any illegal fish." Let me put that into perspective for you. If a State Trooper was in exactly that same spot and saw that same vehicle going out and there was a child seat with a child in it, that State Trooper would not have the right to stop that vehicle just to make sure that the child seat is strapped in properly because there's no crime. No suspicion of a crime. My point here is, folks, that unless you think there's something inherently nefarious about hunting and fishing in this state then we have to ask ourselves why we're going to draw a line that would protect a Warden's right to check into hunting and fishing more than a State Trooper's right to check and make sure whether that child seat is strapped in properly. They don't have that right. We're not telling the Warden's Service what the policy must be. We just are saying, "Come up with a policy and we'll check it out."

I've heard something about separation of powers. Every single time this body meets we come up with new rules and regulations to tell the people how to live their lives. Some of those regulations and rules are necessary, as we've become a more complex society. Make no mistake about it; the people who implement those laws and enforce those laws are the people who our constituents recognize as their government. They don't see us every day. Almost every person in your district will see a police officer today. They will look down at their speedometer and make sure they're not disobeying the speed limit. They may never actually talk to that police officer but when people drive around, when people walk around, when people participate in business with government, most of the time, it's an interaction with a law enforcement officer. It is our responsibility to decide how that interaction will go forward. We created the laws and we should be able to create the policy if we choose to do so. In this particular instance, however, we're saying, "You create your own policy and bring it back and we'll look it over." I don't think that there's anything wrong with that. It certainly doesn't interfere with the Executive Branch. We decide when the rubber hits the road, we decide where it hits the road and we decide whether it's going to be studded or non-studded. Thank you.

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

Representative **TRAHAN**: Mr. Speaker, Honorable Members of the House. I'd like to expand on the previous testimony a little bit. Before I do that I'd like to say something about Colonel Peabody and the new commissioner, Commissioner Perry. They've taken on an issue that has been festering for a lot of years. The reason that the issue has festered is because Game Wardens have pretty much had the ability to do what ever they wanted when it came to stops. They've tackled a really big issue. They've tried to actually confine those powers to the Constitution. Basically why I supported this bill was that it created Sheriff powers. It did away with all the confusing language that allowed them to do pretty much what they wanted

in the past. This direction, in my opinion, was a great direction to go. We could shape our policies based on the Constitution and the rulings by the Supreme Court. I was a little naive. I thought it would be quite easy to do that and there'd be no confusion. Unfortunately there was a lot of confusion. It was based on basically what the previous speaker spoke of. That is that some wardens believe that it was okay to stop somebody next to a pond who had a canoe on their vehicle. I'll explain to you why that's not a legitimate stop. If you, just as a warden, see someone leaving a pond with a canoe on top of the vehicle and you say you want to stop them to check them for a license, what if they don't have a license? The warden hasn't seen anyone fishing. You can't cite them for fishing without a license so the court will consider that an unreasonable stop, because there was no way to back up the stop. When I brought that to Colonel Peabody's attention, he said, yes, I agree with you. That was the old policy; we've given up on that. You see this is an education project for everyone involved, because the wardens in the past had no guidelines. They had no direction about where they were to go with their powers. This is a perfect illustration of what happens when law enforcement duties change over time. We just debated Ranger Bill, and now we're talking about game wardens, because we continue to ask them to do more and more, to enforce different laws, to become what they're not. I think that a game warden's job now is probably one of the most difficult in the state of Maine and I'll explain why. We ask them to be a conservation officer, but we also ask them to be an enforcement officer like a state police officer would be. The problem is the blending of the powers, meaning the powers to stop to check our license, but then they have the powers to stop for drugs, for a crime, so I do think it is very important from this point on, as we continue to give them more powers and more responsibilities that we define what their powers are, because the blending of the powers creates a gray area that's very easy to abuse. That's really why I think we're debating this today, because those powers had been abused in the past. Not by the present administration in the Inland Fisheries and Wildlife Department, but by past game wardens, and I think that it's important that we recognize that these men are trying to solve this problem that's existed in the past. Instead of it being an inflamed issue, I hope that we can all work together toward a policy that the people in the State of Maine can accept. With that being said, I do think it's important, and I will be supporting Representative Martin's amendment because of this reason. It'll have public hearings, it'll have public input, but more importantly it will educate the public on what game wardens can do in the field and I've said this over and over again, that is the most important part of this whole debate is that people understand what wardens can do when they stop them. With that being said I will support Representative Martin's amendment and I hope that this Legislature would move in the direction of working as partners with Inland Fisheries and Wildlife, with the committee, to better enforce the public on what's going on. Thank you.

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

Representative **MCALEVEY**: Mr. Speaker, Ladies and Gentlemen of the House. I'd like to make a couple of points that I don't believe have been made yet. Probable cause to stop a vehicle is based on the totality of a number of suspicions, or one big suspicion, that a crime has been committed. You articulate your probable cause by explaining a series of events, but if you have that reasonable person standing in the corner that's not a

police officer, or a fisherman, or a hunter and they don't know anything about the law, but they observe what happens, they can say yes, that sounds reasonable. That officer had a right to stop that vehicle, but its got to be a suspicion of a crime. Game wardens, as well as our marine resource people go through the academy and they have the same curriculum that the municipal and county officers have and the state police have and I'll tell you most of the curriculum at the academy, other than dealing with elements of crime and what is crime and not, deals day after day with rights, upholding a person's right so you do not illegally arrest them or illegally put them in detention, or illegally search their person or place. We have as much right to be safe and secure with ourselves and our papers in our motor vehicle, as we do in our home, with the exception, the state regulates registrations and licenses and we have to produce those along with insurance cards if we're stopped by a police officer. Most departments have written rules about their stops, because they need to have it, because if an officer makes an illegal stop and they don't have a rule, it's called vicarious liability and the department gets sued. I would urge support for this amendment. We're not taking anything away from the department, we're setting rights and rules that follow the law, that's case law, that's federal law, that's constitutional law, but let me explain something there's a reverse here. Deputy sheriffs, state police, municipal officers have the same duties and authority as a warden, so if you reduce the standards for why and how wardens stop motor vehicles, because state police and deputy sheriffs have the same authority to enforce their laws, you're reducing standards for them. First, I don't think it's legal, because you cannot, and I don't think we have the authority as a body, to lessen any of our laws of search and seizure, which are based on federal and state case law. If you want to talk about apples and apples and you release the standard for one set of law enforcement, it's going to go across the board. You can't stop a vehicle unless there's a defect which you can explain and document or there's a violation of the law, not because you think, there are exceptions and it's called the Carol Doctrine, and that's from federal statutes. If you have four or five extenuating circumstances, you may stop a motor vehicle, but you still have to explain those circumstance. It has to be that someone reported to you that someone's in the trunk, or there's dynamite, or there's weapons in the vehicle. Isn't that a connection, fish and game laws, weapons in the vehicle, that's a stretch, the Carol Doctrine does not cover that unless those weapons are there illegally. It's the same playing field, I've many friends that are wardens that I respect and they work hard, men and women who put their lives on the line every day for us. They want a level playing field, they want to know what the game rules are. I've had more wardens tell me that they're being blamed or painted with a black paintbrush for the poor action of three or four wardens that aren't being disciplined, that aren't being restrained, so I think it is important we give them the rules, and we look over their shoulder to make sure those rules are what we want them to do. Thank you.

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

Representative TRUE: Mr. Speaker, Ladies and Gentlemen of the House. I believe this is a good bill. I had some reservations about parts of it and the last seven speakers have certainly helped my thinking. However, one important part seems to be missing and that is I believe when the good Representative, Representative Martin, brought forth his

amendment, he indicated that there was a time set there. Nobody has spoken to that. If you stop and think how long we've had to perhaps create the policy, you might say it should have been done a long time ago, but they really haven't had anything to go by and now they do.

If I heard correctly and I would like to have Representative Martin perhaps correct me. I don't believe the 30 days or one month is time enough for these people to get this completely and therefore until that's answered I would vote against the amendment and I believe it ought to be left up to those that are preparing this and making sure that they come back to the committee of jurisdiction for approval. Thank you.

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

Representative MARTIN: Mr. Speaker, Members of the House. I would like to respond to the question. The only point that I was making about the 30 days is that we're here, actually, the amendment allows until next year for the department to bring back the rules.

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

Representative TRACY: Mr. Speaker, Ladies and Gentlemen of the House. The good Representative, Representative Perkins, from Penobscot asked the members to get up and kind of put into the record what is on their minds in IF&W on this issue. When we discussed this, we are really discussed this into the next millennium and our intent and our understanding of the majority of the committee members at the time it was to say only a warden could stop you only if they had probable suspicion that a crime has taken place.

While I'm up I'd like to talk about the meeting we had with the advisory committee and Representative Perkins asked if we could open the discussion up to the IF&W Advisory Committee and asked them their thoughts on the wardens and lo and behold, they were all over the place. I asked the question, if I was going slowly down the Ladd Road in Rome, which is a dirt road and I had a canoe on top of my vehicle if it was suspicion enough to be pulled over. Well one of the former wardens said yes, and another one said no, and a current one said he wouldn't do it, but the former warden said he'd have to pull me over, because how would he have proof that I hadn't broken any laws and then the next question was the young warden from Presque Isle said that he would pull me over on the same road if I was going slow and I had hunter orange on, well I happened to mention to him that we do egress and transgress down the dirt roads in Rome and I do wear my old 30 year old florescent coat with my old florescent hat, which is not much good on the top after the beagle chewed the top off. I happened to mention to him that if you would pull me over for going real slow, you'd literally be pulling me over all the time, because I go with my sister-in-law's husband, and Ladies and Gentlemen of the House, we all can breath faster than the guy can drive, but that's neither here or there, so I guess the bottom line of what I'm saying, they still have a mind set out there, you can't if you have a canoe, but if you have florescent hunter orange on and you're going real slow down the road, which has the maximum speed limit of 25 mph and you're going slower than that, that's probable cause to pull you over, I don't think so.

Another question I pose, because we choose to live in the hinder lands, is it going to be a prerequisite that all citizens have to have a hunting and fishing license that live on dirt roads in the

rural areas of the State of Maine. I urge you to accept the pending motion, the amendment. Thank you.

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

Representative **BRYANT**: Mr. Speaker, Ladies and Gentlemen of the House. In response to Representative Perkins' request, I, for one, on the committee, take the language at face value. You cannot pull over a vehicle unless you have reasonable and articulate suspicion that he violated a law, so that's clear. I think the Department has that clear. There is no uncertainty out there for the wardens on what their duties are right now. Their duty now is that they don't pull over any vehicles unless they have suspicion that they violated the law. That's clear, so there's no uncertainty that the wardens out there right now saying I'm going to pull someone over for a red hat, or canoe, or any other issue. Just to clear up that misunderstanding. I'll be supporting the pending motion. I'll tell you why, because I do think that this issue of policy has been before us and the committee has not worked on it and I think that the committee of jurisdiction will be able to work the policy out with the department and solve that problem and for that reason, I'll be voting with the motion to indefinitely postpone. Thank you.

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

Representative **DUNLAP**: Mr. Speaker, Men and Women of the House. I just wanted to bring something else to the debate and we haven't really talked about it all. We've talked about 4<sup>th</sup> amendment rights and the Constitution and what people can expect from a game warden when they're stopped, etc. etc. We haven't even really touched on that, but one thing we haven't really talked about is public trust and the public trust involved in protecting our natural resources and that reasonable expectation therein. I have operated under a sort of goal and I believe that the entire committee has operated under the same set of parameters is that you really need to balance these things. We need to protect our natural resources and we also need to protect our individual rights. I would like to respond to my friend from Eagle Lake when he said that if you believe that it's okay to pull someone over with an orange hat, etc. etc. then vote with the Representative from Old Town. Certainly, I don't think that's appropriate, nobody on the committee thinks that's an appropriate action to stop someone just because they have a blaze orange hat. That certainly doesn't fall under the parameters with which we've been working and I certainly hope that that was not intended to cast an aspersion on my intentions in this legislation.

One of the things when I was researching this that I discovered over the last year, I came across a study that was done by the University of Maine in 1996, 4 years ago, almost exactly 4 years ago as a matter of fact. It was completed in May of that year. The study dealt with my county, Penobscot County, and citizen's perceptions of crime problems in the county and the number one problem that people perceived that needed to be addressed a little bit more strongly was drunk driving, which is not really a big surprise. Number five on the list was child abuse and I believe number seven was domestic violence and number nineteen was murder, but the one that was really striking was the second item on the list. The number two problem that people see in Penobscot County, in terms of crime, and that was poaching. We haven't talked about poaching and I'm not going to go through the entire body of Title 12 and the history that it emanates from, but it's pretty substantial. Now my district

warden was given an award last year for meritorious service for arresting 26 night hunters in one month last year. Obviously, we've outlawed night hunting for many, many decades now, but it's still a law that we need to enforce and if you get into the whole issue of how a warden conducts himself in the field, that certainly is something that we need to be concerned about, we need to be concerned about those interactions with the general public, but we also need to be concerned with whether or not that warden is being effective in protecting our resources. Certainly, while we balance in value our bill of rights and the rights that that gives us, we also need to remember that there's an overwhelming public interest in protecting natural resources and I would cite the recent passage of the land bond, the Land for Maine's Future Bond, \$50 million got almost 70 percent of the vote. The public in Maine has a very strong interest in our natural resources.

When you talk about situational issues, the issue is not if you have a canoe on the top of your truck, whether the warden has the right to stop you to see if you've been fishing. I think maybe a more apropos example, if you're coming out of an apple orchard and this is the example I've been using to my friends in the hallways. If you're coming out of an apple orchard and you have a deer in the back of your truck, does the warden have a compelling interest, representing the people to stop that vehicle and see if you've done everything right? To see if that doe, if it is a doe, has been tagged with your doe tag, because that's a big problem out there, people sharing doe tags. These are conservation measures. These laws are there for conservation reasons and the state has a compelling interest in protecting its natural resources and I can go into all kinds of citations that the court has made along those lines, but I think the basic issue is first of all, you do have the right to travel unimpeded. If that is an intrusion that we are willing to accept that a warden will stop you to check that deer, then I think we should agree to that. Of course this is something we can do under this amendment, everyone seems to like this amendment and I'm not saying that we shouldn't, but I have a feeling that when those rules come before the Fisheries and Wildlife Committee you're probably going to have a similar divided report and a similar debate, because no one is going to be satisfied in their own mind that those rules are exactly what they want, if you really want to restrict the warden service you won't be happy until you really get that accomplished. You can go the other way with it too.

One of the questions that's been asked in our committee is do you have a right to hunt and fish and that's a question we haven't asked here today. Is it an inalienable right to go hunting and to process game? The wild game, all wild life, the fish in this state are the property of all the people. They are not your property, because you buy a hunting or a fishing license and that's not to say that that issue has not been discussed. When we were debating the constitution, 213 years ago, this was an issue that was brought forward too, in fact, in Pennsylvania the Legislature a group of them entertained added to the Bill of Rights an article that would protect hunting and fishing. Noel Webster responded to that and I would like you to hear that response and I think it puts a little bit of perspective into what we're talking about, what the public expects us to do in protecting natural resources. His response to that proposal was this, he said, but to complete the list of unalienable rights, you would insert a clause in your declaration that everybody shall in good weather hunt on his own land and catch fish in rivers that are public property. Here gentlemen, you must have exerted the

whole force of your genius, not even the all important subject of legislating for a world can restrain my laughter at this clause. As a supplement to that article of your Bill of Rights, I would suggest the following restriction that Congress shall never restrain any inhabitant of America from eating and drinking at seasonal times, or prevent his lying on his left side in a long winter's night, or even on his back when he is fatigued by lying on his right. This article is of just as much consequence as the 8<sup>th</sup> clause of your proposed Bill of Rights. He went on to say that unlike Europe where the game was the property of the landowner, in America it was assumed that wild game was the property of the people. So, when we are talking about balancing the Bill of Rights and the rights of individual citizens, let's not forget about protecting our natural resources and by putting an onerous set of restrictions on the enforcement agency charged with that protection, think twice about it. Think long and hard about doing that and remember that you are doing this for one agency and not any other law enforcement agency in the State of Maine.

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

Representative **MATTHEWS**: Mr. Speaker, Men and Women of the House. As the former chair, when I was in the other body, of the Inland Fisheries and Wildlife Committee, you can see why I decided to get off it, it was ruining my hunting and fishing. It is a tough committee and the good gentleman from Old Town does a great job and spoke very eloquently, but it seems to me the debate we've heard today is certainly illustrative of why we need to slow this process down. There are some big issues here. That little thing called the Constitution, and the Bill of Rights, the resource that belongs to the public, private property rights, the issue of game wardens that do a great state service each and every day, but also the people who have been abused. The rights of our citizens that have been abused by a very small, small minority of people entrusted. I think it's a great reason to slow this process down. Let's take more time. I think the good gentleman from Eagle Lake's amendment is a wise one. The good gentleman from Wilton has spoken very clearly and articulately about why we need to slow this process down. Let's bring everybody in to the table. This is the second regular session of the Legislature. We've got the long session ahead for whoever is here next time. There will be adequate time to debate this issue and there will be time between now and then to look at this issue, so I would urge the members of this body to defeat the pending motion and support the good gentleman from Eagle Lake's amendment. Thank you, Mr. Speaker.

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

Representative **TRACY**: Mr. Speaker, Ladies and Gentlemen of the House. I'd just like to clarify my position. I had urged you previously to go with the pending motion, but I urge you to vote against the pending motion and go with Representative Martin's amendment and while I'm up I'd like to follow up on Representative Dunlap's story about coming out of the apple orchard, but I happen to give a case scenario back onto the dirt road up in the hinder lands where God bless me I live and I love and I happen to ask the question if I was going down the Ladd Road, which is a dirt road, by the way, way out in the willywacks and I happen to have a deer in the back of that pickup truck and my understanding is some of the committee's understanding at the time, if a warden was following me down that same road had no right to stop me because there was no probable suspicion that a crime had taken place. If I am wrong, I

hope one of the members on the committee can correct me. Thank you.

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

Representative **SAVAGE**: Mr. Speaker, Men and Women of the House. I rise to make a couple of comments. I just want to make sure we're all clear on what Committee Amendment "A" does. Section 2 of the Committee Amendment says that the warden service shall have the authority to stop a motor vehicle in accordance with Title 29A section 105, if the warden has a reasonable and probable suspicion that a violation of any law has taken place. That does not address the other issue, and that is what if they are stopping the vehicle in accordance with Title 12, the title that deals with fish and game laws. The reason that this is so important, there has been this argument that under Title 12 and the good Representative from Old Town, Representative Dunlap, has articulated it well that we have some special compelling interest in protecting fish and wildlife and that that under the Constitution allows us to go a little further than any other area, so if the warden has stopped the vehicle in accordance with Title 12, in other words in accordance with his duties and authorities to protect fish and wildlife, then that reasonable and probable suspicion requirement may not apply pursuant to statute. It may well, and I propose that it does apply, pursuant to the Constitution, but it certainly will not be there because of this statute, because this proposed statute section 2 only applies to stops, which are in accordance with 29A. Just so you know, for those not on the Transportation Committee, that is the section of our law that deals with motor vehicle offenses, so we're not talking necessarily about apples and apples here, we're talking about apples and oranges. We're talking about Title 12, we're talking about Title 29A, okay.

I also want to respond to something that the good Representative from Old Town said about the right to hunt. It has been clearly decided by the courts that you don't have a right to drive, however, if you are driving you can't be stopped just to make sure that you have a drivers license. Thank you very much.

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

Representative **PERKINS**: Mr. Speaker, Members of the House. I appreciate the number of people that have spoken on to the record their intent, because as the good Representative from Old Town stated if the intent isn't clear out of this Legislative body, probably today, and the next few days, I'm afraid that we will be back with the same divided committee. That's why it's so imperative and the good Representative from Buxton has articulated it very clearly, the situation. That has been one of the main problems all along in this is that no matter what we came up with in the committee we were always presented by the Department with, oh well, we can still stop for less than suspicion of a violation, due to these regulatory responsibilities. I want to make sure that nobody thinks I take those lightly, by the way I grew up beside a game warden in Bucksport, Maine, and the name was Homer Edgcomb, now deceased. He was my hero. I wanted to be a game warden. He just walked on water as far as I was concerned. He always encouraged me not to be a game warden unless I went to college, which I did, but I revered that man and everybody in the area respected him. Since that time a lot of wardens have done their duties and not gained all that much respect. A certain small proportion of them, but I do admire the work they do. As far as

the deer coming out of the orchard, and the reason I'm talking about this, I realize that the amendment in front of us only has to do with the rules that they write and come back to the committee. Don't get too confused on this. It's a very straightforward amendment and I think it's excellent. I would urge you to vote against the pending motion.

I do want to say a few more things on the record. As far as the deer coming out through the orchard in a vehicle that a warden might see, this isn't a public way. We're talking about on the public way and that's defined in Maine Statutes as a road that's open to the public or a public road. If it's a private road that's open to the public, that's a public way. That what we're talking about, not someone driving out through a field, we're talking about on a public way and the people of this country and the courts have said that we don't lose all expectations of privacy when we get in a vehicle. In our homes we have tremendous expectation of privacy, when we get in a vehicle maybe we have somewhat less, certainly it's not the same as being on foot and the policy drafts that the Department has come to us with, now about two or three of them, have wanted to treat people in a vehicle the same as if they were on foot. In other words, oh that person looks like he might be fishing or hunting, I'm going to check licenses. The compelling argument that the wardens have a compelling mandate to protect fish and wildlife and that justifies these suspicious stops. Even in the ghetto, for example, a policeman can't stop a person, profile that person based on I bet that person's a drug dealer, even to protect public safety, even to protect our kids from getting drugs. They can't stop that person unless they have suspicion of a violation. It's so important that we make this clear what we want the policy to be or we'll be right back here and by the way if I could just say one thing. People have said there's a great uncertainty out there with the wardens and the sports people and we're talking as if we don't really know what their policy might be. I'm telling you, they've come already three times. The first one was literally, and I have a copy of it here, that came last summer to me, basically, and I know they have withdrawn it, but listen it had to do with profiling, what someone looked liked. I don't know if they mentioned the orange clothing, if they had clothing on that looked like a hunter would wear. That was their first draft. A lot of us, on the committee, said, no way and they tore that up and they backed off and then they came with another draft. You have a copy of the three page article in the official fish and wildlife magazine and I realize there again that was written last August and they've backed off from that now, if the canoe is on top of the car, that type of thing. It's kind of a moving target for us to try to pin it down in the committee and write statute. It seems like they keeping moving and finally I'd just like to read. There's no question what they want to write for policy. I have it in my hand; this one paragraph was approved finally in the committee. I said, can you tell us what you want and this was written by a retired deputy commissioner and it was approved. I passed this around to the chief warden, I showed it to the chief executive's point person over this committee and they said, yea this is roughly it. This is roughly what they want. If I may just read this one sentence. "A game warden may stop a vehicle if the warden has a reasonable suspicion that fish or wildlife are being transported in the vehicle, or that the operator or occupants of the vehicle are engaged in a hunting, fishing or trapping activity, or are leaving an area where they have just previously been engaged in such an activity." Three parts. There's no mystery about what they're going to come up with in

policy. This is what they have been saying all along, basically, they want it and if that's what we want, we write policy, we're the policy makers. If that's what we want today, let's read it into the record. If not, let's read that in. Thank you.

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

Representative CLARK: Mr. Speaker, Ladies and Gentlemen of the House. I rise this morning to put myself on the record like the good Representative from Penobscot. I just have a couple of questions that I'm kind of uncertain about. If we write a policy to bring back to the committee, is it going to stop the harassment by some of the wardens? Not only do wardens harass other law enforcement agencies, but it's vice versus. Wardens up in my area, I've had some complaints from constituents calling and saying they've been harassed by wardens, does this policy affect those people? Will it also be affected by the other side of the lane on law enforcement agencies? I believe that the language that we wrote is clear.

Representative Perkins from Penobscot, offered an amendment, we changed it for him. The whole committee, came in two days later, didn't like it so we changed it again. Are we going to change every two weeks on how to build a definition for the warden service? I, too, really respect the warden service. They're out there doing a job, day in and day out, protecting our resources to make sure that we have them for our children and our grandchildren. I'm one of the youngest people in this body and when I see a warden out there, you kind of respect those people because they have a uniform from the State of Maine to protect the resources that we have out there, whether it's hunting, fishing, snowmobiling, or so forth. All these duties are changing because we're changing in time. What was good back in 1960 is not good in the year 2000. These duties are changing all the time. Now there are more wardens on the snowmobile trails to enforce snowmobile safety. There are wardens up in the air to locate theft from wildlife management. If we change this by adding policy to bring back to our committee, the committee of jurisdiction, are we going to put a radar screen up for everybody in this whole State of Maine? I'm not sure how I'm going to vote on this amendment yet, but let me tell you something, I'm afraid of the people back home that I represent saying if we bring a policy in front of us, is this going to ruin everybody's life out there in the woods. We're here to make policy decisions. What some of the committee thinks is that if you add the word only or anything else, that the definition is really clarified. It's hard to say because we have lawyers in this world and every lawyer has a different interpretation of every single word. The only thing I'm saying is, if we do pass an amendment to bring those rules back to us are we ruining it for everybody in the whole State of Maine?

The SPEAKER: The Chair recognizes the Representative from Wilton, Representative Laverdiere.

Representative LAVERDIERE: Mr. Speaker, Men and Women of the House. We've had a great debate. We've had a lot of points of view. I do want to point out that some of the debate has gone in the direction of trying to push the policy in one direction or another. It's not my intent to do that. It's my intent to allow the Department, in conjunction with sportsmen, in conjunction with constitutional scholars, in conjunction with other law enforcement officers to come up with a policy and bring it back to us. That's all I'm asking and I would ask that when it comes time to vote, you push the red button and join me in seeing that we have a policy that comes back to us that,



hopefully, will put this issue to rest for a long time. Thank you very much.

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

Representative CHICK: Mr. Speaker, Ladies and Gentlemen of the House. I believe that I should stand and say a few words after having been a member of the committee of jurisdiction, as referred to this morning for two previous sessions of Legislatures, including this one. Tuesday evening I had an occasion to visit what I consider the grass routes of fish and game in the State of Maine and with me at a small gathering were the Deputy Commissioner and the Warden Colonel and some other members of the committee of jurisdiction. During my time on this committee my sole concern was to protect the resource and here this morning we've heard many speeches talking about the wardens that was to me a great absence of protecting the resources. I believe that the present Colonel Peabody is in a position and is understanding I having in my life had an occasion to talk about training numbers of people equal to the numbers he's involved with and as people retire we have some fine young wardens fully capable to understand and to decide they want to follow the Colonel and his application of how they shall operate in the field. I'll give you an explanation of something that occurred where there was a vehicle stopped and the fact that the warden failed to look at the safety equipment in the vehicle, or the orange hat, on talking with the occupant seized on the fact that he believed that the person was under the influence and proceeded to take this person to court. As I understand it, this is something that actually happened here not too long ago in the State of Maine and the court didn't listen to the charge of OUI because the warden in the beginning had failed to proceed with what he had stopped the person for.

After all of these speeches that I've heard this morning, I would like to leave you with a thought as far as an individual member of this committee, that I'm concerned about the resource. It provides for a lot of enjoyment, has over time and I've had some experiences myself, I still have a guide's license and when you mention guides, that's a dangerous business. If you don't think so, remember or listen to some of your neighbors when they talk about falling out of trees and one thing or another, but I want to leave you with one thought. My concern is to protect the resource and that is the way I'll vote. This thing about whether we do it in 30 days or we come back a year later, maybe has some merit, but please think of the resource when you vote. Thank you.

The SPEAKER: The Chair recognizes the Representative from Old Town, Representative Dunlap. Having spoken twice now requests unanimous consent to address the House a third time. Is there objection? Chair hears no objection, the Representative may proceed.

Representative DUNLAP: Mr. Speaker, Men and Women of the House. There's been a lot of discussion on this today and I don't want to yank the rug out from anybody, I know we're getting ready to vote, however, I think it might be a fair proposal to maybe put this thing aside awhile and give the committee a chance to review it and see if you want to incorporate any elements of it into a committee amendment. I just want you to think about that for a few seconds and maybe someone could bring forward a motion to table and think about it for a little while and come back to it, unless somebody really wants to go after it right now. That would be a suggestion I would make. Let the Committee review it in the Committee process.

On motion of Representative SAXL of Portland, **TABLED** pending the motion of Representative DUNLAP of Old Town to **INDEFINITELY POSTPONE House Amendment "C" (H-852) to Committee Amendment "A" (H-800)** and later today assigned. (Roll Call Ordered)

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

**ENACTORS  
Emergency Measure**

An Act to Amend the Jurisdiction of the District Court  
(H.P. 1776) (L.D. 2487)  
(C. "A" H-861)

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. 132 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.

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

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

HOUSE DIVIDED REPORT - Majority (10) **Ought to Pass as Amended by Committee Amendment "A" (H-800)** - Minority (3) **Ought Not to Pass** - Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act to Clarify the Authority of Maine Game Wardens to Stop Motor Vehicles"  
(H.P. 1627) (L.D. 2274)

Which was **TABLED** by Representative SAXL of Portland pending the motion of Representative DUNLAP of Old Town to **INDEFINITELY POSTPONE House Amendment "C" (H-852) to Committee Amendment "A" (H-800)**. (Roll Call Ordered)

The SPEAKER: The Chair recognizes the Representative from Old Town, Representative Dunlap. Having spoken three times now requests unanimous consent to address the House a fourth time. Is there objection? Chair hears no objection, the Representative may proceed.

Representative DUNLAP: Mr. Speaker, Men and Women of the House. I know there's some confusion about the previous tabling motion, but I want to take a moment and confer with as many of my committee members as possible to see if there's an interest in bring the bill back to committee instead of this amendment. The general preference seems to be going ahead and do what we're doing here and let the chips fall where they may and I appreciate the indulgence of the members for allowing me to do that. Thank you very much.

The SPEAKER: A roll call having been previously ordered. The pending question before the House is Indefinite Postponement of House Amendment "C" (H-852) to Committee Amendment "A" (H-800). All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 454**

YEA - Bagley, Berry RL, Bryant, Cote, Desmond, Dunlap, Fuller, O'Neal, Pieh, Powers, Saxl MV, Shiah, Townsend, Mr. Speaker.

NAY - Ahearne, Andrews, Baker, Belanger, Berry DP, Bolduc, Bouffard, Bowles, Bragdon, Brennan, Brooks, Bruno, Buck, Bull, Bumps, Cameron, Campbell, Chick, Chizmar, Cianchette, Clark, Clough, Collins, Colwell, Cowger, Cross, Daigle, Davidson, Davis, Dudley, Dugay, Duncan, Duplessie, Etnier, Fisher, Foster, Frechette, Gagne, Gagnon, Gerry, Glynn, Goodwin, Gooley, Green, Hatch, Heidrich, Honey, Jabar, Jacobs, Jodrey, Jones, Joy, Kasprzak, Kneeland, Labrecque, LaVerdiere, Lemoine, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, Mailhot, Martin, Marvin, Matthews, Mayo, McAlevey, McDonough, McGlocklin, McKee, McKenney, McNeil, Mendros, Mitchell, Murphy E, Murphy T, Muse, Nass, Norbert, Nutting, O'Brien JA, O'Brien LL, O'Neil, Peavey, Perkins, Perry, Pinkham, Plowman, Povich, Quint, Richard, Richardson E, Richardson J, Rines, Rosen, Samson, Sanborn, Savage C, Savage W, Saxl JW, Sherman, Shields, Shorey, Sirois, Skoglund, Snowe-Mello, Stanley, Stanwood, Stedman, Sullivan, Tessier, Tobin J, Tracy, Trahan, Treadwell, Tripp, True, Tuttle, Twomey, Usher, Volenik, Waterhouse, Watson, Weston, Wheeler EM, Wheeler GJ, Williams, Winsor.

ABSENT - Carr, Gillis, Kane, Schneider, Stevens, Thompson, Tobin D.

Yes, 14; No, 130; Absent, 7; Excused, 0.

14 having voted in the affirmative and 130 voted in the negative, with 7 being absent, and accordingly the motion to **INDEFINITELY POSTPONE House Amendment "C" (H-852) to Committee Amendment "A" (H-800) FAILED.**

Subsequently, **House Amendment "C" (H-852) to Committee Amendment "A" (H-800) was ADOPTED.**

**Committee Amendment "A" (H-800) as Amended by House Amendment "C" (H-852) thereto was ADOPTED.**

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

Under further suspension of the rules, the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-800) as Amended by House Amendment "C" (H-852) thereto and sent for concurrence.**

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

#### **UNFINISHED BUSINESS**

The following matters, in the consideration of which the House was engaged at the time of adjournment Tuesday, March 7, 2000, 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 Allow Persons with Mental Illness to Vote

(H.P. 1514) (L.D. 2162)

**TABLED** - February 22, 2000 (Till Later Today) by Representative TUTTLE of Sanford.

**PENDING - ADOPTION OF COMMITTEE AMENDMENT "A" (H-796).**

Representative MARTIN of Eagle Lake **PRESENTED House Amendment "A" (H-850) to Committee Amendment "A" (H-796)**, 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 briefly tell you how I got involved in this. Actually

a constituent who happens to, for reasons of protecting the estate, has legal guardianship and basically, other than that has been absolutely no problem at all. When I started looking at what basically was happening is that actually the way that the amendment is provided for in the Constitution, it prevents everyone that may be under guardianship from voting. You may know that this is the only group left in this state that cannot vote. Over the years Maine has broadened its voting powers to allow everyone regardless of their conditions, for example, whether they are in prison, or they be, for example, retarded citizens of Maine, they've always been given the right to vote over the years. When I looked at the question it seemed a little strange to me so you may know that there is a committee that works with the Secretary of State that works on the questions that go to the voters. I simply referred this matter to the Secretary of State's Office and about a week ago they came back with the amendment, which they have before you. I had nothing to do with the drafting of the amendment. I have checked it with both chairs and as many people that I knew were involved and they all support the amendment, so I believe that this would correctly reflect the way it would be going to the voters so that the voters will know exactly what it is they're voting for. I would urge you to adopt House Amendment "A" to Committee Amendment "A."

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

Representative **TUTTLE**: Mr. Speaker, Men and Women of the House. I, too, will be supporting the proposed amendment. As many of you know a few years ago when this question was before the people of the state, I received a number of calls from people as to how the question was amended and it was the committee's hope and my hope that we could do a better job in the presentation of the amendment this year. Reading the proposed amendment, the question will be, Do you favor amending the Constitution of Maine to end discrimination against persons under guardianship for mental illness for the purpose of voting and I think that sets a very pro-active question one that I think will be clearly understood by the people of the State. As many of you know, currently only two qualifiers to vote presently exist, Maine residency and 18 years of age. The impact on the State may be minor, but it has significant impact on certain individuals throughout this State. The provision in the Constitution perpetuates the stigma associated with certain individuals and as it was mentioned in committee presently people with dementia are not included in the prohibition. The voting rights, in my opinion, have changed over the years with the progress of society. I think the time has come for this issue to be addressed by the people of the State and it is for that reason that I would hope that you would support the pending amendment.

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. Did we not send this out to the people not too long ago and did the people not reject this proposal?

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 Eagle Lake, Representative Martin.

Representative **MARTIN**: Mr. Speaker, Members of the House. The Representative is correct. It went to the voter about, I want to say 6 or 8 years ago, the exact year I have forgotten, it failed, I believe, by 2 percentage points primarily because of the confusion. It was not a large margin in terms as I recall, I don't have that vote in front of me. Part of the problem is that there is a tremendous confusion with the citizenry because frankly we haven't done a very good job in defining, because you see right now there is an assumption by some, I won't try to define who has that assumption, that persons with mental retardation can't vote. That is inaccurate, those that are in facilities all over the state can vote and do vote. Persons who are, for example, are committed to the state hospital, in fact, can vote and do vote. The only people that can not vote may be those people for whom a guardian has been appointed and most of the time in checking with some of the people, for example, probate judges that only the ones in most cases is for conserving their estate where that has occurred. That is the only group of people and frankly there are very few of them out there. If you were to ask the general public as to who can vote and can't vote, I think you would get an answer that for example people with mental retardation can't vote. That is inaccurate and that's what happened in the last debate. Frankly, there was no debate; I do want to point that out, in terms of what took place with the vote last time.

Representative **WATERHOUSE** of Bridgton moved that **House Amendment "A" (H-850) to Committee Amendment "A" (H-796) be INDEFINITELY POSTPONED.**

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

Representative **WATERHOUSE**: Mr. Speaker, Men and Women of the House. I don't believe that the people when they voted on this were confused. I hesitate to ever say that. We're sending this out for a second time and if you look at the original amendment and the wording on the referendum question is; "Do you favor amending the Constitution of Maine to allow persons under guardianship for reasons of mental illness to vote." Very clear-cut, straightforward and if you look at the amendment that just was presented, it reads, "Do you favor amending the Constitution of Maine to end discrimination against persons under guardianship for mental illness for purpose of voting." Discrimination is a buzzword. I don't think this is presenting the issue to the people in a straightforward manner and if we are going to send this out to the people again, which I am not in support of, I think we ought to stick with the original language and the original amendment. Thank you.

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

Representative **MARTIN**: Mr. Speaker, Members of the House. Let me try one more time. Persons under guardianship that are mentally retarded can presently vote, the only ones who can not vote are people under guardianship for mental illness and so that's the issue in terms of what the Secretary of State's Office basically came back with the issue of discrimination. I want to make it clear because that is really the major point here. It is discrimination. We are under our Constitution the way it is drafted allowing persons with mental retardation in getting mental health services and throughout the various facilities of this state being allowed to vote even though they are under guardianship. The ones that are not allowed to vote, presently, are those that have been declared incompetent by the court under mental illness, for example, they had a break down and subsequently

because of trying to conserve their estate very often the probate judges will basically then have someone appointed as guardianship. So it is a very narrow group that's what we're trying to do here. We're trying to basically solve that problem. That's all it is and for all of you and us and everyone in this body, remembers there are a lot of people who are relatives and friends who maybe have had to be caught in that situation because of a break down. That doesn't mean that they don't have the ability to vote and should not have that ability to vote. That's the difference here.

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

Representative **BRENNAN**: Mr. Speaker, Men and Women of the House. I truly hope that you will vote against the pending motion and that you will support the amendment that has been put forward by the Representative from Eagle Lake. Let me make it a little bit more clearer in terms of the questions raised by discrimination. Maine is the only state in the country, the only state in the country that prevents persons under guardianship for purpose of mental illness from not voting. We're the only state in the country that does that. Now granted there are a number of states that say that people who are under guardianship for a number of other reasons may not vote, but we are the only state in the country that says if you are under guardianship for mental illness you cannot vote. That's clearly discriminatory. When this went to the voters 2 years ago in 1998, the question was confusing and people did have difficulty understanding. I think it is clearly warranted at this time to send this issue back to the voters and make it very clear what they are voting on, so that I hope that you will oppose the pending motion and you will support the amendment. Thank you.

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

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

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

Representative **PLOWMAN**: Mr. Speaker, Ladies and Gentlemen of the House. Would this cover a person who is in the custody of the State of Maine whose guardian is the State of Maine, such as a person who has pled innocent by reason of insanity to a crime and placed either at BMHI or AMHI or in a forensic unit. Would this allow their guardian who would be the State of Maine to facilitate their voting?

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

Representative **MARTIN**: Mr. Speaker, Members of the House. Those that are assigned to the forensic unit are there as a result of a, for example, a murder, whatever the case may be. Those are under state care but are not under state guardianship. They can presently vote now, because all prisoners in this state can vote absentee.

Representative **TUTTLE** of Sanford **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "A" (H-850) to Committee Amendment "A" (H-796).**

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 Saco, Representative Kane.

Representative **KANE**: Mr. Speaker, Men and Women of the House. It's important to view this as nothing more or less than really the onward progression of civil rights and that the issues of the rights of the mentally ill have been on the national agenda for the past 30 years and have moved slowly in some areas. I would hope that as you look at this, that we look at that in the context of broad civil rights and just another minority population who has continued to be disenfranchised. Thank you.

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

Representative **KASPRZAK**: I'd hoped not to have to stand on this, I know we're getting ready to probably finish up business here, I would ask first that you would support the indefinite postponement of this amendment. I think this kind of thing, it's reminiscence of the kind of thing that happened in the partial-birth abortion debate where we were told by certain people who supported partial-birth abortion and all abortions that the wording was vague, it was unclear and it didn't have anything to do with the issue. They were the same people who were responsible for writing the wording and accepting the wording. I think this version of this question intends to make people believe a certain thing, which may, or may not be true. I think that's deceitful, I think it's wrong and I hope that you will support indefinite postponement.

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

Representative **MARTIN**: Mr. Speaker, Members of the House. I'm highly incensed that the issue of abortion can be brought into this debate. We are talking about citizens of this state who for whatever reasons have had a break down. We're talking about citizens of this state who happen to be mentally retarded, who are citizens guaranteed rights unto this state and are here because there was no abortion and I resent the fact, and I'll put my record on the line for anyone in terms of abortion as well. We are talking here about discrimination between people with mental illness and mental retardation. People with mental retardation today have the right to vote under guardianship, people with mental illness under guardianship do not. That's the issue here today. I urge you to vote against the motion to indefinitely postpone.

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

Representative **MAYO**: Mr. Speaker, Ladies and Gentlemen of the House. I, too, am upset with the direction this particular debate has taken. For a number of years while I was in business, diagonally across the street from that business was a group home. The first time that I ran for this body I realized that there was a problem because all people in that particular group home were not able to vote. It is a problem that this particular piece of legislation will address and take care of. I would strongly urge that you defeat this motion that is before us to indefinitely postpone and that we are allowed to move forward and correct a current injustice. Thank you.

The **SPEAKER**: The Chair is going to remind members again, on the floor of the House you will never refer to the motives of another member or members of a committee as to why they did what they did. It is prohibited. Remember that when you stand to speak. I may miss it from time to time, but remember that, please remember the rules of the House and if you have questions about any of the rules of the House, please come to see me. I don't want you to have questions.

Representative **LABRECQUE** of Gorham **REQUESTED** that the Clerk **READ** the Committee Report.

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

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

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

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

Representative **MCNEIL**: Mr. Speaker, Men and Women of the House. Perhaps Representative Brennan or Representative Martin could answer this for me. I have a brother that's mentally retarded, I'm his guardian, and am I to understand that he could vote and when any of these people vote does the guardian have to be with them to guide them through that voting process.

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

Representative **BRENNAN**: Mr. Speaker, Men and Women of the House. If you look in the Maine Constitution now there are two qualifiers for voting. You have to be 18 years of age and a citizen of the State of Maine. Those are the only two qualifiers. There's one exception, if you're under guardianship for mental illness you cannot register to vote. If you are under guardianship for any other reason, whether it's mental retardation, Alzheimer's, brain injury, or some other reason you are allowed to vote. That has been current practice in the state, probably since the early 1960s. I do not know of any instances been reported to the Secretary of State where there has been a problem with persons who are under guardianship for reasons other than mental illness who have voted that there has been a problem. When people choose and desire to vote and are capable of voting, they do. In a situation that you just posed, under current state constitution they would be allowed to vote if they are 18 and a resident of the state.

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

Representative **SAXL**: Mr. Speaker, Men and Women of the House. I join with my colleagues in urging you to vote against indefinite postponement of this. It seems to me a matter of basic human rights. We spend much time in our committee talking about parity of those who have mental illness and it seems that this an area in which we must overcome the divisions of the past. So I ask you once again to join with me and with the others to vote against indefinite postponement.

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

Representative **MCNEIL**: Mr. Speaker, Men and Women of the House. I don't wish to belabor this. My brother is severely retarded, I'm his guardian, does that mean I could register him to vote, that I have to be there when he voted as his guardian, would I have to lead him through that process to vote? I understand that now mentally retarded people can vote, but if we also vote for this, does a guardian have to be there to help a person with a mental illness. In this case, my brother can't read or write, does that mean he could scratch his signature. I'm just confused by that, I don't argue that they don't have some basic human rights here, I'm just curious as to exactly how retarded or how mentally ill people have to be or cannot be. Is there a line somewhere?

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

Representative **MARTIN**: Mr. Speaker, Members of the House. The present election laws allow any voter to bring whomever they may choose with them if they so desire. In the beginning a number of years ago it used to be you had to use an election worker that happened to be at the polls, subsequently, the law got changed 10 to 12 years ago which provides for that person to make the decision at who it is they would like to have to go with them. The way you've described it, your brother presently under guardianship for mental retardation, presently he is eligible to register, eligible to vote and you may be the one that goes with him under present law now. This particular amendment would not apply to him, because he is already covered by existing constitutional provisions. This applies only to persons who have been declared mentally incompetent for mental illness, no one else.

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

Representative **WATERHOUSE**: Mr. Speaker, Ladies and Gentlemen of the House. I just want to make a clarification on my concern with this present amendment. It has nothing to do with the merits of the bill itself, although I am very reluctant and always have been to send things out to referendum again when the people have already voted on it, under the color of saying that they were confused. I don't buy into that. The real problem I have with the present amendment is that the original amendment with the unanimous committee report is a lot more straight forward and clear and is absent the buzz word and that is the main contention I have with this amendment, not with the proposal itself, although as I said, and I repeat myself, sending things back out to the people so soon a period on voting on this issue, I don't really support.

The **SPEAKER**: A roll call having been previously ordered. The pending question before the House is to Indefinite Postponement of House Amendment "A" (H-850) to Committee Amendment "A" (H-796). All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 455**

**YEA** - Buck, Gerry, Kasprzak, MacDougall, Mack, Mendros, Nass, Rosen, Shields, Stedman, Treadwell, Waterhouse, Winsor.

**NAY** - Ahearn, Andrews, Bagley, Baker, Belanger, Berry DP, Berry RL, Bolduc, Bouffard, Bowles, Bragdon, Brennan, Brooks, Bruno, Bryant, Bull, Bumps, Cameron, Campbell, Carr, Chick, Chizmar, Clark, Clough, Collins, Colwell, Cote, Cowger, Cross, Daigle, Davidson, Davis, Desmond, Dudley, Dugay, Duncan, Dunlap, Duplessie, Etnier, Fisher, Foster, Frechette, Fuller, Gagne, Gagnon, Gillis, Glynn, Goodwin, Gooley, Green, Hatch, Heidrich, Honey, Jabar, Jacobs, Jodrey, Jones, Joy, Kane, Kneeland, Labrecque, LaVerdiere, Lemoine, Lemont, Lindahl, Lovett, Madore, Mailhot, Martin, Marvin, Matthews, Mayo, McAlevey, McDonough, McGlocklin, McKee, McKenney, McNeil, Mitchell, Murphy E, Murphy T, Muse, 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, Samson, Sanborn, Savage C, Savage W, Saxl JW, Saxl MV, Sherman, Shiah, Shorey, Sirois, Skoglund, Snowe-Mello, Stanley, Stanwood, Sullivan, Tessier, Tobin J, Townsend, Tracy, Trahan, Tripp, True, Tuttle, Twomey, Usher, Volenik, Watson, Weston, Wheeler EM, Wheeler GJ, Williams, Mr. Speaker.

**ABSENT** - Cianchette, Schneider, Stevens, Thompson, Tobin D.

Yes, 13; No, 133; Absent, 5; Excused, 0.

13 having voted in the affirmative and 133 voted in the negative, with 5 being absent, and accordingly the motion to **INDEFINITELY POSTPONE House Amendment "A" (H-850) to Committee Amendment "A" (H-796) FAILED.**

Subsequently, **House Amendment "A" (H-850) to Committee Amendment "A" (H-796) was ADOPTED.**

**Committee Amendment "A" (H-796) as Amended by House Amendment "A" (H-850) thereto was ADOPTED.**

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

Under further suspension of the rules, the Resolution was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-796) as Amended by House Amendment "A" (H-850) thereto and sent for concurrence.**

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

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

**HOUSE DIVIDED REPORT - Majority (12) Ought Not to Pass - Minority (1) Ought to Pass - Committee on BANKING AND INSURANCE on Bill "An Act Regarding Private Long-term Disability Insurance for Mental Illnesses"**

(H.P. 1062) (L.D. 1493)

Which was **TABLED** by Representative SHIAH of Bowdoinham pending **ACCEPTANCE** of either Report.

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

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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 Tuesday, March 7, 2000, 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 Restrict Passengers in the Vehicle of a Newly Licensed Driver"

(H.P. 1744) (L.D. 2450)

**TABLED** - March 7, 2000 (Till Later Today) by Representative JABAR of Waterville.

**PENDING - ADOPTION OF COMMITTEE AMENDMENT "A" (H-847).**

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

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An Act to Amend Truck Weights

(H.P. 1643) (L.D. 2303)

(C. "A" H-804)

TABLED - March 7, 2000 (Till Later Today) by Representative TUTTLE of Sanford.

PENDING - **PASSAGE TO BE ENACTED.**

Subsequently, 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)

(C. "A" H-799)

TABLED - March 7, 2000 (Till Later Today) by Representative DUNLAP of Old Town.

PENDING - **PASSAGE TO BE ENACTED.**

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

Representative DUNLAP: Mr. Speaker, Men and Women of the House. People sometimes tell me I'm a very good floor speaker and I say the same thing to people who went out and got 12 votes, I'd say you keep on going. This particular piece of legislation came before us last year. It was enacted overwhelmingly in the House and in the Senate and I had voted against it at the time and spoke against it. Over the course of the break, the summer, I was interviewed by a national magazine and newspapers and really a general sense of ridicule, but despite that I do believe I retain my conviction that I'm right on this issue and with all due respect to my committee and I have waited until this point to bring this issue up, because the committee has worked this issue very hard and I have the utmost confidence that the committee has worked this to the best of their satisfaction and all I request is that when the vote be taken, it be taken by the yeas and nays so that I may be on record as opposing the action and I understand that I will probably get maybe less than 12 votes. With that in mind I would like to have a roll call. Thank you.

Representative DUNLAP of Old Town 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 Fryeburg, Representative True.

Representative TRUE: Mr. Speaker, Ladies and Gentlemen of the House. The good Speaker chastised us for speaking not properly towards one another, I would like to commend the House Chair of the Inland Fisheries and Wildlife and to tell him he should read a quote by I think her name was Thatcher, from England, who says that, and always said, that if you're extraordinarily patient in the long run, you will always get what you want. 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. 456**

YEA - Ahearne, Andrews, Baker, Belanger, Berry DP, Berry RL, Bolduc, Bouffard, Bowles, Bragdon, Brooks, Bruno, Bryant, Buck, Bumps, Cameron, Campbell, Carr, Chick, Chizmar, Cianchette, Clark, Clough, Collins, Colwell, Cote, Cowger, Cross, Daigle, Davidson, Davis, Desmond, Dugay, Duncan, Duplessie, Fisher, Foster, Frechette, Gagne, Gagnon, Gerry, Gillis, Glynn, Goodwin, Gooley, Green, Heidrich, Honey, Jacobs, Jodrey, Jones, Joy, Kane, Kasprzak, Kneeland, Labrecque, LaVerdiere, Lemoine, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, Mailhot, Marvin, Matthews, Mayo, McAlevey, McDonough,

McGlocklin, McKee, McKenney, McNeil, Mendros, Mitchell, Murphy E, Murphy T, Muse, Nass, Nutting, O'Brien JA, O'Brien LL, O'Neal, O'Neil, Peavey, Perkins, Pinkham, Plowman, Povich, Richard, Richardson E, Richardson J, Rosen, Samson, Sanborn, Savage C, Savage W, Saxl JW, Sherman, Shields, Shorey, Sirois, Snowe-Mello, Stanley, Stanwood, Stedman, Sullivan, Tobin J, Tracy, Trahan, Treadwell, True, Tuttle, Usher, Volenik, Waterhouse, Weston, Wheeler EM, Wheeler GJ, Williams, Winsor, Mr. Speaker.

NAY - Bagley, Brennan, Bull, Dudley, Dunlap, Etnier, Fuller, Hatch, Jabar, Martin, Norbert, Perry, Pieh, Powers, Quint, Rines, Saxl MV, Shiah, Skoglund, Tessier, Townsend, Tripp, Twomey, Watson.

ABSENT - Schneider, Stevens, Thompson, Tobin D.

Yes, 123; No, 24; Absent, 4; Excused, 0.

123 having voted in the affirmative and 24 voted in the negative, with 4 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

**TABLED AND TODAY ASSIGNED**

Bill "An Act Increasing the Authorized Indebtedness of the Veazie Sewer District"

(H.P. 1648) (L.D. 2317)

TABLED - March 7, 2000 by Representative DAVIDSON of Brunswick.

PENDING - **ADOPTION OF COMMITTEE AMENDMENT "A" (H-832).**

Representative DAVIDSON of Brunswick PRESENTED House Amendment "A" (H-866) to Committee Amendment "A" (H-832), which was READ by the Clerk and ADOPTED.

Committee Amendment "A" (H-832) as Amended by House Amendment "A" (H-866) thereto was ADOPTED.

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

Under further suspension of the rules, the Bill was **PASSED TO BE ENGROSSED** as Amended by Committee Amendment "A" (H-832) as Amended by House Amendment "A" (H-866) thereto and sent for concurrence.

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

**SENATE PAPERS**

The following Joint Order: (S.P. 1030)

ORDERED, the House concurring, that when the House and Senate adjourn they do so until Tuesday, March 14, 2000 at 9 o'clock in the morning.

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

**READ** and **PASSED** in concurrence.

Bill "An Act to Appropriate Matching Funds for the Study of Nondefense Uses of the United States Naval Shipyard in Kittery, Maine"

(S.P. 1031) (L.D. 2611)

Came from the Senate, **REFERRED** to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** and ordered printed.

On motion of Representative O'NEAL of Limestone, **TABLED** pending **REFERENCE** and specially assigned for Tuesday, March 14, 2000.

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**CONSENT CALENDAR**

**First Day**

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

(H.P. 1117) (L.D. 1576) Bill "An Act to Strengthen the Motor Vehicle Laws Pertaining to Registration of Motor Vehicles" Committee on **TRANSPORTATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-863)**

(H.P. 1742) (L.D. 2448) Bill "An Act to Improve Licensing Efficiency within the Department of Agriculture, Food and Rural Resources" Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-864)**

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

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The **SPEAKER**: The Chair recognizes the Representative from Lincoln, Representative Carr who wishes to address the House on the record.

Representative **CARR**: Mr. Speaker, Men and Women of the House. In reference to LD 2274, had I been present on the motion to Indefinitely Postpone, I would have voted no. On adoption of House Amendment (H-852), I would have voted yes.

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**ORDERS**

On motion of Representative DAVIDSON of Brunswick, the following Joint Order: (H.P. 1880)

**ORDERED**, the Senate concurring, that the Joint Standing Committee on Utilities and Energy report out, to the House, a bill concerning heating oil prices.

**READ and PASSED.**

Sent for concurrence.

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

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On motion of Representative BOUFFARD of Lewiston, the House adjourned at 12:12 p.m., until 9:00 a.m., Tuesday, March 14, 2000 pursuant to the Joint Order (S.P. 1030).