

MAINE STATE LEGISLATURE

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

Volume III

Second Regular Session

March 23, 2000 – May 12, 2000

Appendix
House Legislative Sentiments
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ONE HUNDRED AND NINETEENTH LEGISLATURE
SECOND REGULAR SESSION
27th Legislative Day
Thursday, April 27, 2000

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

Prayer by the Reverend James Doherty, C.S.C., Most Holy Trinity Parish, Saco.

Colors presented by the Massabesic Navy Junior ROTC Color Guard.

National Anthem by Massabesic High School Chorus.

Pledge of Allegiance.

The Journal of yesterday was read and approved.

SENATE PAPERS

Non-Concurrent Matter

Bill "An Act to Study the Effectiveness of Harness Racing Promotions" (EMERGENCY)

(H.P. 1097) (L.D. 1544)

Majority (11) **OUGHT NOT TO PASS** Report of the Committee on **LEGAL AND VETERANS AFFAIRS READ and ACCEPTED** in the House on April 4, 2000.

Came from the Senate with the Minority (2) **OUGHT TO PASS AS AMENDED** Report of the Committee on **LEGAL AND VETERANS AFFAIRS READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1029) in NON-CONCURRENCE.**

Representative TUTTLE of Sanford moved that the House **ADHERE.**

Representative MAYO of Bath moved that the House **RECEDE AND CONCUR.**

Representative TUTTLE of Sanford **REQUESTED** a roll call on the motion to **RECEDE AND CONCUR.**

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

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

Representative TUTTLE: Mr. Speaker, Men and Women of the House. I would hope that we would concur with our previous vote. This was an 11 to 2 report from the Committee on Legal and Veterans Affairs. While I am standing with those that would support the legislation, the Harness Racing Promotion Board has recently gone through a difficult time. The Executive Director has passed away and presently the members of the board have hired a new Executive Director. It is my hope that we will allow this board the chance to progress and do the job that it was created for. With the concerns, if things continue, it would be amicable to doing something in the future, but I think right now based upon the recent history and the passing away of the Executive director, I would hope that we would keep the board presently and support the 11 to 2 Ought Not to Pass Report. I would encourage you to defeat the pending motion to Recede and Concur.

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

Representative MCKENNEY: Mr. Speaker, Ladies and Gentlemen of the House. Just as a review, the Promotion Board, of course, promotes horse racing. More importantly, they help to promote the agricultural fairs. Any of you that have a fair in your district may not want to go back while you are on the campaign

trail this summer and fall and explain to the tiniest fairs in this state why we have taken a big part of their advertising budget and thrown it away. That is what this bill will do. I urge you to accept the chair's recommendation and hold up our previous verdict and vote against this Recede and Concur motion. Thank you.

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

Representative MAYO: Mr. Speaker, Men and Women of the House. Not to prolong a debate this early in the morning, but I cannot disagree with what the good Representative from Sanford has said, but I think this body ought to be aware of the fact that more than 40 percent, in excess of \$150,000, that this board has to deal with goes for salaries and administration. It does absolutely nothing to assist the fairs. Those of us who are on the Minority Report are certainly not against the fair situation, but we are against that amount of money being spent on administration in a total budget.

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

Representative LABRECQUE: Mr. Speaker, Ladies and Gentlemen of the House. Just to clarify a couple of points. We have a number of commissions that promote various agricultural sections of our state, the Blueberry Board, the Potato Board, etc. The harness racing industry is a very delicate industry. There was a promotional board. It did not function well. Two years ago we changed that and we set it up like all of the rest of our promotional boards. We gave them something like a \$60,000 red figure that they had to somehow try to figure out how they were going to pay for. They did that. They are in the black now. Now, unfortunately, we lost our Executive Director. They are in the process of hiring a new one. Obviously because of this bill and where we may or may not go with it, the hiring of that particular individual may be on hold. Do we pay a salary for this Executive Director? Of course we do. We pay salaries of all the Executive Directors of all of these boards. This is no different. This bill will sunset the Harness Racing Promotional Board. I don't think it is appropriate at this time. We have not had an opportunity for that sport to function the way it should. We need to give them some more time to continue their work. Thank you.

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

Representative SAVAGE: Mr. Speaker, Ladies and Gentlemen of the House. I can speak from the other side of the issue because I represent a small fair. We do have harness racing. I will tell you that the Harness Racing Promotion Board has helped our fair. We made some major changes a few years ago adopting a free gate. We are set up so we can do that. We adopted the free gate for our racetrack. The Promotion Board helped us to publicize this fact. Yes, they do help the small racetracks. We appreciate that help. Thank you.

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

Representative TRUE: Mr. Speaker, Ladies and Gentlemen of the House. You know \$150,000 to some people evidentially this morning means a lot. Think of what we have done in the last few days and what we probably will continue to do. However, the Promotion Board as has been stated lost their leader and when that happens then you certainly are going to have some problems. However, to abandon it, I am just afraid that it will not get back to where it was. It certainly has promoted the agricultural fairs. I hope that you will see fit to have that continue

and go along with the House chair's suggestion of the Legal and Veterans Affairs. Thank you.

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

ROLL CALL NO. 565

YEA - Dunlap, Mayo.

NAY - Ahearn, Andrews, Bagley, Baker, Belanger, Berry DP, Berry RL, Bouffard, Bowles, Bragdon, Brennan, Brooks, Bruno, Bryant, Buck, Bull, Bumps, Cameron, Campbell, Carr, Chick, Chizmar, Cianchette, Clark, Clough, Collins, Colwell, Cote, Cowger, Cross, Daigle, Davidson, Davis, Desmond, Dudley, Dugay, Duncan, Duplessie, Etnier, Fisher, Foster, Frechette, Fuller, Gagne, Gagnon, Gerry, Gillis, Glynn, Goodwin, Gooley, Green, Hatch, Heidrich, Honey, Jabar, Jacobs, Jodrey, Jones, Joy, Kane, Kasprzak, Kneeland, Labrecque, LaVerdiere, Lemoine, Lemont, Lindahl, Lovett, MacDougall, Mack, Mailhot, Martin, Marvin, McAleve, 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, Perry, Pieh, Pinkham, Povich, Powers, Richard, Richardson E, Richardson J, Rosen, Samson, Sanborn, Savage C, Savage W, Saxl JW, Saxl MV, Schneider, Sherman, Shiah, Shields, Shorey, Skoglund, Snowe-Mello, Stanley, Stanwood, Stedman, Sullivan, Tessier, Thompson, Tobin D, Tobin J, Townsend, Tracy, Trahan, Treadwell, Tripp, True, Tuttle, Twomey, Usher, Volenik, Waterhouse, Weston, Wheeler EM, Wheeler GJ, Williams, Winsor, Mr. Speaker.

ABSENT - Bolduc, Madore, Matthews, McKee, Plowman, Quint, Rines, Sirois, Stevens, Watson.

Yes, 2; No, 139; Absent, 10; Excused, 0.

2 having voted in the affirmative and 139 voted in the negative, with 10 being absent, and accordingly the motion to **RECEDE AND CONCUR FAILED**.

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

Non-Concurrent Matter

Bill "An Act to Change Laws Pertaining to the Loring Development Authority of Maine"

(H.P. 1498) (L.D. 2142)

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-924) AS AMENDED BY HOUSE AMENDMENT "A" (H-1019) AND SENATE AMENDMENT "A" (S-604) thereto in the House on April 4, 2000.

Came from the Senate with the Bill and accompanying papers **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**.

On motion of Representative O'NEAL of Limestone, the House voted to **INSIST** and ask for a **COMMITTEE OF CONFERENCE**. Sent for concurrence.

Non-Concurrent Matter

Bill "An Act to Establish the Maine Council on Aging"

(H.P. 1365) (L.D. 1963)

Majority (7) **OUGHT TO PASS AS AMENDED** Report of the Committee on **HEALTH AND HUMAN SERVICES READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1044)** in the House on April 4, 2000.

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

Representative KANE of Saco moved that the House **ADHERE**.

Representative MENDROS of Lewiston moved that the House **RECEDE AND CONCUR**.

Representative KANE of Saco **REQUESTED** a roll call on the motion to **RECEDE AND CONCUR**.

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

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

ROLL CALL NO. 566

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

NAY - Ahearn, Bagley, Baker, Belanger, Berry RL, Bouffard, Brennan, Brooks, Bryant, Bull, Chick, Chizmar, Clark, Colwell, Cote, Cowger, Davidson, Desmond, Dudley, Dugay, Dunlap, Etnier, Fisher, Frechette, Fuller, Gagne, Gagnon, Gerry, Goodwin, Gooley, Green, Hatch, Honey, Jabar, Jacobs, Kane, LaVerdiere, Lemoine, Lemont, Mailhot, Martin, Mayo, McDonough, McGlocklin, Mitchell, Murphy E, Muse, Norbert, O'Brien LL, O'Neal, O'Neil, Perkins, Perry, Pieh, Pinkham, Povich, Powers, Richard, Richardson J, Samson, Sanborn, Savage W, Saxl JW, Saxl MV, Shiah, Skoglund, Stanley, Sullivan, Tessier, Thompson, Townsend, Tracy, Tripp, Tuttle, Twomey, Usher, Volenik, Wheeler GJ, Williams, Mr. Speaker.

ABSENT - Bolduc, Duncan, Duplessie, Madore, Matthews, McKee, Plowman, Quint, Rines, Sirois, Stevens, Watson.

Yes, 59; No, 80; Absent, 12; Excused, 0.

59 having voted in the affirmative and 80 voted in the negative, with 12 being absent, and accordingly the motion to **RECEDE AND CONCUR FAILED**.

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

COMMUNICATIONS

The Following Communication: (S.C. 624)

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

April 5, 2000

The Honorable Joseph W. Mayo

Clerk of the House

State House Station 2

Augusta, ME 04333

Dear Clerk Mayo:

Please be advised the Senate today Adhered to its previous action whereby the Minority Ought Not To Pass Report from the Committee on Labor on Bill "An Act to Ensure Access to

Specialists for Injured Workers," (H.P. 1827) (L.D. 2561), was accepted.

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

READ and ORDERED PLACED ON FILE.

The Following Communication: (S.C. 625)

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

April 5, 2000

The Honorable G. Steven Rowe
Speaker of the House
119th Maine Legislature
2 State House Station
Augusta, Maine 04333

Dear Speaker Rowe:

In accordance with Joint Rule 506, please be advised that the Senate today confirmed, upon the recommendation of the Joint Standing Committee on Marine Resources, the nominations of Craig Pendleton of Saco, Ralph Jones of Jonesport and David Turner of Meddybemps for appointment and Jennifer Bichrest of Harpswell, Lori Howell of Eliot and Kristan Porter of Cutler for reappointment as members of the Marine Resources Advisory Council.

Thank you for your attention to this matter.

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

READ and ORDERED PLACED ON FILE.

SPECIAL SENTIMENT CALENDAR

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

Recognizing:

Jennifer Labrecque, who has been offered a full-tuition scholarship to attend the University of Maine. The scholarship, which is called the "Top Scholars Award" is given to reward academic excellence to the State's very best students. Jennifer is Valedictorian of the 2000 graduating class of Catherine McAuley High School. We extend our congratulations to Jennifer on receiving this award;

(HLS 1168)

Presented by Representative USHER of Westbrook
Cosponsored by Senator O'GARA of Cumberland,
Representative DUPLESSIE of Westbrook.

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

READ.

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

Recognizing:

the Catherine McAuley High School Varsity Basketball Team, on winning the Western Maine Girls Basketball Championship. We send our congratulations to the following members of the team on their successful season: Captains Danielle Jendrasko,

Tracy Tutt and Kimberly Libby; Justine Pouravelis; Lauren Hale; Joanne Minervino; Maria Jones; Gabrielle Stone; Jessica Norden; Angela Orlando; Maureen Curran; Casey Genthner; Kate McConnell; Coach Elizabeth Rickett; Assistant Coaches Tracy Libby, Rachel Powell and Maura Edgecomb; Manager Shannon Peterson; video operator Eva Kecskemethy; and Athletic Director Joseph S. Kilmartin;

(HLS 1197)

Presented by Representative BRENNAN of Portland.

Cosponsored by Representative DUDLEY of Portland, Representative SAXL of Portland, Representative McDONOUGH of Portland, Representative QUINT of Portland, Representative NORBERT of Portland, Speaker ROWE of Portland, Representative TOWNSEND of Portland, Senator ABROMSON of Cumberland, Senator RAND of Cumberland, Representative LEMOINE of Old Orchard Beach, Senator PENDLETON of Cumberland, Representative BRUNO of Raymond, Representative TOBIN of Windham, Senator KONTOS of Cumberland, Representative USHER of Westbrook, Representative DUPLESSIE of Westbrook, Senator O'GARA of Cumberland, Representative CLOUGH of Scarborough, Representative LABRECQUE of Gorham, Representative CIANCHETTE of South Portland, Representative GLYNN of South Portland, Representative MUSE of South Portland, Senator AMERO of Cumberland, Representative LOVETT of Scarborough.

On **OBJECTION** of Representative BRENNAN of Portland, was **REMOVED** from the Special Sentiment Calendar.

READ.

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

Recognizing:

Dennis E. Norton, of Rockland, a certified public accountant with Simoneau, Norton, Masters and Alex, who has received the Accredited-in-Business-Valuation designation by the American Institute of Certified Public Accountants. The designation, established in 1996 by the institute, recognizes CPAs with extensive professional experience in business valuation. This accreditation is granted exclusively to CPAs who elect to demonstrate their business valuation expertise and experience by earning the credential. Mr. Norton is among 6 CPAs in Maine who have earned this accreditation. We send our congratulations to Mr. Norton on this accomplishment;

(HLS 1198)

Presented by Representative McNEIL of Rockland.

Cosponsored by Senator PINGREE of Knox, Representative SAVAGE of Union.

On **OBJECTION** of Representative McNEIL of Rockland, was **REMOVED** from the Special Sentiment Calendar.

READ.

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

Representative MCNEIL: Mr. Speaker, Ladies and Gentlemen of the House. It gives me great pleasure today in honoring Dennis Norton on this tremendous accomplishment. This designation takes several years of work in various areas of the field just to be eligible to sit for the exam. It takes hours of traveling to Boston to accomplish this exam. Dennis Norton is extremely well respected in our city, not only for his exemplary work, but in the honesty, integrity and kindness in which he

treats his family, friends and fellow citizens. I feel very fortunate to be a friend of Dennis and his family.

I know that Dennis will be very pleased when he opens his sentiment and reads a note from our esteemed Clerk, Joe Mayo. This note says, "Dear Dennis, please let me add my congratulations on your recent honor. It was a pleasure for me to sign the sentiment as Clerk of the House. Sincerely, Joseph W. Mayo, Clerk of the House." Please join me in well wishes for Dennis Norton on his tremendous accomplishment.

PASSED and sent for concurrence.

Recognizing:

the United States Merchant Marine, which delivered the vital war supplies during World War II, enduring attacks by ships, submarines and planes throughout the oceans of the world. The United States Merchant Marine motto is "serving America in peace and war" and the war record of the members of the United States Merchant Marine has gone almost unrecognized for over 50 years. During the war, a total of 6895 officers and crewmen were lost, 60 of them from the State of Maine, and 604 men from Maine were made prisoners of war. One in 32 merchant mariners died during the war, the highest percentage of any branch of the service. We acknowledge their dedicated service to our nation and we join in honoring them on May 22, 2000, National Maritime Day;

(HLS 1199)

Presented by Representative McNEIL of Rockland.

Cosponsored by Senator PINGREE of Knox, Representative SAVAGE of Union.

On **OBJECTION** of Representative McNEIL of Rockland, was **REMOVED** from the Special Sentiment Calendar.

READ.

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

Representative **MCNEIL**: Mr. Speaker, Ladies and Gentlemen of the House. First I would like to thank Captain Richard Spear from Rockland for bringing this important day to my attention. I would also like to thank Representative McKenney of Cumberland who gave me the words to speak today, since he had a better understanding of the background of the Merchant Marine. I thank him from the bottom of my heart.

The defining event for the American Merchant Marine in WWII was the Murmansk run. Located on the top of the world, above the Arctic Circle, Murmansk, Russia was the only open port to which the US could supply our ally at one time. Russia had nothing. In their struggle to repel the German hordes, we shipped munitions, tanks, planes, fuel and food in a continuous convoy. Thousands of Liberty ships, cranked out by our shipyards, one of which was in South Portland, chugged their way across the North Atlantic. From almost the first day out these slow freighters, manned by young volunteers, pressed into service perhaps only days before we were under attack. As the escorted convoy moved closer to the Scandinavian countries, where the cream of the German Navy and Luftwaffe lurked, they were under constant, around the clock bombardment. The Germans came after them with planes, surface vessels and U-boats. For every ship that docked at Murmansk, there was another at the bottom of the ocean. The losses were staggering. After the convoy ran the gauntlet of German forces, they had to face the uncertain weather of the Arctic Circle. But, through courage and sacrifice, enough got through to turn the tide and

beat back the German war machine. The sailors of the Merchant Marine have never received enough credit for their bravery.

Please join me in thanking the men of the Merchant Marine for their unwavering service to our country. Thank you Mr. Speaker.

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

Representative **TRUE**: Mr. Speaker, Ladies and Gentlemen of the House. I would be remiss if I didn't rise this morning. My father-in-law, grandfather of my children, served in the Merchant Marines as one of those unsung heroes. I also had as a classmate through the first 10 or 11 years, I can't remember, of school. He was a classmate who volunteered to go into the service and made the Murmansk run several times and was torpedoed on one occasion. I have talked with him many times about the fact that certainly these people should have been honored more so than they were. I am reminded of a short phrase that you will read in many history books that I think says it all. "Lest we forget."

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

Representative **COTE**: Mr. Speaker, Members of the House. I rise today in honor of the Merchant Marines. I, myself, had a grandfather that was a Merchant Marine. To me, he was still a hero, no matter what. For all the grandsons and granddaughters of Merchant Marines I speak for them to honor their grandfathers who were Merchant Marines. Unfortunately my grandfather was a Merchant Marine during Pearl Harbor days. While the others were fighting against the Germans, he was going against the Japanese. I lost my grandfather back in 1978. When I saw this sentiment on the calendar this morning, it brought back memories and stories that he shared with me as a Merchant Marine. As I was growing up he told me he was a cook on board the ship. He used to tell me some of the stories that the boys used to tell him. One morning they got up and went to the chow line for breakfast in the morning. They used to ask him, "Sergeant Goodwin, what do we have for breakfast this morning?" The first thing that came out of his mouth was smooie on toast. The boys they all looked at him and couldn't figure out what the heck that is. He said, "It is just what it sounds like, smooie on toast." At first I didn't know what it was either. I am not going to gross anybody out, by telling them exactly what it is, because when he told me it grossed me out. Those were the type of memories that I enjoyed growing up hearing from a Merchant Marine. That is what encouraged me to enlist in the military, his stories from World War II. It gives me great pleasure to stand up on behalf of this sentiment to honor the heroes, the silent ones, that we don't talk about that served as Merchant Marines. Thank you.

PASSED and sent for concurrence.

Recognizing:

Glenn Willard Torrey, of Poland, for his many years of dedicated service to his community and to the State of Maine. Mr. Torrey served in the Maine House of Representatives for 3 terms, has served on the Poland School Committee, has been a selectman for the Town of Poland and has been active in numerous social, civic and fraternal organizations. For 15 years, he was Director of the Poland Preservation Society. He is an active member of the Poland Excelsior Grange and served on the Governing Board for the Androscoggin Valley Soil and Water

Conservation District. We acknowledge his accomplishments and longtime commitment to his town and to the State, and we join his many friends in honoring his hard work over the years;

(HLS 1200)

Presented by Representative SNOWE-MELLO of Poland.

Cosponsored by Senator DOUGLASS of Androscoggin.

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

READ.

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

Representative **SNOWE-MELLO**: Mr. Speaker, Men and Women of the House. What a great privilege it is for me to stand here today to give honor to my dear, dear friend Glenn Torrey. Glenn is truly a well-respected member of our Town of Poland, Androscoggin County and is known throughout the state for his wisdom and matters of importance. Glenn is known as the Rock of Gibraltar by many people in our town. We know that when we go to him for advice, it truly will be sound advice. Not only has he done the other things that were listed in this sentiment, but he also has been an assessor for the Town of Poland for four years. He has been director and trustee on the Pine Grove Cemetery Association. He has been an active member of the Poland Grange. He has been chair for the Poland Garden Club, acting member of the Rickers Senior Citizens. He has been an active Poland Republican since 1940 and he has been a member of the Cumberland Lodge of Masons for 50 years. Quite often we wait until its too late to honor the people in our community that are so well respected. I felt it was extremely important that I take this time today to honor my dear friend, Glenn Torrey, who is truly a wonderful man. Thank you Glenn for all the wonderful things you have done through the years. Thank you.

PASSED and sent for concurrence.

In Memory of:

the Honorable Edward William Rogers, of Falmouth, beloved husband of Joyce Rogers and a well-known and respected family court judge. Judge Rogers practiced law in Portland until 1977, when Governor James Longley appointed him associate administrative court judge. A year later, he became a chief judge. He was authorized to preside over the District Court in 1979 and the Superior Court in 1983. In 1995, he won the Maine Bar Association's Family Law Section Achievement Award for "outstanding leadership and contribution to the promotion of family in the state of Maine." He was also a recipient of the President's Award and was inducted into the Maine Baseball Hall of Fame. Judge Rogers will be remembered by many for always doing what was best for the children in domestic cases;

(HLS 1164)

Presented by Representative DAVIS of Falmouth.

Cosponsored by Senator ABROMSON of Cumberland, Representative NORBERT of Portland.

On **OBJECTION** of Representative DAVIS of Falmouth, was **REMOVED** from the Special Sentiment Calendar.

READ.

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

Representative **DAVIS**: Mr. Speaker, Men and Women of the House. I will make this very brief. Judge Rogers was about 10 years older than myself. I have known him most of my life. He, throughout my career and my life, if I was accepted into college,

he congratulated me. If I coached the freshman football team at Portland High School and lost, he gave me his condolences. When my children were born, he congratulated me. When they were accepted to college, he congratulated me. I think whether you were successful or were having problems, the thing that Judge Rogers always had was compassion and concern for others. He had a large family. Steve Rogers was one of my best students at Portland High School. I think to sum up Judge Rogers life, he sort of thought the ancient Greek people had an ideal. They were good athletes and good scholars. He represented both of them and in the best Judeo Christian tradition had compassion for everybody. He will be sorely missed by his family and by the community. He was truly a great man. Thank you Mr. Speaker.

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

Representative **MCDONOUGH**: Mr. Speaker, Men and Women of the House. I would just like to say that the Rogers Family are my neighbors. I know them well. Judge Rogers was just a pillar in the community. He was so helpful to people, particularly young people whose families were having problems. I would just like to say that he will be sadly missed by our neighborhood and the City of Portland. Thank you very much.

ADOPTED and sent for concurrence.

In Memory of:

Colonel Robert Marx, of Kennebunk, a former chief of the Maine State Police. He spent 30 years with the state police, starting as a trooper and rising through the ranks to become deputy chief in 1953 and then chief from 1954 until 1966. He was credited with making numerous changes in the department, such as upgrading the radio and teletype system, changing the way new troopers were recruited and revamping the promotion system. After his retirement he was director of the New England State Police Chief Staff College in Foster, Rhode Island and was coordinator of a regional law enforcement planning project in York County. He was a graduate of the FBI National Academy, attended the Yale Traffic Institute and served with the Marine Corps. He will be fondly missed by his family and friends;

(HLS 1195)

Presented by Representative MURPHY of Kennebunk.

Cosponsored by Senator LaFOUNTAIN of York, Representative LINDAHL of Northport, Representative CARR of Lincoln, Senator DAVIS of Piscataquis.

On **OBJECTION** of Representative MURPHY of Kennebunk, was **REMOVED** from the Special Sentiment Calendar.

READ

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

Representative **MURPHY**: Mr. Speaker, Men and Women of the House. As you walk through the legislative parking lot many of you see attached the blue sticker, support Maine Troopers. I think that support is there because of a series of Maine heroes. Today, we are honoring one of those heroes. First of all, I would like to thank my friend from Eliot, Representative Wheeler, for his help today in terms of putting a face with this painting to this legislative sentiment. It was painted as a favor by one of Bob's Troopers. That sticker means something to us because I think of our day-to-day service for three retired State Troopers who served in this Legislature, Representatives Lindahl and Carr in this body and Senator Davis in the other. Also, I think because

of Representative Mary Black Andrews, the widow of a State Trooper.

Bob Marx did that last month. He served in Central America as a member of the Marines and the Marines Expeditionary Forces. You have to understand that in Marine Corp history, they rank right up there with the China Marines of pre-World War II. We talk about reasons why people come to Maine. Bob Marx's first contact with Maine was escorting prisoners to the prison at the Kittery Naval Shipyard to the castle. You have to understand also Marines and escorting prisoners. Marines never lose a prisoner. When you escort a prisoner the first thing you do is open the scatter gun, show them the shells in the gun or if you are carrying a 45, you show them that it is chambered. You explain to them that in Marine Corp law that if you lose a prisoner, you serve the balance of that prisoner's term. Marines don't lose prisoners. He came here escorting prisoners and then he was signed to the castle. When he had weekends, he went hunting and fishing and fell in love with the State of Maine.

He enlisted in the Maine State Police in 1936. There was a series of rapid promotions up through the ranks, Sergeant, Lieutenant, Captain, Major, Deputy Chief and in 1954, Governor Burton M. Cross appointed Bob to the position of the Chief of the Maine State Police. He was reappointed by Governors from both political parties. There are many first connected with Bob Marx's career. He was the first Maine state policeman to attend the prestigious FBI Academy. He was the first director of the State Police training schools. He founded the Detectives Division. He retired in 1966 and he saw accomplishments of the criminal investigative side of the State Police strengthened and the force had been doubled to more than 200 Troopers.

During retirement he became the Executive Director of the New England State Police Training Council in Rhode Island. He was an avid golfer. He played in tournament after tournament at the nearby golf club. He was even able to play during his illness last summer and fall and like many of us, Bob believed in the Red Sox and maybe this year will be the year. I had an opportunity with his widow Madeline to look at some pictures shot from last fall. Up in one of those TRs that I can't keep track of, a group of retired State Troopers had a hunting and fishing camp. He said whenever they would bring new Troopers up for a weekend of hunting and fishing, the first thing that came at them is that emblem patch blown up onto board and that insignia dominating the side of their camp. He loved the Allagash. He loved the challenge of hunting and fishing. Some of the best memories of his life are with Madeline up at that camp and also memories with his pals at that camp.

This sentiment also honors the spouses because when a man or a women signs up for the State Police, you enlist a team. They cope with the assignments, which may be at the opposite ends of the state where they were raised and where their family is. They deal with long hours. They deal with the tension of the job and that always present risk that could mean a late night phone call. This sentiment honors those men and women who are the spouses. They are a part of that team.

Whenever I see a Trooper on patrol and hopefully not in my rear view mirror with the blue lights flashing or I see that distinctive State Police uniform or each day when I pick up the newspaper and I read the news stories of these men and women of the State Police protecting lives and property, I will think of Bob Marx. Also, when it is a good day to play golf, I will think of Bob Marx. You have to understand that I don't play a particularly good game of golf. Knowing that, he left me his indoor putting

green because he knows what isn't a good game falls apart even worse when I reach the green if I can reach the green. We shared one common trait. We both have huge feet. He had a brand new pair of golf shoes, which are now my golf shoes. I want to tell you what, Madeline, no matter how hard I work the rest of my life, I will never be able to fill Bob Marx's shoes. Thank you.

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

Representative LINDAHL: Mr. Speaker, Men and Women of the House. This is my eighth and final year in this Legislature. I have found that the Maine State Police are held in very high regard by this body. They have a reputation of integrity, work ethic and they are expected to do the job regardless of the circumstance. This reputation didn't just happen. It was built by men who paved the way. Colonial Marx retired before I even joined the State Police, but he was a legend. Legends like Colonial Marx set a very high standard for those who followed. My condolences to the family and friends of Colonial Marx and you can be very proud of his accomplishments and the legacy he left. Thank you.

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

Representative CARR: Mr. Speaker, Men and Women of the House. As a retired member of the State Police family, I want to take this opportunity to offer my condolences to the family and friends of Colonial Marx. Although I never knew the Colonial, I have heard many stories about his actions and his deeds. From those stories, it was obvious that he was an outstanding officer and leader. The Maine State Police maintains a family relationship during service and into and including retirement. When an active or retired member passes on, we all feel the loss. Again, my condolences to the family and to the friends. Thank you Mr. Speaker.

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

Representative ANDREWS: Mr. Speaker, Men and Women of the House. As a member of the State Police family, I feel I must rise at this time. I did not know Colonial Marx as a neighbor, employee or a friend. I came to know Colonial Marx at the most tragic and unhappy time in my life when I lost my first husband, Trooper Black. I found him to be most compassionate and caring in helping me to deal with a very difficult situation at that time and for the time to follow. I also know that he was very instrumental along with the State Police as a whole and this legislative body in seeking to provide the wherewithal for my family and I to survive financially. At the time of my husband's death, there were no provisions to provide for the survivors. I would not have had enough to live on. I do know that the State Police, with Colonial Marx at its head and this legislative body, at least was able to give me that piece of mind. At this time, I would like to add my prayers and condolences to the family. Thank you.

ADOPTED and sent for concurrence.

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

Expression of Legislative Sentiment recognizing the Catherine McAuley High School Varsity Basketball Team.

(HLS 1197)

Which was tabled by Representative BRENNAN of Portland pending **PASSAGE**.

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

Representative BRENNAN: Mr. Speaker, Men and Women of the House. I am very happy today to have the Catherine McAuley High School Basketball Team with us. One of the greatest adages in sports is talking about the underdog. Everybody likes a contest where you have a clear favorite and a clear underdog. Everybody, in some way, shape or form, usually roots for the underdog. This Catherine McAuley team gave a new definition this year to what it meant to be an underdog and to overcome odds that were stacked against them in every game. This year when they went into the Western Maine Tournament, they were ranked 10th seed out of 10 seeds. They were the bottom ranked team. Every game they played they were the decided underdog and yet every game they played, they won. Every week they played a team that was higher ranked and had a better record and each time they prevailed. They won four games, I think for the first time in the school's history, they won the Western Maine Girl's Basketball Championship. They went on to play a state championship and ran up against a very fine team from Mt. Blue. It was a very good game. Unfortunately, they came out on the short end. It doesn't in any way detract from the excellent season that they had and the way that they were able to come together at the end of the season and march through the playoffs and win the Western Maine Championship. I am proud and pleased today to have them here. I hope all of you will join me in welcoming them to the Maine Legislature.

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

Representative MUSE: Mr. Speaker, Men and Women of the House. I don't rise to say congratulations to the team. I have already done that. I rise to say thank you. This team demonstrated something that is very rarely seen, whether it is in high school or college or in the professional ranks of athletic competition. They came in as Representative Brennan said decidedly underdogs. Nobody thought they would even get into the tournament, much less go as far as they went in the tournament. The thrill of watching them was there because of the excitement that they brought to the tournament themselves. It was the thrill of seeing Danielle Jendrasko whose is all of this tall who was like a spark on that team, but she wasn't the only spark. Every member of that team was a spark. Their coach was a spark. Their teachers were sparks. I will probably never forget the school principal coming into a game as excited as a school girl to show me her tee shirt that had a picture of a nun driving for a lay up and the comment below it that said nun better. She survived having me as a student in the eighth grade just a few years ago. This team brought an excitement to the game that I haven't seen at all. To each and every one of them I say, thank you, and I hope that we see it again next year and the year after. Thank you.

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

Representative NORBERT: Mr. Speaker, Ladies and Gentlemen of the House. I, too, wish to add my thanks and appreciation to the team for such a terrific season. They gave a lot of us a lot of joy and hope. As has been stated, they set a marvelous example. I also want to congratulate my constituent the coach, Liz Rickett, who has been working miracles ever

since she led Portland High to a championship. We are very proud with the job she has done turning around that team. Also, Sister Edward Mary Kelleher who is a favorite, who many of you know as the sister of State House regular Ed Kelleher and Chief of Staff of the Speaker, Nancy Kelleher's sister-in-law. We are very proud of you sister and the school and all of the girls, many of whom are constituents of mine. Thank you so much.

The **SPEAKER**: The Chair recognizes the Representative from Raymond, Representative Bruno.

Representative BRUNO: Mr. Speaker, Men and Women of the House. It is an honor to stand up today. My daughter actually goes to Catherine McAuley High School. I can tell you it is the most wonderful experience she has had in her life. It has completely changed her as a person. I want to congratulate them now that we have a basketball powerhouse at McAuley and we will be back in the next four years I am sure. I want to congratulate Sister Edward Mary and the faculty and the women at Catherine McAuley for doing such a wonderful job raising the kids how we all hope that we should raise our kids.

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

Representative MCDONOUGH: Mr. Speaker, Men and Women of the House. I also would like to add my voice to the thousands of people that have congratulated the team at McAuley. These kids, young women, have a lot of heart. That is what made them win. We look forward to seeing big things for many, many years to come. Congratulations. Thank you Mr. Speaker.

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

Representative USHER: Mr. Speaker, Men and Women of the House. I also want to thank the athletic programs of Catherine McAuley School and the principal who is a friend of mine for bringing a lot of excitement to the tournament. This has probably been one of the most exciting years because I know my team in Westbrook has received a few gold balls and this year they weren't successful, the girls, but the boys ended up in the state finals. Catherine McAuley group brought more excitement to the Civic Center than I have ever seen. There was a full house. To see the people standing in line for two blocks and having the tickets sold out for High School, this is great and this is great for all the school systems. Thank you once again.

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

Representative LAVERDIERE: Mr. Speaker, Men and Women of the House. As many of you know, I represent a town that sits in SAD 9, Mount Blue High School. I have a confession to make. The confession I will publicly. As I sat and watched the game between my home team, Mt. Blue, and Catherine McAuley, a little piece of my heart was kind of hoping that McAuley would win. They really, really came from behind all season long. They worked hard. They worked well together and they have absolutely great things to be proud of. I wish to congratulate them on a wonderful season. Thank you Mr. Speaker.

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

Representative BRENNAN: Mr. Speaker, Men and Women of the House. I just want to say to the good Representative from Wilton that I am glad he finally realizes that confession is good for the soul. It may be helpful in other areas of his legislative experience.

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

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

Expression of Legislative Sentiment recognizing Jennifer Labrecque.

(HLS 1168)

Which was tabled by Representative USHER of Westbrook pending **PASSAGE**.

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

Representative **USHER**: Mr. Speaker, Men and Women of the House. It is very important that we recognize the athletic programs, but also today we have a chance to recognize the top scholars. It gives me great pleasure to announce the Valedictorian of the class of Catherine McAuley this year. She happens to be in my neighborhood and a resident of Westbrook. I think this is a great sign of what the school system is doing. I wish her the best of luck in her future years at the University of Maine.

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

REPORTS OF COMMITTEE

Ought to Pass Pursuant to Joint Order (H.P. 1850)

Representative AHEARNE from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Repeal Certain Inactive Boards and Commissions and to Amend Certain Laws Governing Boards and Commissions"

(H.P. 1932) (L.D. 2676)

Reporting **Ought to Pass** pursuant to Joint Order (H.P. 1850)

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

The Bill **READ ONCE** and was assigned for **SECOND READING** later in today's session.

Divided Report

Majority Report of the Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass** on Bill "An Act to Amend and Clarify the Powers and Duties of the Lake Arrowhead Community, Incorporated" (EMERGENCY)

(S.P. 1061) (L.D. 2655)

Signed:

Senators:

GOLDTHWAIT of Hancock
DAVIS of Piscataquis
PENDLETON of Cumberland

Representatives:

AHEARNE of Madawaska
KASPRZAK of Newport
GERRY of Auburn
BAGLEY of Machias
RINES of Wiscasset

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

Signed:

Representatives:

BUMPS of China

RICHARDSON of Greenville

JODREY of Bethel

TWOMEY of Biddeford

McDONOUGH of Portland

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

READ.

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

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

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

Representative **BAKER**: Mr. Speaker, Men and Women of the House. I rise to congratulate the Bangor High School Boy's Basketball Team for their hard fought, but fantastic win against Westbrook two weeks ago. The Bangor High Team has brought honor and glory to Maine's queen city by bringing home the 2000 State Class A Championship. We offer them our heartiest congratulations and a special thanks to their inspiring coach, Roger Reed. Thank you.

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

Representative **SAXL**: Mr. Speaker, Men and Women of the House. It is my pleasure to add my congratulations to the Bangor High School Team. Their athletic prowess is renowned and this team has done us proud in Bangor. It is not only their ability on the courts, but the way in which they conduct themselves as athletes and scholars and gentlemen. I am very proud that they represent Bangor so well. Thank you to you and to your coach, Coach Reed.

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

Representative **PERRY**: Mr. Speaker, Men and Women of the House. It is also with a great deal of pride that I rise to congratulate the Bangor High Boy's Basketball Team on the State Championship. If any of you don't know, this is their fourth championship in the last seven years. Prior to their first championship it had been 32 years since they had won the Eastern Maine Championship. They are working on a real dynasty there. There is great leadership from Coach Reed and they are a great bunch of young athletes. With all due respect to Representative Plowman, the Hampden/Bangor High game was built up to be a real close hard fought game and Bangor High proved that defense will win basketball games, both in the Eastern Maine Championship Game and the State Game. They came out victorious in a big way and congratulations. Thank you.

Eight Members of the Committee on **BANKING AND INSURANCE** report in Report "A" **Ought to Pass as Amended by Committee Amendment "A" (H-1061)** on Bill "An Act to Establish a Patient's Bill of Rights"

(H.P. 543) (L.D. 750)

Signed:

Senators:

LaFOUNTAIN of York
DOUGLASS of Androscoggin

Representatives:

SAXL of Bangor
RICHARDSON of Brunswick
DUDLEY of Portland
O'NEIL of Saco
SULLIVAN of Biddeford
PERRY of Bangor

Three Members of the same Committee report in Report "B" **Ought to Pass as Amended by Committee Amendment "B" (H-1062)** on same Bill.

Signed:

Representatives:

JONES of Pittsfield
NUTTING of Oakland
GLYNN of South Portland

Two Members of the same Committee report in Report "C" **Ought to Pass as Amended by Committee Amendment "C" (H-1063)** on same Bill.

Signed:

Senator:

ABROMSON of Cumberland

Representative:

MAYO of Bath

READ.

Representative SAXL of Bangor moved that the House **ACCEPT** Report "A" **Ought to Pass as Amended.**

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

Majority Report of the Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-1070)** on Bill "An Act to Expand Pretrial Services for the Bail and Supervision of Criminal Defendants Statewide"

(H.P. 1446) (L.D. 2067)

Signed:

Senators:

LONGLEY of Waldo
TREAT of Kennebec
BENOIT of Franklin

Representatives:

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

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

Signed:

Representatives:

PLOWMAN of Hampden
WATERHOUSE of Bridgton

READ.

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

The Bill was **READ ONCE. Committee Amendment "A" (H-1070)** was **READ** by the Clerk and **ADOPTED.** The Bill was assigned for **SECOND READING** later in today's session.

Majority Report of the Committee on **JUDICIARY** reporting **Ought Not to Pass** on Bill "An Act Concerning Previous Passamaquoddy Indian Territory Legislation"

(H.P. 1871) (L.D. 2607)

Signed:

Senator:

BENOIT of Franklin

Representatives:

THOMPSON of Naples
BULL of Freeport
NORBERT of Portland
PLOWMAN of Hampden
JACOBS of Turner
LaVERDIERE of Wilton
MADORE of Augusta
SCHNEIDER of Durham
WATERHOUSE of Bridgton

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-1071)** on same Bill.

Signed:

Senators:

LONGLEY of Waldo
TREAT of Kennebec

Representative:

MITCHELL of Vassalboro

READ.

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

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

Representative **THOMPSON:** Mr. Speaker, Men and Women of the House. I want to set out some of the information regarding this issue. I want to give you a little background for the debate. As you know the issues of claims between the tribes and the state resulted in an agreement, which was later enacted into Maine law under the Indian Land Claims Settlement Act in 1980. In that act it defined different parcels of land in different ways. Some of the land being the reservation land of the tribe and the nation and other parcels being Indian Territory. In that settlement it defined certain areas in which land could be obtained, purchased by the tribe and then acquired by the Secretary of the Interior in trust for the tribe. It is defined where those lands could be and it set a deadline for when those lands could be acquired. There have been several amendments to both of these provisions since then. This issue involves one such an amendment, which occurred in 1992.

In that Legislature in 1991 and 1992 there was a bill introduced, which changed the Bingo laws in 1991, which went before the Legal and Veterans Affairs Committee. It changed the provisions of the high-stakes Bingo law to indicate that high-

stakes Bingo, which formerly could held on the reservation land, would be able to be held on Indian Territory land. That bill passed in 1991 and went into affect after the normal process, which was somewhere around September of 1991. In February 1992, there was a bill that was introduced to add a parcel of land, 18 acres, in Albany Township to the list of lands, which could be acquired as Indian Territory on behalf of the Passamaquoddy Tribe. That bill was enacted by the Legislature in 1992. In 1994, the land in Albany Township was accepted in trust by the Secretary of the Interior. In 1997, the Passamaquoddy Tribe applied to LURC, the Land Use Regulation Commission, for a permit to build a high-stakes Beano hall on the land in Albany Township. There was a hearing in front of LURC and the permits were issued. A zoning change and a permit was issued for the building of the Beano hall. That permit was then appealed by a group of local residents to the Superior Court and the Superior Court found that the land in question was not Indian Territory and that subsequently was appealed by the tribe to the Maine Supreme Judicial Court. The Maine Supreme Judicial Court held a hearing and obviously both sides briefed the issue as all cases before the law court are done and the law court issued a decision in February of this year indicating that upholding the decision of the Superior Court that the parcel in Albany Township was not, in fact, Indian Territory. The tribe then asked for a stay of mandate. A mandate is when the court case becomes a final decision of the law court. That was denied by the law court so on March 1st, I believe it was, of 2000, the mandate was issued by the court, meaning it was final decision of the court.

Subsequently, the Passamaquoddy Tribe, Representative Soctomah, filed a bill, which would have overturned the law court decision and reinstated the LURC permits and allowed the tribe to go forward with the building on that parcel. That bill is no longer before you. The bill that is before you does not do all that was in the original bill. The Committee Amendment, the Minority Report, before you simply corrects the issue that the court used to make its decision. I will go into that now.

The court in its decision indicated that the land in question was not Indian Territory because having a parcel taken into Indian Territory is a two-step process. It has to be a piece that is recommended by MITSC, which is the Maine Indian Tribal State Commission, to the Legislature. The Legislature then must pass the legislation and then the tribe must ratify that decision or accept that decision. Then the Secretary of the Interior must accept that in trust by the date set forth in the statute. The court found that the first part of that process had taken place. That is that the Legislature began the process of making the Albany Township parcel a part of Indian Territory by adding it to the list in the statute of lands, which could be accepted into Indian Territory. The law court also found that although the second part of the step of acceptance by the Secretary of the Interior was not met because the date in the statute by which land must be accepted by the Secretary was January 31, 1991 and the land was not accepted by the Secretary of the Interior until 1994.

It was debated in front of us and that was presented to us and I am sure is the position of the tribe and others that supports this report, the Minority Report, that that was a mistake by the Legislature and that they intended to complete the transaction, but inadvertently failed to change the date. The court actually looked at that issue and said that that may have been so, but that certainly is not something that the court could change. They could not make up a date to replace the date that is in the statute

and in essence said there was a two-step process and one of the steps was taken and it is up to the Legislature whether or not to take that second step.

I think that fairly accurately brings us to where we are today. Once the court decision came out and was finally issued, the bill was filed to, as I indicated, to overturn the law court decision by, among other things, I guess that is not important because the committee report is slightly different, but the Minority Report intends to charge the date by which the Secretary of the Interior can accept parcels into Indian Territory, thereby that act making this parcel in Albany Township Indian Territory.

We had discussions in the committee on this issue and we came out with an 11 to 2 report of Ought Not to Pass. I can't begin to tell you the reasons for everybody's position on this bill. I can only tell you some of the reasons why the people on the majority voted Ought Not to Pass. Some of that is that back in 1991 the requirement is to recommend approval before any parcel of can be accepted into Indian Territory and at that time there was no public hearing held by MITSC on that issue. They held a meeting and voted to support the introduction of that parcel into Indian Territory, but no public hearing was held by MITSC at that time, even though from my understanding of the bylaws, their bylaws at that time and still currently required them to hold a public hearing. Once again, when this bill was introduced, MITSC met on March 10, I believe it was, and voted once again to support change necessary to make this parcel Indian Territory, but there were a number of members of the committee who felt that because there was not a prior public hearing that there should be a public hearing at this time on the issue and it was 5 to 3 vote in favor of adopting this into Indian Territory with one person absent. That person subsequently went on record saying they wanted more time also.

Another factor in my decision is the fact that this, even though it is probably a small chance of doing so, this case could potentially be appealed to the United States Supreme Court. It is a final decision of the law court, but there is the possibility that this could be appealed to the US Supreme Court. I have a concern with the issue of this still being pending litigation. We, as a committee were given the opportunity to interfere with this litigation last year, I believe, or the year before last. It was a bill, which would have, on behalf of Albany Township people, would have excluded it. We refused to get involved in the litigation and I feel I am being consistent on that issue because although this law court has made their final decision, there is a possibility of a further appeal. It is a major issue to the people of Albany Township and it is also a major issue to the people of the Passamaquoddy Tribe. It is not an easy decision. For me, by making this decision and voting on the Ought Not to Pass report, I am not making a decision at this time that this parcel should not become Indian Territory. I just don't think that at this time I am ready to vote to do that because of the reasons I have indicated. This issue, I am sure, if it is defeated now will be brought back to the next Legislature and will be given public hearing and it will be something that will be debated and I would say that next year I might have voted differently if I were to be here, but I am not going to be.

That lays it out. I am not here to convince anyone. I think a lot of people have been thinking about this issue. I think it is the right vote on Ought Not to Pass at this time. You will be hearing a lot more debate on this issue. I think the first time up I want to just lay it out to you and hopefully give you the facts so as you

listen to the rest of the debate, you can use that in making in your decision. Thank you.

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

Representative MITCHELL: Mr. Speaker, Men and Women of the House. I would like to start by making on small correction to the previous speaker. The report is actually 10 to 3, with two of the three being members of the other body and not 11 to 2. I am sorry if I repeat some of the information, but this is an issue that has taken us on the committee years to sort of get our hands around. I want to repeat it and maybe make it a little simpler and help you understand the issue further. In 1992, the Judiciary Committee and the full Maine Legislature passed a bill. The bill added one line to the then current law. At the end of a list of lands that could qualify as Indian Territory it added the words "and any lands in Albany Township acquired by the Passamaquoddy Tribe before January 1, 1991." That was it. Unfortunately there was an oversight and although it is hard to believe in retrospect that such a large oversight could exist, it did. The law to which this line was added, a line authorizing more land to become Indian Territory contained a deadline of 1991 to have the land certified by the Secretary of the Interior. This is a 1991 deadline on a bill passed in 1992. That is the crux of the problem. It was a drafting error. In fact, it is the kind of error that in the past or under other circumstances may have simply been corrected without fuss.

Here is where the buggie man enters the picture, the specter of gambling. The Passamaquoddy Tribe wanted to build a Beano Hall on this land. It is an action completely within their rights if the land is Indian Territory. Not surprisingly, there was local opposition to the plan and in looking for a way to stop this development the local opposition found the legislative error. Again, not surprisingly, they seized upon it and went to court. Last year my committee heard a bill asking us to specifically state that the Albany Township lands were not and could not become Indian Territory. We killed that bill because that very issue was still being litigated and we really aren't in the roll of interfering with pending court cases as the previous speaker stated. This year we were looking at a new bill. It was one put forward by the Passamaquoddy and we had a final decision from the Maine Supreme Court to work with. The holding of that case did make clear that the error made in the 1992 bill meant that the land had not yet become Indian Territory.

Listen carefully to the words chosen by Justice Softly in her holding, she said, "Although it is apparent that the Legislature intended to begin the process of creating Indian Territory in the Albany parcel, it did not complete the steps necessary to accomplish the goal." She said right there that it is apparent that that is what the Legislature intended, but that it was up to the Legislature and not the court to remedy the problem, if we chose to do so. To paraphrase, a mistake was made and it is up to us to take care of it. It would be done already, but for one issue. The Passamaquoddy wanted to build a Beano Hall on the parcel. I know how many of you feel about gambling. I am not attempting to say that gambling is a good thing. I am merely asking you to try as hard as you can to focus on the issue at hand, which is a technical error. The issue is not, or at least shouldn't be, gambling. Sometime in the mid '80s the Maine Legislature gave the tribes the right to conduct these Beano games on their territory. I am not taking a position on the merits of that decision or even on gambling in general. I won't vote today based on my feelings towards gambling and I sincerely

hope that you won't either. I hope if you do have concerns with gambling, you will address them head on and not through this technical error.

When this bill came to my committee this year, it was very different than it is now in front of you. There is no retroactivity in this bill with my amendment. It merely puts things where the Legislature tried to put them in 1992. If the tribe wants to develop the parcel, they will still have to go through a LURC permitting process again. We heard a lot, that is an understatement, of testimony on this bill. There were many good people that came forward and showed pictures of the forests and talked of their favorite places to walk in Albany Township. It really sounded like a beautiful place, but the Judiciary Committee is not a planning board. I am not going to invoke the history of state tribe relations, but I am going to address a recent technical error in a fair way, the way we would do it for any other group. I found it telling that someone said to me that were it not for the gambling issue, they would support this bill without hesitation. That person is not being impartial. Please don't let your feelings on gambling influence your vote on correcting a drafting error in an Indian Territory bill. In fact, it would be disingenuous of me to say that passage of this bill would not likely lead to Beano Hall, there is no guarantee that one will built. They will have to receive permits from LURC and the residents of Albany Township can bring their land use concerns to the proper authority. Please look closely at this bill. Don't lose sight of the issue because when it comes down to it, it is a matter of fairness. An error was made in 1992 making it an impossibility to proceed under the law. We now have that error illuminated and I believe we should fix it. Thank you for your attention on this issue.

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

Representative SHOREY: Mr. Speaker, Ladies and Gentlemen of the House. My good friend from Vassalboro stated it quite correctly. This was a legislative oversight. We have to look at the intent. I have spoken with Representative Harry Bailey, who at the time was from Princeton, was the sponsor of the legislation. He wrote a letter that I read to the committee during the hearings. In that letter he stated the intent was to make this Passamaquoddy Territory and the fact was there was a technical error. I ask you to overlook all the other surrounding issues that are involved in the gambling and do as the Representative from Vassalboro said, look at the issue at hand. The issue at hand was there was a technical oversight. Please vote to defeat this motion. Thank you.

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

Representative MARTIN: Mr. Speaker, Members of the House. Since I was one of those that were here in that time, I do want to add a couple comments. It is clear, I think, by the committee vote that probably this bill has absolutely no future, but I do think it is important that we know what the facts were and what they are now. It is unfortunate that the bill, as it was drafted, ended up going to committee talking about approval or re-approval of the LURC permit that was granted. I am not sure that was proper. I think what I would have preferred seeing was the bill doing what it was intended to and should have done, in my opinion. That was to certify that the land in question, in fact, was covered by the law. I believe that the court misunderstood even though I find myself somewhat hesitant from making that comment. Lo and behold from time to time those seven people that sit in Portland can be wrong. I do believe that what took

place in this instant was clearly a legislative error. If you look at the history of what took place, it doesn't matter if you are for or against the casino or for or against the citizens of Albany Township, but it does matter to me as to whether or not we are correcting an error. Lo and behold in a few minutes and later today there will be another bill before us, Lake Arrowhead, were some members of the State and Local Committee will be before you saying we are correcting an error. The Legislature made a mistake a number of years ago and we are going to back up that situation and some of you are who have already been lobbied both ways perhaps will have to make a decision on that same question.

Did the Legislature make a mistake? It wouldn't be the first time and it probably won't be the last time. I do know from my feeling that I would be remiss in my duty as a legislator that was here at the time that I knew what we were doing with Albany Township. I knew it then and I know it now. Whether or not we are for or against the casino, that is a totally separate issue in my mind. I am not particularly in favor of casinos and am not particular in favor of betting and I am not particularly in favor of a horse betting or any other kind of betting even though it goes on throughout this country and this world. That is not the issue here. It is the issue of fairness and correcting an error. Unfortunately, I suspect, because of the way this bill was handled and because of the history, the vote will be in the negative. That doesn't make it right, in my opinion. I would like you to jump over that question and to vote for what really is a legislative error. If you vote against this bill today, may I suggest you also vote against Lake Arrowhead that will follow later today, because it is the very same issue. To the point it is the very same issue, trying to correct what the Legislature intended to do at the time. We can't have it both ways. If we do, I will be the first to remind you that we have.

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

Representative MCKEE: Mr. Speaker, Men and Women of the House. I appreciate what the good Representative from Eagle Lake had to say. This is the right thing to do. In 1992, the bill was unanimously recommended by the Maine Indian Tribal State Commission. It was reported unanimous Ought to Pass by the Judiciary Committee. It was approved without debate or dissent by both the House and Senate. It was signed by the Governor. It was then ratified in keeping with that treaty by the Passamaquoddy Joint Tribal Council. It was passed into law with a technical error. Believe you me, if the Town of Wayne had come before this body and asked for some sort of similar request and there had been an error made in that date, you can bet that the Maine Municipal Association would have been right there this year before the Judiciary Committee telling us it was a technical error and it was something that had to be corrected for a Maine municipality. We must do the same thing for the Passamaquoddy people. Injustice anywhere is a threat to justice everywhere. We have quoted Martin Luther King several times this week. Let's use him again. Injustice anywhere is a threat to justice everywhere. I really applaud what this body has done this session regarding Native people. What a historic, momentous time to change all place names that included "squaw" to eliminate that word from those place names. We learned a lot about the Passamaquoddy people, the Maliseets and the Penobscots during that week. Many of you admitted that it was ignorance that made you think that perhaps that word should just stay.

Governor Doyle spoke before the Judiciary Committee and he said some words that we have heard many times from Native people over the past 300 years. He said that in 1992 and I quote him, "You gave us your word and we accepted it. We didn't take shortcuts to the process. In fact, the law followed an Attorney General's opinion. In fact, the Maine Indian Tribal Commission reviewed this matter twice and agreed both times. The State Legislature reviewed this matter and agreed. Governor McKernan reviewed this matter and agreed. The Secretary of State's Office received our certification that the tribe had ratified this change to the implementing act. We thought we had a law. The tribe thought we had your word on this matter. Because it was the implementing act that was being amended, we understood, we had a law that neither the tribe nor the state could undo without the cooperation and consent of the other. That is one of the most basic and essential parts of the settlement. The tribe still feels that your word is good. For any of you have studied Native people, you know that that statement echoes what Native people have said for 300 years about the sacredness of the word. The word is sacred.

The three bills that we have had before this body were very different. The first one dealt with the denotation and the connotation of a word, which we have heard all our lives. We learned a lot during that time. The second bill had to do with a request by the Maliseet people in the Town of Houlton. It was a very complex bill to the Judiciary Committees credit, they spent hours and hours trying to do something about that bill. The third bill, which is the one on the floor of the House, deals with a technical error. All three are different. I hope that you will take the time to try to understand what is being asked here. It is to correct a technical error.

There is a piece of paper on the bulletin board in my classroom. It is in the middle of a whole bunch of photographs of Native people across the country. It is part of the Native American unit, which I teach. That little piece of paper is the word of one Native person many, many years ago. The words are these. "You made many promises to us, but you only kept one. You promised you would take our land and you did." There are many, many treaties that are still all over this country. One of the largest collections is in the Newbury Library in Chicago. When you go into that place, you have to put on gloves. You go into an air-conditioned place where these broken treaties are stored. They are unrolled by an archivist and you look at the words and you look at the thumbprints and the signs and you read the words about lands not to be transgressed and you read about goods that are supposed to be given for the use of certain lands. When you are finished going through the Fort Laramie Treaty and numerous other treaties or when you are here in our own archives looking at Maine Indian treaties, when you finish reading the treaties, at least in Chicago, the archivist says to you, not one of these treaties was ever kept. It is a heart stopping statement to hear that after you realize how many hundreds of thousands of dollars are being spent to keep these. Those treaties to these people were about keeping your word.

We gave the Passamaquoddy people our word in 1992 that this was a law that was being passed in good faith. The law court has said we may act on this and the Passamaquoddy people have been given a stay while we decide what to do here. A mistake was made. We can do the right thing. We don't have to continue the pattern of having these people jump through hoop after hoop after hoop in order to finally have justice. Thank you.

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

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from the Passamaquoddy Tribe, Representative Soctomah.

Representative **SOCTOMAH**: Madam Speaker, Men and Women of the House. This body has made tremendous strides in correcting past wrongs and is working for a better future for all. It is with a heavy heart that I speak to you today. If the Majority Report is accepted, my tribe will lose much. Many of you may think that this is about a tribal Bingo Hall. For opponents of our bingo, this is all the bill is about. For me, for my tribe, for Indian people of the state, there is much more at stake.

If the Majority Report is accepted, the state would turn its back on a commitment that it made to my tribe in 1992. That commitment was made in an act of this Legislature, but it was not ordinary legislation. It was an amendment to the Maine Indian Claims Settlement Act of 1980. For that reason, it was done through an elaborate process built into the settlement act itself, in which this Legislature, the State Governor, and the tribal government must work together and each give their approval to change any part of the 1980 settlement act.

In 1992, the Governor signed such an amendment. It was a simple bill. It added a single piece of land in Albany Township to the settlement act definition of the Passamaquoddy Indian Territory.

The amendment had been recommended unanimously by the Tribal State Commission, which is made up of both state and tribal appointees and was set up by the original settlement act in large part to advise the Legislature. The 1992 bill was recommended unanimously by the Judiciary Committee. It was passed by both houses of the Legislature without a dissenting vote. Because it amended the settlement act, however, it became law not when it was signed by Governor McKernan, but only when it was formally approved by the Passamaquoddy Joint Tribal Council.

The Legislature does not have the power to repeal that 1992 amendment unless it acts with the cooperation and consent of the tribe. In that way, the settlement act is a treaty and the 1992 amendment is an amendment to a treaty.

We have gotten where we are today in several stages. First, the state courts completely ignored the treaty nature of the 1992 amendment and the obvious intentions of both the tribe and the Legislature. They seized on a technicality of legislative drafting to read the 1992 treaty amendment as only a halfway measure, a listing of the property as future Indian Territory, a law that would only achieve its purpose if another bill is passed.

The four appointees of the Tribal State Commission each misread the court decision and stripped the 1992 law of even the partial effect that the court had used to save the law from being completely meaningless. Under the reading adopted by the state members of the Commission, the 1992 law did nothing, and the court required the process to start again at the beginning, with a new commission recommendation.

Neither the courts nor the commission decisions would make any difference. However, if the Maine Legislature were willing to correct the technical oversight in the wording of the 1992

settlement and complete the job of giving effect to the intent of all parties in 1992.

The greatest disappointment, then, is in the Majority Report's recommendation that nothing be done and that the 1992 treaty amendment be left incomplete, as the court describes it, knowing full well that incomplete really means ineffective. The court's decision on this law defers to the Legislature. This would correct the technical oversight. The tribe would have only what we understood was agreed to in 1992 and what was granted by the state's own agency. There is not state action as permanent as an act of the Legislature amending the settlement act, once it is approved by the Governor and also approved by the Passamaquoddy Tribal Council. Yet, the acts of the state courts, the appointees to the Tribal State Commission and now the Majority Report of the Legislature's Judiciary Committee, would tell the Passamaquoddy people that the state will turn its back on even the settlement act whenever it no longer wants to agree to what it has already agreed to. This is not a good message. It is not a message that you would receive well if it came to you from the tribe.

Relations between the tribes and the state must be conducted honorably. Only when the parties show their honor and correct a mutual mistake can trust be expected to grow. This bill is not about Bingo. It is not about Albany Township. It is about honoring a commitment between the state and my tribe.

The Majority Report is a giant step in the wrong direction. A vote to accept this report is a vote to breach a treaty with the Passamaquoddy tribe. I urge you to vote against it.

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

Representative **MCKEE**: Madam Speaker, Men and Women of the House. I will be brief because we will be voting on this bill very shortly and there are not very many people sitting here. I hope that the folks who are within the sound of my voice will hear me when I say that we should reject the Majority Ought Not to Pass Report and go on to accept the Minority Ought to Pass Report when we start to vote. This is about honoring a commitment to the Passamaquoddy people. We have been told by the law court and the tribe has been given a stay while we are allowed to do this that we can correct this problem in the Legislature. We have an opportunity right now to do it by rejecting the Majority Ought Not to Pass Report and accepting the Minority Ought to Pass Report. Madam Speaker, when the vote is taken, I would request a roll call.

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

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

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Bethel, Representative Jodrey.

Representative **JODREY**: Madam Speaker, Men and Women of the House. I am going to stand in opposition to the LD in front of us and try to explain why. I think that we need to support the Ought Not to Pass as the majority has recommended. I think something needs to be said here so there won't be a lot of hard feelings, whichever way this goes. This is not meant to be opposition to the tribe or its cultural decisions. It is not meant to discourage the tribe in locating high-stakes Bingo facility on the reservation or finding a location for this type of facility that is compatible. High-stakes gambling is a large-scale adult only community development. It is not meant to do a disservice to the 1980 Indian Land Claims Settlement. The

question relates to one of the many amendments in favor of the tribe's efforts to add to its 1980 list. It does not affect the tribe's ownership rights to this parcel, but only whether it is eligible for special privileges afforded by Indian Territory Statutes. Everything that has been said is much better than I can say it. I just have a couple of things that I think need to be mentioned. The Kimball vs. LURC lawsuit, the Superior Court and the Supreme Court of Maine have both ruled that this parcel is not properly qualified as Indian Territory. It goes on to say that the Legislature should not lightly reverse this outcome. This is a decision that has just been made March 1 of this year. I think we, as citizens in this body, need to continue to support our rules and regulations in our Judiciary. Thank you.

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

Representative LORING: Madam Speaker, Men and Women of the House. The Penobscot Nation has a legal standing in how this amendment to the implementing act is being treated by this legislative body. We watch with great anticipation and concern as to whether or not you will honor your agreement and to see if there is integrity in the process. We fear the same thing could happen to us a few years in the not so distant future. If you fail to honor your agreement, the effect of such a failure would be to alienate the other tribal governments who were parties to the act.

In 1992, the bill to amend the settlement act, to make land in Albany Township Indian Territory, went through all the stages required by the same act. It was not a simple process and in order for this to have become law the legislative body, the Governor and the Passamaquoddy Joint Council all had to agree. The bill sailed through the Judiciary Committee with unanimous Ought to Pass. It did not receive one negative vote in either the Senate or the House. The bill was signed by the Governor without question. I was curious to see the membership of the Judiciary Committee at that time. I wondered what was the caliber of the people on the committee who would have passed this bill unanimously. Committee members at the time were as follows: Senator N. Paul Gauvreau, Senator Georgette Berube, Senator Muriel Holloway, Representative Patrick Paradis, Representative Constance Cote, Representative Patricia Stevens, Representative Cushman Anthony, Representative Susan Farnsworth, Representative Andrew Ketterer, Representative Dana Hanley, Representative John Richards and Representative David Ott.

There is no doubt in my mind that every one of those people thought that the amendment they had unanimously passed made the Albany Township land Indian Territory. We all know that the Legislature, the Governor and the Passamaquoddy Tribe all intended for this land to be Indian Territory.

This process was challenged and the Maine Supreme Court vacated the Land Use Regulatory Ruling on a technicality. The technicality was a simple one. The date by which trust land could be acquired was not changed. The Minority Report changes the date. I ask you to defeat the Ought Not to Pass Majority Report and go on to pass the Minority Report of Ought to Pass as amended. The change of date would give the Passamaquoddy Tribe the same date extension as you passed in both bodies of the Legislature just last week for the Penobscot Nation. That bill sailed through both houses too without one negative vote. I further add that we have never had a problem extending our deadline.

We all know the real reason for this controversy. It stems from allegations by members of Albany Township that the Passamaquoddy Tribe is planning to build a colossal casino in the middle of their pristine township. I remind you that there are rigid Maine laws governing Bingo in Indian Territory. Because of these laws, it would be virtually impossible to operate a Bingo Hall that would rival the dreaded Foxwood Casino in Connecticut. The issue of gaming surfaces every time a tribal bill is considered. This bill is no exception. The Judiciary Committee was swamped with letters from concerned Albany Township people begging us to save their town from the gaming industry and the hords of people it would attract. The State of Maine is not innocent when it comes to gaming. Clearly different standards are being used for tribes than the State of Maine uses for itself.

I've heard it discussed a number of times in this session. For instance, expanding the lottery to include other New England states to make a super jackpot. I've heard debate on using credit cards to place bets over the phone. Racetrack issues were also debated. Mom-and-pop stores as well as supermarkets carry Megabucks Tickets and scratch card games. The Maine State Lottery is advertised on all the local TV channels. Yet, when the Passamaquoddy Tribe plans a Bingo Hall on what they believed to be Indian Territory, this is a horrible thing that must be prevented at all costs. I hear, sorry, if it weren't for the gambling issue, I'd vote in your favor. What kind of hypocrisy is that? My point is this. If gaming is such a horrible thing, get rid of it for the entire state. Stop using it as an excuse to vote against tribal bills.

Finally, I remind you that Maine Tribal Governments are watching to see if this body has the integrity and fortitude to honor its commitments. I ask you to simply do the right thing. Honor your agreement. Honor your agreement. Honor your agreement.

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

Representative TRACY: Madam Speaker, Men and Women of the House. I rise in support of the Minority Report and I will explain to you why I will be voting against the pending motion. I was an elected official in this great body in 1992. I supported the amendment of the Indian Lands Claim Act at the time in LD 2081. If there is an error and this is inconsistent law, then I must vote for my original intent in 1992 even if the bill went under the hammer. By the way, I didn't vote to support the casino in this chamber or any gambling issues at the time. I would suggest that you vote against the pending motion so we can correct this inconsistency. Thank you.

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

Representative TRUE: Madam Speaker, Ladies and Gentlemen of the House. I will be very short. I would ask each and every one of you to remember when you raised your hand in this House. You raised your hand to uphold the laws of the state and to represent its people, all of its people. That has to do with two major facets, which sometimes we forget. That is honor and integrity. We are not voting for gambling or anything other than what is right. I hope that you will all remember what is right today. Thank you.

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

Representative TOBIN: Madam Speaker, Ladies and Gentlemen of the House. This is a very difficult vote for me

because had I been in the Legislature in 1992, I would have voted against this. Had I been in the Legislature when we voted on Beano, I would have voted against Beano. We are not voting on that today and I have to vote for what I think is right. It is very, very clear with this piece of paper that the Legislature made a mistake in 1992. I see no other way than to vote to correct that mistake. Thank you.

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

Representative CHICK: Madam Speaker, Men and Women of the House. I have heard words here this morning that have caused me to remember taking an oath. I recall very well the first oath that I took in coming to this body. I had taken many, but I realized that I was taking an oath for everyone in the State of Maine, the entire state and to the best of my ability I have tried to follow this. I hear words here this morning and I am reminded of only one thing. All of my life, probably it has been limited to the amount that I have read, but the case of broken promises, that comes to my mind most this morning. For that reason and others, I shall support the people that came here asking for our help. Thank you.

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

ROLL CALL NO. 567

YEA - Andrews, Belanger, Berry DP, Bowles, Bruno, Bryant, Buck, Bull, Cameron, Campbell, Carr, Cianchette, Clough, Collins, Davis, Duncan, Etnier, Fisher, Foster, Fuller, Gagne, Gooley, Green, Heidrich, Honey, Jabar, Jacobs, Jodrey, Joy, Kasprzak, Kneeland, LaVerdiere, Lemoine, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, Marvin, McDonough, McKenney, McNeil, Murphy T, Muse, Nass, Norbert, O'Brien JA, Peavey, Plowman, Richardson E, Rosen, Savage C, Schneider, Sherman, Shields, Snowe-Mello, Stanwood, Stedman, Thompson, Townsend, Trahan, Treadwell, Waterhouse, Weston, Wheeler EM, Winsor, Mr. Speaker.

NAY - Ahearne, Bagley, Baker, Berry RL, Bolduc, Bouffard, Bragdon, Brennan, Brooks, Bumps, Chick, Chizmar, Clark, Colwell, Cote, Cowger, Cross, Davidson, Desmond, Dudley, Dugay, Dunlap, Duplessie, Frechette, Gagnon, Gerry, Gillis, Glynn, Goodwin, Hatch, Jones, Kane, Labrecque, Mailhot, Martin, Mayo, McAlevey, McGlocklin, McKee, Mendros, Mitchell, Nutting, O'Brien LL, O'Neal, O'Neil, Perkins, Perry, Pieh, Pinkham, Povich, Powers, Quint, Richard, Richardson J, Rines, Samson, Sanborn, Savage W, Saxl JW, Saxl MV, Shiah, Shorey, Skoglund, Stanley, Sullivan, Tessier, Tobin D, Tobin J, Tracy, Tripp, True, Tuttle, Twomey, Usher, Volenik, Watson, Wheeler GJ, Williams.

ABSENT - Daigle, Matthews, Murphy E, Sirois, Stevens.

Yes, 68; No, 78; Absent, 5; Excused, 0.

68 having voted in the affirmative and 78 voted in the negative, with 5 being absent, and accordingly the Majority Ought Not to Pass Report was **NOT ACCEPTED**.

On motion of Representative MARTIN of Eagle Lake, the Minority Ought to Pass as Amended Report was **ACCEPTED**.

The Bill was **READ ONCE**. Committee Amendment "A" (H-1071) was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** later in today's session.

The Speaker resumed the Chair.

The House was called to order by the Speaker.

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

CONSENT CALENDAR

First Day

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

(H.P. 182) (L.D. 260) Bill "An Act to Enhance the Enforcement of Civil and Criminal Violations" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-1056)**

(H.P. 1861) (L.D. 2596) Bill "An Act to Revise the Law Protecting Farmers' Right to Farm" Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-1069)**

(H.P. 1868) (L.D. 2604) Bill "An Act to Address Nonpoint Source Pollution from Certain Sources" Committee on **NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-1072)**

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

There being no objection, the House Papers were **PASSED TO BE ENGROSSED as Amended** and sent for concurrence.

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

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

UNFINISHED BUSINESS

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

Bill "An Act to Clarify the Authority of State Environmental and Public Health Officials to Monitor and Regulate Nuclear Power Plant Decommissioning, Site Cleanup and Restoration Activities" (EMERGENCY)

(S.P. 955) (L.D. 2496)

TABLED - April 3, 2000 (Till Later Today) by Representative MARTIN of Eagle Lake.

PENDING - ADOPTION OF COMMITTEE AMENDMENT "A" (S-617).

On motion of Representative MARTIN of Eagle Lake, the Bill and all accompanying papers were **COMMITTED** to the Committee on **NATURAL RESOURCES** in **NON-CONCURRENCE** and sent for concurrence.

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

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass pursuant to Joint Order (H.P. 1822)** on Bill "An Act to Revise the Salaries of Certain Kennebec County Officers" (EMERGENCY)

(H.P. 1933) (L.D. 2677)

Signed:

Senators:

PENDLETON of Cumberland
GOLDTHWAIT of Hancock
DAVIS of Piscataquis

Representatives:

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

Minority Report of the same Committee reporting **Ought Not to Pass pursuant to Joint Order (H.P. 1822)** on same Bill.

Signed:

Representative:

GERRY of Auburn

READ.

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

The Bill was **READ ONCE**.

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

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

Divided Report

Majority Report of the Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass pursuant to Joint Order (H.P. 1822)** on Resolve, for Laying of the County Taxes and Authorizing Expenditures of Kennebec County for the Year 2000 (EMERGENCY)

(H.P. 1934) (L.D. 2678)

Signed:

Senators:

PENDLETON of Cumberland
GOLDTHWAIT of Hancock
DAVIS of Piscataquis

Representatives:

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

Minority Report of the same Committee reporting **Ought Not to Pass pursuant to Joint Order (H.P. 1822)** on same Resolve.

Signed:

Representative:

GERRY of Auburn

READ.

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

The Resolve was **READ ONCE**.

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

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

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

The following 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 yesterday, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

Bill "An Act to Clarify the Tuition Waiver Program for Persons Who Resided in Foster Care as Children"

(H.P. 1909) (L.D. 2657)

TABLED - March 29, 2000 by Representative BRENNAN of Portland.

PENDING - **PASSAGE TO BE ENGROSSED**.

Representative BRENNAN of Portland **PRESENTED House Amendment "A" (H-1073)**, which was **READ** by the Clerk and **ADOPTED**.

The Bill was **PASSED TO BE ENGROSSED as Amended by House Amendment "A" (H-1073)** and sent for concurrence.

MATTER PENDING RULING

Bill "An Act to Increase the Minimum Wage in Maine"

(S.P. 425) (L.D. 1262)

(S. "A" S-620 to C. "A" S-534)

TABLED - April 4, 2000 by Speaker ROWE of Portland.

PENDING - **RULING OF THE CHAIR**.

Subsequently, the Chair **RULED** that **House Amendment "A" (H-878)** was not Germane.

Subsequently, the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-534) as Amended by Senate Amendment "A" (S-620)** thereto in concurrence.

Representative MACK of Standish moved that the rules be **SUSPENDED** for the purpose of taking up Item #8 of Unfinished Business out of order.

Subsequently, the same Representative **WITHDREW** his motion to **SUSPEND** the rules.

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

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-1079)** on Bill "An Act to Amend the Laws Regarding the School Administrative District Budget Approval Process"

(H.P. 949) (L.D. 1346)

Signed:

Senators:

BERUBE of Androscoggin
MURRAY of Penobscot
SMALL of Sagadahoc

Representatives:

RICHARD of Madison
DESMOND of Mapleton
WESTON of Montville
WATSON of Farmingdale
STEDMAN of Hartland
BRENNAN of Portland
ANDREWS of York
BAKER of Bangor
SKOGLUND of St. George

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

Signed:

Representative:

BELANGER of Caribou

READ.

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

The Bill was **READ ONCE**. **Committee Amendment "A" (H-1079)** 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-1079)** 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:

(H.P. 1649) (L.D. 2318) Bill "An Act Concerning Eligibility Requirements for State Employees in the Purchase of Military Service Credits" Committee on **LABOR** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-1075)**

(H.P. 1803) (L.D. 2530) Bill "An Act to Restore Federal Protections to Maine State Employees" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-1076)**

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

There being no objection, the House Papers were **PASSED TO BE ENGROSSED as Amended** and sent for concurrence.

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

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

UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment yesterday, have

preference in the Orders of the Day and continue with such preference until disposed of as provided by House Rule 502.

JOINT STUDY ORDER - Relative to Establishing a Committee on Gasoline and Fuel Prices

(H.P. 1774)

- In House, Majority (7) **OUGHT TO PASS AS AMENDED** Report of the Committee on **TRANSPORTATION READ** and **ACCEPTED** and the Joint Order **PASSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-957)** on March 31, 2000.

- In Senate, Minority (6) **OUGHT NOT TO PASS** Report of the Committee on **TRANSPORTATION READ** and **ACCEPTED** in **NON-CONCURRENCE**.

TABLED - April 4, 2000 (Till Later Today) by Representative **JABAR** of Waterville.

PENDING - FURTHER CONSIDERATION.

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

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

JOINT RESOLUTION RECOGNIZING THE MONTH OF APRIL AS CHILD ABUSE PREVENTION MONTH

(H.P. 1917)

TABLED - April 3, 2000 (Till Later Today) by Speaker **ROWE** of Portland.

PENDING - ADOPTION.

Subsequently, the Joint Resolution was **ADOPTED** and sent for concurrence.

BILL RECALLED FROM ENGROSSING DEPARTMENT

(Pursuant to Joint Order - House Paper 1931)

Bill "An Act to Implement the Recommendations of the Blue Ribbon Commission to Establish a Comprehensive Internet Policy"

(S.P. 995) (L.D. 2557)

- In House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-632)**.

On motion of Representative **COLWELL** of Gardiner, the House **RECONSIDERED** its action whereby the Bill was **PASSED TO BE ENGROSSED as Amended**.

The same Representative **PRESENTED House Amendment "A" (H-1050)** which was **READ** by the Clerk,

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

Representative COLWELL: Mr. Speaker, Ladies and Gentlemen of the House. This is the first act of the Committee on Engrossed bills of which I am chair. It is a very busy committee this time of year. I have had a lot of interest in this particular item because there is so much interest in the Internet. Believe me, this is a purely technical amendment. It changes the words 119th Legislature to of the 119th Legislature so you can see the incredible skill with which my committee operates. I would like to thank Representative **Bull**, Representative **Jacobs**, Representative **Twomey**, Representative **Lindahl**, Representative **O'Brien**, Representative **Schneider** and Representative **Tobin** of **Windham** for all their fine work on this issue. Thank you.

House Amendment "A" (H-1050) was **ADOPTED**.

The Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-632) and House Amendment "A" (H-1050) in NON-CONCURRENCE** and sent for concurrence.

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 yesterday, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

An Act to Clarify Responsibilities for the Maintenance of Veterans' Grave Sites (MANDATE)

(S.P. 302) (L.D. 873)

(H. "A" H-995 to C. "A" S-581)

TABLED - April 5, 2000 (Till Later Today) by Representative TUTTLE of Sanford.

PENDING - **ADOPTION OF HOUSE AMENDMENT "C" (H-1065) TO COMMITTEE AMENDMENT "A" (S-581)**. (Roll Call Ordered)

Subsequently, Representative GOOLEY of Farmington **WITHDREW House Amendment "C" (H-1065) to Committee Amendment "A" (S-581)**.

The same Representative **PRESENTED House Amendment "D" (H-1074) to Committee Amendment "A" (S-581)**, which was **READ** by the Clerk.

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

Representative GOOLEY: Mr. Speaker, Men and Women of the House. Yesterday there was a slight technical problem with my amendment. Therefore, I have withdrawn House Amendment "C" and am offering House Amendment "D." I am not going to repeat what I did say yesterday about patriotism coming from the heart and that you really can't legislate patriotism from Augusta. I am going to dispense with that and hope that you will vote for my motion. Thank you.

Representative TUTTLE of Sanford moved that **House Amendment "D" (H-1074) to Committee Amendment "A" (S-581) be INDEFINITELY POSTPONED**.

The same Representative **REQUESTED** a roll call on his motion to **INDEFINITELY POSTPONE House Amendment "D" (H-1074) to Committee Amendment "A" (S-581)**.

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 Sanford, Representative Tuttle.

Representative TUTTLE: Mr. Speaker, Men and Women of the House. I do appreciate the review of this amendment, but having talked to the sponsors of the legislation, they had asked me if we could present the legislation as initially drafted. As many of you are aware, with the situation of gravesites, the bill concerns the proper respect that is due gravesites for those men and women who have bravely served this country. As you know, existing law requires that municipalities care for veteran's gravesites and in most cases they are properly doing so. However, on occasion, some towns have failed to meet those obligations. That is why this legislation was sponsored. There is a mandate provision on this legislation and hopefully at some time we will have to have a vote to that affect. I would ask that you would allow the sponsor's wishes on the bill that we would

be allowed to go through its present form and that we would defeat this amendment.

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

Representative PERKINS: Mr. Speaker, Colleagues of the House. The only difference between the bill and this amendment is they both tell the towns that they have to take care of these graves, honor these people that we all want to honor. It has nothing to do with patriotism. The amendment would just be that the state would fund this mandate at 90 percent. It would send the money with the mandate so when you go to your town meeting next time and somebody said that one of the worst things we get is unfunded mandates and they all look around to you. You can say that you did all you could. We tried to pass an amendment that would send 90 percent of the money. I think the fiscal note is \$18,000. It has nothing to do with patriotism or wanting to honor these people. We all want to honor them. Please remember that. My seatmate's amendment would just say that we are going to put our money where our mandate is. That is all it is about. Thank you.

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

Representative LABRECQUE: Mr. Speaker, Ladies and Gentlemen of the House. Several days ago the good Representative from Penobscot attempted to put an amendment on and a couple of days ago I successfully had it indefinitely Postponed. There was not an awful lot of conversation on that. Right from the beginning I have not felt that this is a mandate. Let me just read a few things so that perhaps you can understand where I am coming from and might consider my point of view. In present law it says, "Towns may raise and appropriate money for such purposes. Each said town shall be liable to a penalty of not more than \$100 for neglect to keep in good condition and repair all such graves, headstones, monuments and markers or failing to keep the grass suitably cut and trimmed on said graves." Further in law it states, "Decoration of veteran's graves, each municipality as directed by its municipal officers shall annually decorate on May 30th the graves of veterans of the armed forces of the United States of America with an American flag and an appropriate floral decorations, exception of flagpole as alternative. Municipal officers shall not be required to observe the requirements of Subsection 1 in any cemetery when on May 30th an American Flag is flown from a flagpole of durable material. Municipal officers shall actively encourage any group of citizens or veteran's organizations to erect suitable flagpoles in cemeteries where veterans are buried." That is present law. It has been that way for a number of times.

Last year the Legal and Veterans Affairs Committee had an opportunity to look at various aspects of veteran's services, their wants, needs and desires. From these meetings came concern about veteran's gravesites to the point where we felt during the summer some of us formed a committee, at our own expense, and we visited at least six times and from these meetings came this piece of legislation. Presently, in most communities, I would say in 80 percent of the municipalities across Maine, people on or around Memorial Day gather, purchase flags and put them on gravesites. These people are usually non-profit organizations, such as your veterans, boy scouts, girl scouts and it is done at their expense as a community project. The problem then is the single solitary flagpole. Let me read to you from the national flag codes. It is a section in 174. "Display on buildings and

stationary flagpoles in open. Night display, it is the universal custom to display the flag only from sunrise to sunset on buildings and on stationary flagstaves in the open. However, when a patriotic affect is desired, the flag may be displayed 24 hours a day if properly illuminated during the hours of darkness." Therein lies the problem.

Somewhere around Memorial Day in some of the cemeteries where we have single flagpoles, the flag is raised and their it blows in the breeze for a period of time until it becomes toiled and tattered and somebody removes it. The flagpoles are not illuminated. This particular amendment designates an \$18,435 allocation to purchase flags. I personally feel that that is throwing a monkey wrench into a system that is presently working very well. What will the cost be if we say to these municipalities where they have these individual flagpoles and they are not illuminated? What will we say to all of our municipalities if we say, by the way, in addition to a flag, you will also have to have a floral decoration? The rules are not being followed now. This bill comes as a minor tweaking, if you will, of present existing rules that municipalities have to abide by and to pay for. I would appreciate you favorable vote on the Indefinite Postponement. Thank you.

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

Representative GOOLEY: Mr. Speaker, Men and Women of the House. I would like to mention that at current laws there are certain municipalities that do erect a single flagpole. It would be only those municipalities, which would qualify for this reimbursement. Thank you.

The SPEAKER: The Chair recognizes the Representative from Oxford, Representative Heidrich.

Representative HEIDRICH: Mr. Speaker, Ladies and Gentlemen of the House. We spent quite a few summer days working with veterans groups on this. I don't always agree with the veterans even though I am one, but this time I do. Veterans are a different group of people. A lot of them are your neighbors, fathers, grandfathers and generations back that went off to fight the battles of this country. Many of them from World War II are gone now and in previous wars they are all gone. They were the people that gave you the liberties and the freedoms that you have now. I personally feel that every veteran deserves a flag over his grave. You are talking about the cost of a flag that costs about the same price as a Coca Cola. We all pay taxes, but these people were asked by you and ordered by you to fight in wars all over the world. Many of them didn't come back and some came back shattered. Some came back like me, whole and enjoying my life. Every one of those people did something very, very special for this nation. I would personally like to see a flag flown on every one of their graves. One flag in a cemetery stands there for everybody in that cemetery. It doesn't matter who these people were. The veteran deserves that one little simple piece of honor. We have made Memorial Day a sham. It is now a sales day. We should be ashamed of ourselves. We should have some respect for the people that went before us. I hope you vote after my life.

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

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

The SPEAKER: The Representative may pose his question.

Representative DUNLAP: Mr. Speaker, Men and Women of the House. If this amendment is adopted with the subsequent

fiscal note, would this bill or would it not wind up on the Appropriations Table?

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

Representative TUTTLE: Mr. Speaker, Men and Women of the House. The gentleman is correct.

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

Representative DUNLAP: Mr. Speaker, Men and Women of the House. There are a lot of priorities that need to be sorted out in the Appropriations process. If this amendment does hold to the bill, then all we are saying is that this particular bill would go in line to compete for that money, essentially. I am a little bit troubled by both aspects of this argument. Obviously I think we should spend the people's money wisely, however, I also find it a little bit unfortunate that we only find it appropriate to honor veterans of military service in times of trouble and not in times of comfort. I think we should be consistent and honor them at all times.

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

Representative PERKINS: Mr. Speaker, Colleagues of the House. It is unfortunate that the debate has at least one or two speakers that said we should be ashamed if we don't support this unfunded mandate. Please get it clear. Both the Committee Amendment and the House Amendment are the same except who pays for it. If it goes to the Appropriations Table, do we trust the wisdom of our people down there to do the right thing? The other day my amendment passed under the hammer to do this very thing. There was not a bit of debate. Out in the lobby a few minutes after that an opponent to the idea said, where is the money going to come from? My question to you is, if we don't put this on, where is the money coming from? It is coming from property taxes. It has nothing to do with whether we honor the veterans. I am a veteran. I didn't see combat, but I joined the service in wartime. It is not a matter of patriotism. Please don't bring that into this. It is just a matter who pays for it. Do we want to send unfunded mandates? We should stop doing that. Listen to the people back home.

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

Representative WATERHOUSE: Mr. Speaker, Ladies and Gentlemen of the House. The previous speaker is 100 percent right. I don't think there is anybody up here or back home that doesn't want to honor our veterans. My best friend served in Vietnam and lost his leg when he was 17 years old. He has since passed away from some of his injuries at the age of 42. My uncle served in the South Pacific, but in all the years I have gone to town meetings one thing stuck in my mind when I ran for this office. When the people complained about a certain item that they had to spend money on and the head selectmen would stand up and say there is nothing we can do about it. It is a mandate. If this is a priority, it should do okay on the Appropriations Table. If it isn't, then we should be telling the folks back home that they aren't patriotic enough and we are going to make them pay for it. Please do not support the present motion. Thank you.

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

Representative **TRUE**: Mr. Speaker, Ladies and Gentlemen of the House. I would ask the question, and I think it is a fair question, how many of you have gone during the times that you are appropriating money for this or your part of the budget committee? How many times have you had anybody challenge the fact that in the town booklet it is asking for \$400, \$500 or \$600 to decorate the veteran's graves? I have never heard it in all my years of going. In the 1950s and 1960s two of us, both veterans, went around to four towns every single year putting up little flags. We found places that, to be honest with you, I never knew existed. Remember, many of the veterans were of an age when they lived in the rural areas and many of them had their own little cemetery plots in, again, places you wouldn't believe. It took a lot of study and a lot of talking to the older people for us to find these particular cemeteries. I don't believe it is necessary to make it a mandate. I think it is accepted as it should be. It would seem to me that those few that are being tested because it is used from the property tax, to be perfectly honest serving in two conflicts, I felt that is what I was there for to protect those rights of property rights. I am sure we could challenge our property rights and the taxes that we pay probably in a great deal of times. I ask you, please, to vote as the original bill has stated and Indefinitely Postpone this particular amendment.

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

Representative **CHICK**: Mr. Speaker, Ladies and Gentlemen of the House. I will try to explain the situation in my town. It has been the same all of my life that people in town pass from one generation to another have made it their work to make sure that the veteran's graves were decorated. This doesn't only occur in Lebanon, but some of the surrounding towns where I live. My thought is that if this bill passed, then I suppose a notice would go out to the 500 plus towns in Maine notifying them of the action, but I believe in my travels around this state, I have seen flags in other cemeteries. As the Representative from Fryeburg mentions, my family has a cemetery on the property and there are other veterans there and the practice I have seen in Lebanon over the years that it is known who has the flags. They are paid for by money from town meeting articles each year for decorations. Many of the people will go to the source and get the flags and decorate the graves themselves. I thought I would share that with you. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Berwick, Representative Murphy.

Representative **MURPHY**: Mr. Speaker, Ladies and Gentlemen of the House. I guess I really don't understand just what the debate is about. Being involved in town government for the last 25 years or more in my town, every year on our warrant, we put on an amount to be given to the local American Legion for them to put the flags on the graves. Having finished the budget and finalized it last Tuesday night in this budget we have \$600. That money will go to the American Legion Post 79, Hatch Post, and they will use that for their Memorial Day Parade and to put up the flags. We don't need a mandate. We have been doing that for years. That small town lost many boys in World War II and before that. We all have relatives that are veterans. I am sure everybody here has. I just don't understand what this is all about. Maybe the question I should ask is, how many towns don't do it? I would almost believe there are very few.

The **SPEAKER**: The Chair recognizes the Representative from Union, Representative Savage.

Representative **SAVAGE**: Mr. Speaker, Ladies and Gentlemen of the House. I don't think I know of a town that would consider this a mandate, at least not in my area. I have been involved with three small towns either as manager or selectman. I worked on the budget committee. There was never a question about raising the money. We never even considered it a mandate. They always consider it their responsibility to their veterans. I attend the town meetings of those towns in my district and never once have I heard anyone say we don't want to raise this money. I don't think we need to have this \$18,000 to give to the towns. I think they feel they have a responsibility to the veterans to do this without the state having to give them the money to do it. Thank you.

The **SPEAKER**: A roll call has been ordered. The pending question before the House is to Indefinitely Postpone House Amendment "D" (H-1074) to Committee Amendment "A" (S-581). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 568

YEA - Ahearne, Andrews, Bagley, Baker, Berry DP, Berry RL, Bolduc, Bouffard, Bragdon, Brennan, Brooks, Bryant, Buck, Bull, Bumps, Cameron, Campbell, Carr, Chick, Chizmar, Cianchette, Clark, Clough, Collins, Colwell, Cowger, Daigle, Davidson, Davis, Dudley, Duplessie, Etnier, Fisher, Frechette, Fuller, Gagne, Gagnon, Green, Hatch, Heidrich, Jabar, Jodrey, Jones, Kane, Kasprzak, Kneeland, Labrecque, LaVerdiere, Lemoine, Lemont, Lovett, MacDougall, Mailhot, Martin, Marvin, Matthews, Mayo, McDonough, McKee, McKenney, Mitchell, Murphy E, Murphy T, Muse, Nass, O'Brien JA, O'Brien LL, O'Neal, O'Neil, Perry, Pieh, Povich, Powers, Quint, Richard, Richardson E, Richardson J, Rines, Rosen, Samson, Sanborn, Savage C, Saxl JW, Saxl MV, Sherman, Shiah, Shorey, Stanley, Stevens, Sullivan, Tessier, Thompson, Tobin D, Townsend, Tracy, Treadwell, Tripp, True, Tuttle, Twomey, Usher, Watson, Weston, Wheeler EM, Wheeler GJ, Williams, Winsor, Mr. Speaker.

NAY - Belanger, Bowles, Bruno, Cross, Desmond, Dugay, Duncan, Dunlap, Foster, Gerry, Gillis, Glynn, Gooley, Honey, Jacobs, Joy, Lindahl, Mack, Madore, McGlocklin, McNeil, Mendros, Norbert, Nutting, Peavey, Perkins, Pinkham, Plowman, Savage W, Schneider, Skoglund, Snowe-Mello, Stanwood, Stedman, Tobin J, Trahan, Volenik, Waterhouse.

ABSENT - Cote, Goodwin, McAlevey, Shields, Sirois.

Yes, 108; No, 38; Absent, 5; Excused, 0.

108 having voted in the affirmative and 38 voted in the negative, with 5 being absent, and accordingly **House Amendment "D" (H-1074) to Committee Amendment "A" (S-581) was INDEFINITELY POSTPONED.**

Subsequently, **Committee Amendment "A" (S-581) as Amended by House Amendment "A" (H-995) thereto was ADOPTED.**

The Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-581) as Amended by House Amendment "A" (H-995) thereto in concurrence.**

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

BILLS IN THE SECOND READING

House As Amended

Bill "An Act to Expand Pretrial Services for the Bail and Supervision of Criminal Defendants Statewide"

(H.P. 1446) (L.D. 2067)

(C. "A" H-1070)

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

Bill "An Act to Repeal Certain Inactive Boards and Commissions and to Amend Certain Laws Governing Boards and Commissions"

(H.P. 1932) (L.D. 2676)

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

On motion of Representative AHEARNE of Madawaska, was **SET ASIDE**.

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

Bill "An Act Concerning Previous Passamaquoddy Indian Territory Legislation"

(H.P. 1871) (L.D. 2607)

(C. "A" H-1071)

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

On motion of Representative PLOWMAN of Hampden, was **SET ASIDE**.

The same Representative moved that the Bill and all accompanying papers be **INDEFINITELY POSTPONED**.

The same Representative **REQUESTED** a roll call on her motion to **INDEFINITELY POSTPONE** the Bill and all accompanying papers.

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

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

ROLL CALL NO. 569

YEA - Andrews, Belanger, Berry DP, Bowles, Bragdon, Bruno, Buck, Bull, Bumps, Cameron, Campbell, Carr, Cianchette, Clough, Collins, Daigle, Davis, Duncan, Etnier, Foster, Gagne, Gerry, Glynn, Gooley, Green, Heidrich, Honey, Jodrey, Jones, Joy, Kasprzak, Kneeland, LaVerdiere, Lemoine, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, Marvin, Mayo, McDonough, McKenney, Murphy E, Murphy T, Nass, Norbert, Nutting, O'Brien JA, Peavey, Pinkham, Plowman, Richard, Richardson E, Rosen, Savage C, Schneider, Sherman, Snowe-Mello, Stanwood, Stedman, Thompson, Townsend, Trahan, Treadwell, Waterhouse, Weston, Wheeler EM, Winsor, Mr. Speaker.

NAY - Ahearne, Bagley, Baker, Berry RL, Bolduc, Bouffard, Brennan, Brooks, Bryant, Chick, Chizmar, Clark, Colwell, Cowger, Cross, Davidson, Desmond, Dudley, Dugay, Dunlap, Duplessie, Fisher, Frechette, Fuller, Gagnon, Gillis, Hatch, Jabar, Jacobs, Kane, Labrecque, Mailhot, Martin, Matthews, McGlocklin, McKee, McNeil, Mendros, Mitchell, Muse, O'Brien LL, O'Neal, O'Neil, Perkins, Perry, Pieh, Povich, Powers, Quint, Richardson J, Rines, Samson, Sanborn, Savage W, Saxl JW, Saxl MV, Shiah, Shorey, Skoglund, Stanley, Stevens, Sullivan, Tessier, Tobin D, Tobin J, Tracy, Tripp, True, Tuttle, Twomey, Usher, Volenik, Watson, Williams.

ABSENT - Cote, Goodwin, McAlevey, Shields, Sirois, Wheeler GJ.

Yes, 71; No, 74; Absent, 6; Excused, 0.

71 having voted in the affirmative and 74 voted in the negative, with 6 being absent, and accordingly the motion to **INDEFINITELY POSTPONE** the Bill and all accompanying papers **FAILED**.

Subsequently, the House Paper was **PASSED TO BE ENGROSSED as Amended** and sent for concurrence.

SENATE PAPERS

Non-Concurrent Matter

Bill "An Act to Amend the Franchise Law"

(S.P. 681) (L.D. 1931)

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-554) AS AMENDED BY HOUSE AMENDMENT "A" (H-990) thereto in the House on April 3, 2000.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-554) AS AMENDED BY SENATE AMENDMENT "A" (S-642)** thereto in **NON-CONCURRENCE**.

On motion of Representative O'NEAL of Limestone, the House voted to **RECEDE AND CONCUR**.

CONSENT CALENDAR

First Day

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

(H.P. 1761) (L.D. 2467) Bill "An Act to Generate Economic Development Through Community Service and Education" Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-1083)**

(H.P. 397) (L.D. 528) Bill "An Act to Implement the Recommendations of the Task Force to Study the Need for an Ombudsman for the Department of Human Services and the Department of Mental Health, Mental Retardation and Substance Abuse Services Relating to the Department of Mental Health, Mental Retardation and Substance Abuse Services" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-1080)**

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

There being no objection, the House Papers were **PASSED TO BE ENGROSSED as Amended** and sent for concurrence.

ENACTORS

Emergency Measure

An Act Regarding Waiting Lists for Limited-entry Lobster Management Zones

(H.P. 1846) (L.D. 2583)

(C. "A" H-1042)

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

The **SPEAKER**: The Chair recognizes the Representative from Lamoine, Representative Pinkham.

Representative **PINKHAM**: Mr. Speaker, Men and Women of the House. Before we vote on this, I would just like to make a

couple more points and ask you not to vote for this Majority Report. It won't take long to explain what I am getting at. In 1998 there was a moratorium put on lobster licenses. The moratorium was put on in 1998 to expire December 31, 1999, which was just three months ago. The only way during that time that people could get a lobster license was you had to have one in the previous year or you had to be in the Apprenticeship Program or have a student license. To have an apprentice license you had to have a minimum of two years or 200 days to qualify for a regular license under the Apprenticeship Program. These people had to be signed up by February 13, 1998, which was about two years ago. They had to have a minimum of those two years. That would bring them about now ready to get their regular licenses through the Apprenticeship Program, but because the moratorium went off the last day of December and now the zones are proposing to close the zones January 1st of this year, those people, just a couple months before they would be eligible to get their license, they have changed the rules again. They opened it up December 31st, but closed it right back up again January 1st. That is not fair. These people were promised as they went through the Apprenticeship Program they would be able to get their licenses. Now that they would be available, it is going to be closed again so they can't.

The student licenses, the same thing happened. Students were told when the law was passed in 1998 that they needed three years of continuous service as a student under the Student License Program and those people would be eligible this year, 2000, and the same thing happened to them. They closed it back up January 1st so that just about the time they would be eligible, they closed it up so they can't get into the system. Like I said, they were promised that they would get their licenses after they completed their programs. They have done it and now they can't get into the system.

Just one more fact, I sent over to get how many people have been under suspension in the last year for violation of the lobster license laws and I didn't get anything back from the department. I am sure there are quite a few people who lost their licenses in the last three years due to serious violations of the lobster laws. These people can come back into the system with no questions asked, but a person who has spent money and has money tied up in a boat, traps and all of the fishing gear and was promised that they could get back into the system now will be shut out. Right now they are shut out of five of the seven zones. Five of the seven zones have already been proposed to be closed and put people on the waiting list. Those students and apprentices that spent money thinking that they were going to get back in this year will be shut out, but a bad guy that violated the laws and lost his license for over a year, which is a serious violation, can step right back into the fishing with no questions asked and no waiting list. I just don't think that is fair and a promise is a promise. Thank you.

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

Representative **ETNIER**: Mr. Speaker, Men and Women of the House. To quote a former Chief Executive of this great country, let me make one thing perfectly clear. The only thing you will be doing by opposing and voting against this emergency enactment will be delaying the process for the very same people that the good Representative from Lamoine, Representative Pinkham wishes to assist and we all wish to assist by delaying this process for another 90 days. By supporting the emergency enactment of this bill, they will get virtually immediate opportunity

to find out exactly what their status is and start entering the fishery as is the intent in the desire of the four zones that have conducted this survey of their fishermen, those four zones have all gotten their surveys back and of the three who asked the questions relative to the Majority Report, all four of them support allowing the apprentices and the students who are eligible by January 1, 2000 to grandfather in. Let's not hold them up for another 90 days for no reason. Let's support the emergency enactment of this bill and let those folks know where they stand and allow them to enter the fishery as soon as possible. Thank you.

The SPEAKER: The Chair recognizes the Representative from Lamoine, Representative Pinkham.

Representative **PINKHAM**: Mr. Speaker, Men and Women of the House. The zones did vote to allow the people in that were eligible before December 31, 1999. There are still a lot of them that we promised that they could get in when they got through with their programs that will be now, after December 31, 1999. I have a list here of how many people this would involve. It is very few people. By zone it only comes out a total of 32 under the Apprenticeship Program and 87 and under the Student License Program that would be shut out. You are talking 119 people that would be shut out of the fishery if this Majority Report passes. Thank you.

Representative **DUGAY** of Cherryfield **REQUESTED** a roll call on **PASSAGE TO BE ENACTED**.

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

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

This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken.

ROLL CALL NO. 570

YEA - Ahearne, Andrews, Bagley, Baker, Berry DP, Berry RL, Bolduc, Bouffard, Bowles, Brennan, Brooks, Bruno, Bryant, Bull, Cameron, Chick, Chizmar, Clark, Clough, Collins, Colwell, Cowger, Daigle, Davidson, Davis, Desmond, Dudley, Dunlap, Duplessie, Etnier, Fisher, Frechette, Fuller, Gagne, Gagnon, Green, Hatch, Jabar, Jacobs, Kane, Kneeland, Labrecque, LaVerdiere, Lemoine, Lemont, Lindahl, Lovett, MacDougall, Madore, Mailhot, Martin, Matthews, McDonough, McGlocklin, McKee, McKenney, McNeil, Mitchell, Murphy E, Murphy T, Muse, Nass, Norbert, O'Brien LL, O'Neal, O'Neil, Perry, Pieh, Powers, Quint, Richard, Richardson J, Rines, Samson, Sanborn, Savage C, Savage W, Saxl MV, Schneider, Shiah, Skoglund, Stanley, Stanwood, Stevens, Sullivan, Tessier, Thompson, Tobin D, Townsend, Tracy, Trahan, Tripp, Tuttle, Twomey, Usher, Volenik, Watson, Weston, Wheeler GJ, Williams, Winsor, Mr. Speaker.

NAY - Belanger, Bragdon, Buck, Bumps, Campbell, Carr, Cianchette, Cross, Dugay, Duncan, Foster, Gerry, Gillis, Glynn, Goodwin, Gooley, Heidrich, Honey, Jodrey, Jones, Joy, Kasprzak, Mack, Mayo, Mendros, Nutting, O'Brien JA, Peavey, Perkins, Pinkham, Povich, Richardson E, Rosen, Sherman, Shorey, Snowe-Mello, Stedman, Tobin J, Treadwell, True, Waterhouse, Wheeler EM.

ABSENT - Cote, Marvin, McAlevey, Plowman, Saxl JW, Shields, Sirois.

Yes, 102; No, 42; Absent, 7; Excused, 0.

102 having voted in the affirmative and 42 voted in the negative, with 7 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Amend the Laws Regarding Foster Parents
(H.P. 1870) (L.D. 2606)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 113 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Implement Municipal Recommendations Regarding Surface Water Use on Great Ponds
(H.P. 1925) (L.D. 2671)
(S. "A" S-639)

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

Representative CLARK of Millinocket **REQUESTED** a roll call on **PASSAGE TO BE ENACTED**.

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

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

This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken.

ROLL CALL NO. 571

YEA - Andrews, Bagley, Baker, Berry DP, Berry RL, Bolduc, Bouffard, Brennan, Brooks, Bruno, Bryant, Buck, Bull, Bumps, Chick, Chizmar, Clough, Collins, Colwell, Cowger, Davidson, Davis, Desmond, Dudley, Dunlap, Duplessie, Etnier, Fisher, Frechette, Fuller, Gagne, Gagnon, Gooley, Green, Hatch, Heidrich, Honey, Jabar, Kane, Kneeland, LaVerdiere, Lemoine, Lemont, Lindahl, Lovett, Madore, Mailhot, Martin, Marvin, Matthews, Mayo, McDonough, McKenney, Mendros, Mitchell, Murphy T, Muse, Nass, Norbert, Nutting, O'Brien JA, O'Brien LL, O'Neil, Peavey, Perkins, Perry, Pieh, Plowman, Povich, Powers, Quint, Richard, Richardson J, Rines, Rosen, Samson, Savage C, Savage W, Saxl JW, Saxl MV, Schneider, Shiah, Shorey, Skoglund, Stanwood, Stevens, Sullivan, Tessier, Thompson, Tobin D, Townsend, Tracy, Trahan, Tripp, True, Tuttle, Twomey, Usher, Volenik, Waterhouse, Watson, Weston, Williams, Mr. Speaker.

NAY - Ahearne, Belanger, Bowles, Bragdon, Cameron, Campbell, Carr, Clark, Cross, Daigle, Dugay, Duncan, Foster, Gerry, Gillis, Glynn, Goodwin, Jacobs, Jodrey, Jones, Joy, Kasprzak, Labrecque, MacDougall, Mack, McGlocklin, Murphy E, O'Neal, Pinkham, Richardson E, Sanborn, Sherman, Snowe-Mello, Stanley, Stedman, Tobin J, Treadwell, Wheeler EM, Winsor.

ABSENT - Cianchette, Cote, McAlevey, McKee, McNeil, Shields, Sirois, Wheeler GJ.

Yes, 104; No, 39; Absent, 8; Excused, 0.

104 having voted in the affirmative and 39 voted in the negative, with 8 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

Resolve, to Study Pension Plan Design and Benefits under the Maine State Retirement System
(H.P. 595) (L.D. 835)
(C. "A" H-1054)

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. 125 voted in favor of the same and 1 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

Emergency Measure

Resolve, to Establish a Legislative Committee to Study Access to Private and Public Land in Maine
(H.P. 1775) (L.D. 2486)
(C. "A" H-1057)

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

Representative CLARK: Mr. Speaker, Men and Women of the House. I just have to get up today and speak on the record on this Resolve. It came out of a summer discussion between the north Maine woods and a couple legislators in this body and in the other body. In putting this piece of legislation it was to do with the tree growth tax for gate fees up in the north Maine woods. A lot of my constituents are very upset about what is going on up there because of the gate fees that were implemented back when Wagner bought the land from Bowater. Before we had free access all the way up on Bowater land. Once Wagner bought the land and turned that over to the north Maine woods for them to manage the land for recreation, they started charging a \$4 fee person for access onto the land. There are a lot of leasees on that land. Some of the people that have leases on that land are sitting in this body today. When we brought this bill in there were so many requests by different legislators that it was tied into one bill. I believe there were three or four legislators that had the same kind of scenario bill put into one. We had a big public hearing over at the Civic Center where a lot of angry leaseholders were upset about the gate fees that they had to pay to get to the camps. I am not speaking against this Resolve, but I just have to go on record in saying that if this doesn't work this summer, don't be surprised if there is a piece of legislation back next year in the 120th. If I am not here, my opponent will have legislation in this body. We have to make sure that the people that buy the land in this state always will allow access at a reasonable cost, if there is a cost. A lot of my constituents feel that that is the turnpike in northern Maine. We are being charged access fees to go on that land. Like I said, before when Bowater had that, it was free access signed with the Fin and Feather Club. That was an agreement for them to not pursue any documentation so that Great Northern Paper could get their license. Before that there was a \$4 per vehicle charge back when Bowater and Georgia Pacific owned the land up there. Thank you.

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 123 voted in favor of the same and 3 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

Resolves

Resolve, Directing the Bureau of Liquor Enforcement to License an Agency Liquor Store in the City of Caribou
(H.P. 1413) (L.D. 2020)
(C. "A" H-777)

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

Acts

An Act Relating to Employment Contracts
(H.P. 105) (L.D. 136)
(C. "A" H-1018)

An Act to Provide for the Establishment of Alcohol and Drug Treatment Programs in Maine Courts
(H.P. 1409) (L.D. 2014)
(C. "A" H-1047)

An Act to Clarify Signature Requirements on Certain Legal Documents
(H.P. 1451) (L.D. 2072)
(C. "A" H-1048)

An Act to Improve Air Quality through Market Incentives for the Purchase of Cleaner Vehicles
(H.P. 1529) (L.D. 2182)
(C. "A" H-1038)

An Act to Allow State Pharmacies a Tax Credit for Unreimbursed Medicaid Costs
(S.P. 909) (L.D. 2361)
(C. "A" S-525)

An Act Regarding Discharges from Small Fish Hatcheries That Operated Prior to 1986
(H.P. 1789) (L.D. 2509)
(C. "A" H-1039)

An Act to Create a Linked Investment Program for Child Care Providers
(S.P. 1073) (L.D. 2675)

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.

An Act to Preserve Live Harness Racing in the State
(H.P. 1214) (L.D. 1743)
(S. "A" S-638 to C. "A" H-913)

Representative TRACY of Rome **REQUESTED** a roll call on **PASSAGE TO BE ENACTED**.

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

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

Representative **DAIGLE**: Mr. Speaker, Ladies and Gentlemen of the House. Yesterday when we dealt with this in a roll call I understand there was some confusion from some

members of the body because, of course, we were dealing with a non-concurrent matter and we could not simply be voting up or down on the measure. I am not changing my feelings on this issue. I will not belabor the body with a whole lot of debate about that, which you have already heard. I will simply ask that an accurate assessment of the feeling of this body would be important right now and therefore, I hope you will consider that as we vote. 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. 572

YEA - Ahearne, Andrews, Belanger, Berry RL, Bolduc, Bouffard, Bragdon, Brennan, Bruno, Bumps, Cameron, Chick, Cianchette, Clark, Clough, Colwell, Cote, Cowger, Cross, Desmond, Dugay, Duncan, Dunlap, Fisher, Foster, Frechette, Fuller, Gagne, Gagnon, Gerry, Gillis, Glynn, Gooley, Hatch, Heidrich, Jabar, Jacobs, Kane, Kneeland, Labrecque, LaVerdiere, Lemont, Lovett, Mack, Madore, Mailhot, Martin, Marvin, Matthews, Mayo, McDonough, McGlocklin, McKenney, Mendros, Mitchell, Murphy E, Norbert, Nutting, O'Brien JA, O'Brien LL, O'Neal, O'Neil, Perry, Pinkham, Quint, Richard, Richardson J, Rines, Rosen, Samson, Sanborn, Savage C, Savage W, Saxl JW, Saxl MV, Schneider, Sherman, Shiah, Shorey, Stanley, Stanwood, Sullivan, Tessier, Thompson, True, Tuttle, Twomey, Usher, Waterhouse, Wheeler EM, Wheeler GJ, Williams, Winsor, Mr. Speaker.

NAY - Bagley, Baker, Berry DP, Bowles, Bryant, Buck, Bull, Carr, Chizmar, Collins, Daigle, Davidson, Davis, Dudley, Duplessie, Etnier, Green, Honey, Jodrey, Jones, Joy, Kasprzak, Lemoine, Lindahl, MacDougall, McKee, McNeil, Murphy T, Nass, Peavey, Perkins, Pieh, Plowman, Povich, Powers, Richardson E, Skoglund, Snowe-Mello, Stedman, Stevens, Tobin D, Tobin J, Townsend, Tracy, Trahan, Treadwell, Tripp, Volenik, Watson, Weston.

ABSENT - Brooks, Campbell, Goodwin, McAlevey, Muse, Shields, Sirois.

Yes, 94; No, 50; Absent, 7; Excused, 0.

94 having voted in the affirmative and 50 voted in the negative, with 7 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-1081)** on Bill "An Act to Implement the Recommendations of the Court Unification Task Force"

(H.P. 1829) (L.D. 2563)

Signed:

Senators:

LONGLEY of Waldo
TREAT of Kennebec
BENOIT of Franklin

Representatives:

THOMPSON of Naples
LaVERDIERE of Wilton
BULL of Freeport
JACOBS of Turner
NORBERT of Portland

MITCHELL of Vassalboro
MADORE of Augusta
WATERHOUSE of Bridgton
SCHNEIDER of Durham

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (H-1082)** on same Bill.

Signed:

Representative:

PLOWMAN of Hampden

READ.

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

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

Representative **PLOWMAN**: Mr. Speaker, Men and Women of the House. I am going to ask you to oppose the pending motion in order to go on and accept the Minority Report. This bill came before the committee. It is a wonderful idea. There is just one concept in the whole bill that I could not agree to and that was to take any family law matter and not allow it to be taken to Superior Court as an action. Last year we created the Family Court where we have family court officers who handle divorces, child support actions and child custody issues. When we created that, we assured the people of the State of Maine that they would have a real judge available to hear their case. How we did that is we continued to allow people to file divorce actions in Superior Court. The Majority Report says that is no longer possible. All family matters will be held within the District Court and will be managed by the family court officers first. You will hear that there is a way to get a judge, but unless you jump through the right hoops at the right time, you are not likely to get a judge to handle your matter, whether you want one or not. You most likely will end up with a case management officer who is not a judge. That is the only difference between Report "A" and Report "B." It is keeping a promise to the people of the State of Maine that when we decided to hire case management officers to handle these kinds of issues, we promised them they would have access to a judge. In order to keep that promise, we have to reject this report and go on to the Minority Report. Thank you.

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

Representative **JABAR**: Mr. Speaker, Ladies and Gentlemen of the House. I rise in support of the Majority Ought to Pass Report and just would like to take issue with some of the concerns raised by the Representative from Hampden. We did pass the Family Court last year and it is working. It is working well. It is helping cases get through the court system much quicker. It is certainly helping litigants get through the process without having to use an attorney and it is working. Under the Family Court System, if you want your case heard by a judge, you have a right to be heard by a judge. I am sure the District Court judges would be very upset if they were characterized as not being real judges. If you want to, you can have your case heard by a case management worker, but you don't have to. These case management officers have a lot to do with moving cases along and not letting them sit on the docket for months at a time. They force you to show up in court with your clients. They force you to address what the issues are and if you have an issue, especially concerning custody and you do not want the

caseworker to hear it, you have the absolute right to have a judge in the District Court decide the issue.

I served on this task force and one of the things the task force tried to do was eliminate the concurrent jurisdiction, which means you have the right to go to either court. Right now if you live in Bridgton and you file a divorce in Bridgton, an attorney can make you go all the way to Portland by simply transferring the case to Superior Court. In a lot of the other district Courts across the state you have the same problem. An attorney can make you go to the Superior Court, which is in another location. When you get into Superior Court you do not have the advantages that are present in the Family Court. There are no case management workers. We go back to the old system where the case sits on the docket until the attorneys are ready to move it. You don't have the case management workers in the Superior Court to help to litigants to get through the process. You don't have the caseworkers who are helping to move the cases forward in Superior Court the way you do in District Court.

One of the things that this bill does is to eliminate the duplication and to put all of the divorces into the Family Court where they belong where there is expertise, judges who are handling a lot of divorces, case management workers who are handling divorces and moving the cases along. I ask you to support the Majority Ought to Pass Report and it is a very important part of the process and keep the divorces in the Family Court where they belong.

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

A vote of the House was taken. 89 voted in favor of the same and 14 against, and accordingly the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-1081)** 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-1081)** and sent for concurrence.

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

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

UNFINISHED BUSINESS

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

Bill "An Act to Limit Mandatory Overtime"

(H.P. 729) (L.D. 1019)

- In House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-893)** on March 30, 2000.

- In Senate, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-893) AS AMENDED BY SENATE AMENDMENT "A" (S-630)** thereto in **NON-CONCURRENCE**.

TABLED - April 5, 2000 (Till Later Today) by Representative **HATCH** of Skowhegan.

PENDING - Motion of same Representative to RECEDE AND CONCUR.

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

Representative **TREADWELL**: Mr. Speaker, Ladies and Gentlemen of the House. I don't plan to put up a big debate over this. The only thing I would like to say is that there are no widespread abuses of mandatory overtime in this state. We had no employees show up to testify before the committee during the hearings. There are 13 exemptions on the original bill and the amendment that comes back from the Senate in non-concurrence adds two more categories of exemptions, both medical practitioners and it removes the fiscal note for the labor poster. Those are the only differences. I guess I would make a motion that we have a roll call. I would request that you vote against the Recede and Concur motion.

Representative **TREADWELL** of Carmel **REQUESTED** a roll call on the motion to **RECEDE AND CONCUR**.

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

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

Representative **HATCH**: Mr. Speaker, Men and Women of the House. Yes, there are indeed exemptions to this bill. Some are health and safety personnel, but some of them are exempted from law because of the work that they do. I would like to give you a few of them. Any individual is employed in agriculture as defined in the Maine Employment Security Law and Federal Unemployment Insurance Tax law, except when the individual performs services before or on a farm with over 300,000 laying hens. We put that in four years ago and we exempted out someone with 300,000 laying hens. Those employees whose earnings are derived in whole or in part from sales commissions and whose hours and places of employment are not substantially controlled by the employee. Remember in the first discussion we were wondering about salesmen. They are exempted from the bill as it was amended. For those employees who are councilors or junior councilors at summer camps, we worked on this. The same members are sitting in this chamber when we worked on this on previous bills. Any individual employed in the catching, taking, propagating, harvesting, cultivating of farming of any kind of fish, shellfish, crustacean, sponges, seaweed or other aquatic forms of animal or vegetable life. We all know that there are seasons for things when people have to be exempted for seasons. There are certain seasons when you can trap lobster and there are certain seasons when you can harvest. Any home worker and members of the family of the employer who resides with and are dependent upon the employer.

While there was not a great outcry at the public hearing, I did receive a letter, not sent directly to me, but sent to the Commissioner of Labor. I want to read part of this letter because I want you to know that although this person probably is not exempted from working overtime, it is a cry for help from people who feel that they are working a lot of overtime and many of them don't want to work it. "Dear Commissioner Landry, this letter is both a complaint as well as a cry for help, not only for myself, but also for hundreds of employees. I do not know if I am the first to contact you concerning the company for which we work, however, I probably will not be the last. The company is Vishay Sprague of Sanford. I am a longstanding employee with a good record and I have always felt, until, recently Vishay has treated its employees fairly on many levels, including paid leave

days, which must be earned, holidays, vacations, benefit packages and most importantly, hourly wages. In the past few months, however, we have been subjected to vast amounts of mandatory overtime. Some departments within the plant are required to work 10 hours a day others 12 hours Monday through Friday, most Saturdays for eight hours and some departments even work Sundays for five hours. No day off during the week is given to those working Sunday and disciplinary action is taken against any worker who does not comply. This may not seem unreasonable to anyone who normally works a 50-hour week, but those people are usually white collared executives, managers or supervisors and are subject to a different type of stress. Blue collar factory workers, on the other hand, are slotted in to one of three shifts to ensure production around the clock. From the company's point of view to eliminate or at least reduce any overtime, which must be paid by law, that means an eight-hour day 40 hours a week unless covering for an absent employee or one on vacation. After all, aren't we referred to as shift workers? Let me make a couple of points clear. First of all, most of us are not opposed to occasional overtime. I think there are some who actually love and request the overtime for various reasons, raising a family, debt or extra spending money. A month or two of mandatory overtime should not ruin anyone's life and certainly does not hurt the paycheck. However, some departments have been working the mandatory overtime for well into a year now, this is not a seasonal thing, with the only breaks being vacations or holiday weekends. What disturbs most of us is the longevity of this overtime with no end in sight. Yes, the company is booked with orders from customers and that is not a bad thing. They are having a hard time hiring and keeping good and reliable workers, which they claim is the reason for so much overtime, but is that the end-all solution. Why are good employees being forced to give up anywhere from 10 to 30 hours extra a week out of their own lives with no option of refusal for months and months? To make matters worse, with moral among employees very low, several departments have had meeting lately to discuss a crackdown on company infractions, most of them minor. These include such concerns as not hanging your coat on your chair, not going to the cafeteria for quick snacks, except on scheduled breaks and mostly for only working eight hours one day when you are required to work 10 or 12. The breaks for a eight hour day are all paid, a 20 minute lunch break and one 10-minute break. No extra breaks are allowed when you work a 10-hour day. An extra 10-minute break is allowed when you work 12. The timing of these meetings have been poor, at best, and too radical at worst. When we were allowed a chance to speak out at the end of the meetings concerning mandatory overtime and burnout, the general response, although not said in so many words, is be thankful you have a job. In addition, the quality and output of the work is not allowed to drop off. Long-term valued employees are telling their supervisors they are forced to look for another job, because their lives have been disrupted for much too long with no relief on the horizon. Unfortunately none of what I have mentioned, to my knowledge, is illegal, but does that make it right? Personally, I would be willing to work some voluntary overtime, but I would not have chosen to work so much as I have for the past few months. Yes, I am one of the lucky ones. I have only been doing this for a few months. Since Vishay Sprague in Sanford is the largest employer, perhaps they are untouchable. It is my hope that something, anything, will be done to ease the burden of the overworked employees, not only for them, but also for the

company itself. An overworked employee is just not going to be at his or her best both physically and mentally."

I think the letter says it all. None of us were imagining that people are working unnecessary overtime. There was an article today in the *Bangor Daily News* in regards to businesses trying to hire workers. We all know that the unemployment rate is very low. At some point, we have to be able to say, enough is enough. You can't work a person to death and expect them to have a normal family life, pay the bills and survive. I am asking you please to vote to Recede and Concur and let's send this on. It is not much, but it is a step in the right direction. I thank you for your time.

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

ROLL CALL NO. 573

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

NAY - Andrews, Belanger, Berry DP, Bowles, Bruno, Buck, Bumps, Campbell, Cianchette, Clough, Collins, Cross, Daigle, Davis, Dugay, Duncan, Foster, Glynn, Gooley, Heidrich, Honey, Jodrey, Jones, Joy, Kasprzak, Kneeland, Labrecque, Lindahl, Lovett, MacDougall, Mack, Madore, Marvin, McKenney, Murphy E, Murphy T, Nass, Nutting, O'Brien JA, Peavey, Pinkham, Plowman, Richardson E, Savage C, Schneider, Shorey, Snowe-Mello, Stanwood, Stedman, Tobin D, Tobin J, Trahan, Treadwell, True, Waterhouse, Weston, Wheeler EM, Winsor.

ABSENT - Bragdon, Brennan, McAlevey, Shields, Siros, Watson.

Yes, 87; No, 58; Absent, 6; Excused, 0.

87 having voted in the affirmative and 58 voted in the negative, with 6 being absent, and accordingly the House voted to **RECEDE AND CONCUR**.

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

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

**ENACTORS
Emergency Measure**

An Act to Correct the Inadvertent Repeal of the Abandoned Property Disposition Process for Municipalities

(H.P. 1845) (L.D. 2582)

(C. "A" H-1000)

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

On motion of Representative THOMPSON of Naples, the rules were **SUSPENDED** for the purpose of **RECONSIDERATION**.

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

The same Representative **PRESENTED House Amendment "A" (H-1085)** which was **READ** by the Clerk.

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

Representative **THOMPSON**: Mr. Speaker, Men and Women of the House. This is an amendment to put in a paragraph that inadvertently was left out of a bill, which is to fix an inadvertent prior mistake. I hope you will bear with us. Thank you.

House Amendment "A" (H-1085) was **ADOPTED**.

The Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-1000) and House Amendment "A" (H-1085)** in **NON-CONCURRENCE** and sent for concurrence.

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

The House recessed until 7:00 p.m.

(After Recess)

The House was called to order by the Speaker.

Majority Report of the Committee on **NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-1067)** on Bill "An Act to Eliminate the Use of MTBE in Maine"

(H.P. 11) (L.D. 21)

Signed:

Representatives:

JOY of Crystal

ETNIER of Harpswell

TOBIN of Windham

MARTIN of Eagle Lake

CLARK of Millinocket

COWGER of Hallowell

DAIGLE of Arundel

DUPLESSIE of Westbrook

CAMERON of Rumford

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (H-1068)** on same Bill.

Signed:

Senators:

TREAT of Kennebec

LIBBY of York

NUTTING of Androscoggin

Representative:

McKEE of Wayne

READ.

Representative MARTIN of Eagle Lake moved that the House **ACCEPT the Majority Ought to Pass as Amended Report.**

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

Representative MARTIN: Mr. Speaker, Members of the House. You will see that you have two reports in front of you. If you have your amendments handy, they are under (H-1067) and (H-1068). The nine members of the House all are on the same side of this issue. I would very quickly like to tell you why. Basically, this deals, of course, with an LD that has been hanging around here since early in January a year ago. We, frankly, held it over because we thought there might be an opportunity to do something meaningful in the long run, perhaps like abolishing MTBE. However, we quickly realized that one of the things that makes it clear and it the basic difference between the two reports is the fact that we can't completely eliminate MTBE at this point in a hurry in one fell swoop even though most of us would like to do that.

The Minority Report seems to and does indicate that a drop-dead date it is going to be all over at a certain point. The problem is that when you deal with petroleum and what you are basically going to put in your car, there has to be some sort of an additive and at this point most people that have such an additive are using, of course, ethanol. The problem with ethanol is that none of it is produced under the East Coast. It comes, of course, from the Mid West primarily from corn. The problem we have is that ethanol has to be inserted into the fuel close to the distribution point. You can't put it in in Ohio and bring it here because at that point it is separated and now you have a real problem. So, what you have until we develop an ethanol plant in this part of the country, it becomes impossible for you to use the fuel if we simply attempt to eliminate some form of additive. The Minority Report would assume that we can do that.

What we have done, in effect, with the Majority Report is to require a requirement that there be labeling on the disposable gasoline, which will contain and would now what you are buying and what the level is. We require that the Department of Environmental Protection attempt to notify us of all the limits that we have imposed and take every effort that there is to work with others in the country, especially in the North East, to deal with the issue.

The one thing that I learned and most of you know my position on dealing with some of these issues is that I would love to go it alone and not worry about the rest of the country. The problem is that we use so little of the fuel in this state that major industrial producers say, to heck with you, if you don't like it. We are about one-half of 1 percent of what is used in this country. Our ability to impact what the refiners will produce and subsequently those that will bring it to us is so little that it becomes very difficult to have a major impact unless we work with others. We are basically saying that we need to continue to work on the effort to move in that direction. None of us on the committee are in support of MTBE. Let's make that clear. This is not a for and anti-position on MTBE. All 13 members of the committee are opposed to MTBE and usage in the system. However, today, we have no choice. I would urge you to accept what the majority of the committee did and 9 of the 10 members in the House did, even though I know my good friend, the Representative from Wayne, Representative McKee, really believes that what we are doing is right, but she is standing for principle. However, principle doesn't drive my car.

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

Representative MCKEE: Mr. Speaker, Men and Women of the House. I stand on more than principle. I want first of all to commend someone in this body who started all of his and that is our good colleague, Representative Verdi Tripp, who introduced this bill in the beginning. It seemed as though it was a completely radical idea at that point. He persevered through a long study and a large group of people have followed this issue and I do feel that it has been the will of the committee and the aggressive action, at least in committee, that has been taken that has driven this issue. I would urge you to reject the Majority Ought to Pass Report and to go on to accept the Minority Ought to Pass Report because I believe that it is action by bodies like ours that drives the Environmental Protection Agency in Washington. Just this past winter when they announced that they would phase out MTBE in 2003, it was because the State of California said no more MTBE. They had already established five parts per billion as the only acceptable parts per billion for health's sake. It is action like that and action like New Hampshire at 13 parts per billion and other states that are saying no. We will not just keep putting this off. The Minority Report does, as our good chairman said, does do two things that the Majority Report does not do. It establishes 25 parts per billion. There are those who will stand and say, but that is what we already have. Actually we have 35 parts per billion according to the state toxicologist and we have an action time at 25 parts per billion. Really, what the Minority Report does is put in law what we already do.

Not two years ago, our state toxicologist was telling us that 70 parts per billion was just fine. There were those of us who at that time said 15. That shocked them so much that we got 35. Folks, consider what we are currently doing and that is what is in the Minority Report, 25 parts per billion for a drinking water standard. The other thing that is different is the drop-dead date. If the federal EPA has said 2003, that is the date that we will put in our law here. We will establish a prohibition on the use of MTBE in gasoline in the State of Maine after January 1, 2003. I do believe that by doing that, we will be rid of it.

Something interesting happened last spring while we were here. We were in the midst of these conversations and talking about all the problems with MTBE and it looked as though at that point we were going to do something and all of a sudden I drove home down 202 and was about to stop in my local gas station when I looked up and saw the sign, we no longer have reformulated gas. We have been trying to get rid of it forever and all of a sudden, without the Chief Executive, without our committee and without anything, it had happened. This was supposedly just for the summer. What I am saying here is, I believe our actions, our deliberations do drive the industry. Let's drive the industry. Let's reject the Majority Ought to Pass Report and go on to accept the Minority Ought to Pass Report.

In the other body there are three people who are ready to stand up for that. I am the only House member. In that body is one person who has worked doggedly hard on this issue. To his credit, he has kept it alive. We owe it to him and we owe it to the efforts of our southern legislators who have pushed this issue to do what is right for the health of the State of Maine. We have already looked at some wells in the State of Maine, but the overwhelming majority of homeowners with private wells have not had their waters checked for MTBE despite the widely publicized threat. We don't know what is going to happen in the

next couple of years. I think that this is a very conservative thing to do. I am not going to get into all the problems with MTBE. You know what they are. I would urge you to seriously think about rejecting the Majority Ought to Pass Report and go on to accept the Minority Ought to Pass Report. Thank you.

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

Representative **DAIGLE**: Mr. Speaker, Ladies and Gentlemen of the House. I rise in support of the pending motion for the majority opinion of this committee. I would like to, without repeating the comments made by earlier speakers, just amplify a little bit more why we felt this was the course to take. It was said that we would all like to get rid of this material. In fact, unfortunately a lot of people in Maine believe that we have. There has been a lot of misunderstanding and it depresses me when I hear people say that we have eliminated MTBE, we have not. One of the problems with that is what we have done because we have eliminated reformulated gasoline, the amount of MTBE has dropped below the level which requires labeling under federal rules. One of the things in the Majority Report is to include the requirement that when you have a measurable quantity of MTBE you put that label on that pump. You tell your consumers that it is there. In addition to informing the public, we also hope that when somebody is coming forward with an alternative, one of the market forces which will help that happen sooner is that somebody would love to have a pump that doesn't have that label on it so that all of us can decide to give them our business even if it may cost a few cents more per gallon.

We did not include a health standard in this statute because right now in Maine law there are no health standards in any statute. That is for a very good reason. When somebody picks a number and said this is the level by which harm will occur, there are many other assumptions that accompany that decision. One of them is the unspoken additional information that is according to present knowledge. Science is constantly evolving. Safe levels go up and safe levels go down depending upon what you know at the time. You do it through rulemaking. You let the scientists like the state toxicologist and others propose a level. We legislatively tell them to do it. They do the studies. They propose a level. If somebody opposes that number, then there are administrative appeal procedures going before a judge or other bodies, which then say, what are your facts, what is your background for it? You pick a number in statute, there are two problems with that. Number one, it may be the wrong number tomorrow when some new study comes up that says a different number would be more appropriate and, of course, you can't come back and change it. The second big problem is, where do you stop? If we pick a number for MTBE in gasoline and break that precedent and be the first law ever in the State of Maine, then every contaminate of public concern will be on the bills that are submitted in the 120th and others, they will set a standard also. How do you do that? We are not scientists. We depend on scientists. We are not flexible. We depend upon the regulatory structure for flexibility. There is a very important reason we leave it to the toxicologist. What we are comfortable with is that nobody in the State of Maine right now is being knowingly harmed by the amount of MTBE because under current rules we are going forward when it is found and providing them with safe drinking water systems at the expense of funds created for that purpose.

The Majority Report, again, labels the pumps. It requires the Department of Environmental Protection to monitor and report on

the status of MTBE use in the State of Maine so we can track that it is going down, know where it is being used and where it isn't, tell the public where there are options available so that we can rush with our market forces to encourage that, undertake those reasonable efforts to find an alternative and provide the annual reports that keep this Legislature abreast of where it stands so that when an option is available, we will move towards that option with all due haste.

Even the ethanol option we heard about earlier has problems. It is not without problems. The department, for example, warned us about problems when you have an underground spill with large amounts of ethanol that the bacteria which would normally work on the fuel spill and mitigate it, will be driven to go to the ethanol and leave the benzene alone. Benzene is another component of gasoline. That would cause a problem because benzene is a strong carcinogenic material. In a strange sort of way we learned that when you are doing something good over here that something bad happens over here. The message to us was that there is no safe gasoline. What we have, what we used to have and what we will probably have tomorrow. There is no safe option here. There are only alternatives to move between carefully. That is what the Majority Report seeks to do with what we know at this point in time. I urge your support. Thank you.

The SPEAKER: The Chair recognizes the Representative from Hallowell, Representative Cowger.

Representative **COWGER**: Mr. Speaker, Men and Women of the House. I just want to let my colleagues know that I fully concur with my fellow engineer and seatmate on the committee on the other side of the aisle. I couldn't have explained it better than he did. Please accept the Majority Report.

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

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

The SPEAKER: The Representative may pose her question.

Representative **TWOMEY**: Mr. Speaker, Men and Women of the House. Could Representative Daigle please answer this question? Where did they get the scientific information that no one is getting hurt by MTBE? Does he have those statistics? Thank you.

The SPEAKER: The Representative from Biddeford, Representative Twomey has posed a question through the Chair to the Representative from Arundel, Representative Daigle. The Chair recognizes that Representative.

Representative **DAIGLE**: Mr. Speaker, Ladies and Gentlemen of the House. In working on this bill we had many meetings with the state toxicologist who talked about how these standards are set. Basically what you have is a risk level. Everything is poisonous at some level. Absolutely everything on this earth can be considered harmful depending upon how it is presented to you and in what concentration. You select a level through various studies of laboratory animals and others, you select what you consider to be an acceptable level of risk. There are very subjected decisions in different states upon what they call subjective levels, one in a million, one in 10 million, one in 10,000. Frankly, it is all over the map. What you do when you have got something that you determine to be what you want to be for your area, you set an action level lower than that. I am not going to wait until I have reached that level. I am going to look for something much smaller than that and I am going to say that when I detect that lower level, I am going to go in and I am going

to do something about it right then so the Department of Environmental Protection, for example, if they test your well and they find a level that is considered safe, but triggers the action level, they are going to go in and fix your water supply anyway. They are not going to wait for it to reach a higher level. That is the policy that has been in the state for many years. It continues to be the policy. If the state toxicologist got additional information tomorrow that they wanted to put forward under rulemaking, it would change all those numbers down and they would continue to be responsive to protect the public health. Thank you.

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

Representative TRIPP: Mr. Speaker, Men and Women of the House. This is a great day that we have reached this far. I could remember days of standing on the plank waiting for the sharks to come by to be pushed off by some of the big industrial companies out there making millions of dollars on this MTBE. I would be very remiss if I did not mention that Representative Lovett was also involved, as I was, in this project to get us to this point. We were both on a citizen's committee way back in 1995 and 1996. We formed a committee to look into the health affects of reformulated gasoline. The pressure eventually went to the Governor, who did a water study. I am really happy to note that the EPA has finally seen the light and that we are going to be out of this situation in a few years. Although I would support the Minority Report having a lower parts per billion, I am just glad that we are at this point. Thank you.

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

Representative TOBIN: Mr. Speaker, Ladies and Gentlemen of the House. Coming from the home of MTBE and the capital of MTBE in the State of Maine, Windham, we were the ones that discovered MTBE. Being the fifth or sixth speaker, there isn't much left to be said. When we started this we were looking for allies so that we could form a corporation that would buy gasoline so that we could have a gas without MTBE. Ladies and gentlemen, we have found allies. The EPA as declared that MTBE must be removed from gasoline all over the country. The war is won. Mr. Speaker, you have told us that we received our last check, fishing season has started, let's vote and let's go home.

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

Representative MCKEE: Mr. Speaker, Men and Women of the House. I am not going to prolong this, but I do want to answer the question that was asked by the good Representative Twomey, were there any harmful effects? I would remind you and this comes from the *European Journal of Oncology* and it is written by Miron Melman, who is this country's most noted expert on the effects of MTBE. "Studies on the carcinogenicity of MTBE in the laboratory demonstrated that there is sufficient evidence that MTBE is a strong animal carcinogen. MTBE causes cancer in liver, kidneys and testes and well as leukemia and lymphomas. In addition, exposure to low levels of MTBE from gasoline causes a variety of acute illnesses, allergic symptoms, nose bleeds, sinus problems, ear, nose, throat complaints, sneezing problems and rashes. Neurotoxin symptoms such as headaches anxiety and inability to concentrate and lightheadedness are also seen in individuals exposed to MTBE. Respiratory symptoms include breathing problems, lung problems, bronchitis, asthma and shortness of breath. Water

supplies have also been contaminated with MTBE from gasoline spills. It is now known that there is not a shred of scientific evidence that MTBE is helpful to the environment as alleged in the past." If anyone afterwards would like to take a look at some people who have been affected by MTBE, this scientific study is filled with photographs. I forgot what the other question was I was going to answer. Thank you very much.

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

Representative TWOMEY: Mr. Speaker, Men and Women of the House. I attended a risk assessment workshop in Boston and I learned that depending on who does the studies and who pays for them, somebody sits behind a computer and comes up with numbers, risk assessment, how many parts per bill, who does what, what are the chances? I sat through that and I sat though that risk assessment. I came away knowing that the burden of proof is always on the consumer. The burden of proof is always on us. I know the good Representative from Arundel says that we have a state toxicologist. It wasn't too long ago when we had a state toxicologist who said there was dioxin in the fish and that state toxicologist lost his job a little while after that. The state toxicologist was Dr. Frakes. I had a lot to do with him because of our incinerator when it spewed toxic ash all over our community. I had to go through those very arguments. The burden of proof was on us. It was lime dust they said, but I collected those samples and those samples proved it was unacceptable levels of dioxin, lead, mercury and heavy metals. If I had listened to risk assessment and number games and cancers, I would have done nothing. You can't put all your confidence in risk assessment and numbers and people sitting behind computers. I will follow Representative McKee's light and I will support the Minority Report. Thank you.

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

Representative LOVETT: Mr. Speaker, Ladies and Gentlemen of the House. Back in 1994, I believe, I was sitting in Seat 109 and a lot of people when I was speaking on MTBE kind of looked at me. They didn't think I knew what I was talking about. I am not going to say I told you so, but this is a very happy occasion tonight to see that we are going to make the necessary changes. I think I am going to support the Majority Report because I want to creep before I walk this time. The last time we jumped too fast and we didn't know what we were doing and we have got ourselves in a lot of trouble. It is going to take us a lot of time to clean up the water. It is going to take us a great deal of time to get these wells so the people can drink again. I am going to support it. I want to thank the committee. I think they have done a great job. They have brought this to the forefront. They have given themselves a lot of credibility this time and I am very proud to stand here and say thank you. The people deserve this.

Representative JOY of Crystal REQUESTED a roll call on the motion to ACCEPT the Majority Ought to Pass as Amended Report.

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

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

Representative GERRY: Mr. Speaker, Ladies and Gentlemen of the House. I, too, have worked hard on this subject. I have worked with Representative Lovett and Representative Tripp and other members of the public on the

issue of the reformulated fuel. It is true we have come a long way, but I do not feel that we have come far enough. I will be supporting the Minority Report. I believe we owe it to our constituents to provide for them the best possible health and environment. We have found through the different committee process how terrible this additive is and because we have allowed this reformulated fuel, we, as legislators in the House and Senate of Maine or in Congress, we have created a problem with our drinking water. It is one that will be very hard to remedy and very costly. California is very polluted. They have trouble finding drinking water. They do have water, but it is very hard in some places. I believe that we should be doing even more to test the water and not just accept a current level of contaminants in our water. I believe our threshold should be lower. It should be even lower than what is in the Minority Report, I feel. Because of the amount that we do have in the water, I am afraid that it is going to affect the health of our people because even though we have a certain level, we are going to find that we didn't lower it enough. In the long run, it is going to cost us more in health costs and that is why I have risen tonight to oppose the pending motion.

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

Representative TRIPP: Mr. Speaker, Men and Women of the House. I would like to publicly apologize to Representative Gerry of Auburn for leaving her out when I mentioned Representative Lovett because Representative Gerry was with us from the very beginning on all the committees and deserves as much credit as anyone else. Thank you.

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

ROLL CALL NO. 574

YEA - Ahearne, Andrews, Bagley, Belanger, Berry DP, Berry RL, Bolduc, Bouffard, Bowles, Bragdon, Brennan, Brooks, Bruno, Buck, Bull, Bumps, Cameron, Campbell, Carr, Chick, Chizmar, Cianchette, Clark, Clough, Collins, Colwell, Cote, Cowger, Cross, Daigle, Davidson, Desmond, Dudley, Dugay, Duncan, Dunlap, Duplessie, Etnier, Fisher, Foster, Frechette, Gagne, Gagnon, Gillis, Glynn, Goodwin, Gooley, Green, Hatch, Heidrich, Honey, Jabar, Jones, Joy, Kane, Kasprzak, Kneeland, Labrecque, LaVerdiere, Lemoine, Lemont, Lindahl, Lovett, Madore, Mailhot, Martin, Marvin, Matthews, Mayo, McDonough, McGlocklin, McKenney, McNeil, 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, Quint, Richard, Richardson E, Richardson J, Rines, Rosen, Samson, Sanborn, Savage C, Saxl JW, Saxl MV, Schneider, Sherman, Shorey, Stanley, Stanwood, Stedman, Stevens, Sullivan, Tessier, Thompson, Tobin D, Tobin J, Townsend, Trahan, Treadwell, Tripp, True, Tuttle, Usher, Waterhouse, Watson, Weston, Wheeler EM, Wheeler GJ, Williams, Winsor, Mr. Speaker.

NAY - Baker, Bryant, Davis, Gerry, Jacobs, MacDougall, Mack, McKee, Mendros, Powers, Savage W, Shiah, Skoglund, Snowe-Mello, Tracy, Twomey, Volenik.

ABSENT - Fuller, Jodrey, McAlevey, Perry, Shields, Sirois.

Yes, 128; No, 17; Absent, 6; Excused, 0.

128 having voted in the affirmative and 17 voted in the negative, with 6 being absent, and accordingly the Majority Ought to Pass as Amended Report was ACCEPTED.

The Bill was **READ ONCE**. Committee Amendment "A" (H-1067) 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-1067)** and sent for concurrence.

Majority Report of the Committee on **NATURAL RESOURCES** reporting **Ought Not to Pass** on Bill "An Act to Establish Minimum Environmental Compliance Standards for Subsidized Employers"

(H.P. 1799) (L.D. 2526)

Signed:

Senators:

NUTTING of Androscoggin

LIBBY of York

Representatives:

JOY of Crystal

TOBIN of Windham

CLARK of Millinocket

DAIGLE of Arundel

CAMERON of Rumford

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-1066)** on same Bill.

Signed:

Senator:

TREAT of Kennebec

Representatives:

MARTIN of Eagle Lake

ETNIER of Harpswell

McKEE of Wayne

COWGER of Hallowell

DUPLESSIE of Westbrook

READ.

Representative MARTIN of Eagle Lake moved that the House **ACCEPT** the Minority **Ought to Pass as Amended** Report.

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

Representative **MARTIN**: Mr. Speaker, Members of the House. I would urge you to take a look at the amendment, which is (H-1066). It has absolutely nothing to do with the original bill. I know that there were many people in this body who express grave concern about the original draft, as did I. What you have in front of you is a very simple, I believe, fair approach to the money that this state gives to large corporations. One member of the committee has been waiting at least three weeks to debate this. I am going to give him and the sponsor of the bill the opportunity to go at it. If they miss anything or they misconstrue what has been going on, I will be more than happy to join in. I would urge you to listen to the sponsor and the Representative from Arundel as they proceed to debate this issue.

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

Representative **NORBERT**: Mr. Speaker, Ladies and Gentlemen of the House. This bill is a modest proposal. As amended it would bar companies with criminal environmental violations from receiving state property tax refunds under the BETR Program for one year. The rationale behind this bill is that

economic development and environmental protection can and should go hand in hand. Let me repeat. It is criminal violations that we are addressing in this bill, which are intentional actions. For instance, if a company intentionally dumps thousands of gallons of toxic pollution into a Maine river in order to avoid clean up costs, this would be a criminal offense. The vast majority of Maine's businesses are responsible in obeying our environmental laws. If a company engages in a gross violation of the public trust through a criminal environmental violation, then we, as protectors of the public, should say that that company should not receive our limited tax dollars.

This bill would limit the ability of companies to pay fines, with the actual money that they get in tax breaks under the BETR Program only. Again, the rationale is that Maine taxpayers shouldn't be on the hook for underwriting major polluters. You will hear, I am sure, an argument that it is inappropriate to link our tax incentive policies with our environmental laws with the tax code, but I will tell you we already do that, as you well know. That is why we allow for tax breaks or refunds to companies that purchase environmental equipment that would clean up the environment. That is why a student applying for financial aide with a criminal record is ineligible to receive a PEL Grant for instance. I really urge you to consider this modest proposal and to let the taxpayers know that their dollars can be better spent for the vast majority of companies that are responsible. Let's ensure that Maine taxpayer dollars aren't used to subsidize criminals.

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

Representative CLARK: Mr. Speaker, Ladies and Gentlemen of the House. I will be voting against the pending motion. I urge each of you to do likewise. I have a number of concerns with the Minority Report. I believe it is unnecessary. It will create major difference in the treatment of companies in Maine and its poor tax policy. If enacted, this bill will result in the loss of better reimbursement for companies who have been convicted of any criminal violation of the state's environmental laws. Don't misunderstand my position. I do not have sympathy for companies convicted of an environmental violation, but I find it hard to understand why existing laws are not adequate to discourage violators. Bear in mind, under current law, violations are subject to criminal penalties of up to \$25,000 per day for each day they violation continues. Violators can face jail terms of up to six months. On top of that, violators are also subject to civil penalties of up to \$10,000 each day a violation continues. Because of these penalties, we have seen in the past companies fined hundreds of thousands of dollars for violating a number of environmental laws. These penalties provide a strong incentive for companies to comply with current environmental regulations.

Consider this, DEP also has the authority under certain circumstances to order a facility to cease doing business or to revoke its environmental permits. If this bill is so necessary to enforce these laws, why hasn't DEP come forward seeking additional enforcement authority? They haven't for the simple reason that additional enforcement is not needed. Let's not lose sight of the reality. In most cases, violations, even criminal violations, are the result of direct actions or emissions by individuals. A disgruntled employee may deliberately open a wrong valve or an employee might even falsify records or reports. Under Maine law, liability for that conduct is imputed to the employer. This is how our system works. To disqualify a company from the BETR Program for the conduct of possibly one individual, in addition to existing penalties is a different

issue. We know that. In a number of cases, some companies may receive millions of dollars in reimbursement and the loss of that reimbursement may be very well jeopardized, a company's financial well being, and could result in a loss of Maine jobs. This could possible occur because of the acts of one person.

What troubles me about this scenario is that it is fundamentally unfair. Two identical companies, both the same line of business, with the same number of employees, company A has not invested any money in their facilities for years. Company B, on the other hand, has invested tens of millions of dollars and are receiving reimbursements of \$1 million per year. Let's also assume that both companies have violated an environmental regulation, which resulted in a criminal conviction. Both received criminal and civil fines of \$500,000, but company B will also lose \$1 million in the BETR Program for reimbursement for the year following the violation. That is three times the penalty paid by the other company for the same violation. How is that fair? How can any rationale person maintain that the punishment fits the offense when an identical violation results in a dramatically lower penalty?

This brings me to my last point. The issue of tax policy, we have enacted the BETR Program as a means of attracting capital investment to industry in Maine. In an industry such as where I am employed, facilities that do not readily receive capital investment, simply will not survive in the global economy. In making investment decisions, those with the money to invest are concerned with one principle issue, earning a return on their investment. They will simply not invest substantial amounts of capital in a state where there are serious questions as to whether anticipated returns will be questionable. This will simply invest it elsewhere. This legislation will create the very climate of uncertainty, which will jeopardize the BETR Program and impair the ability to attract investment to Maine.

I firmly believe this bill will not serve Maine industry well or the working people of Maine, who indeed depend on the retention and creation of jobs that these investments bring. I urge you to reject the Minority Report. Thank you.

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

Representative SAVAGE: Mr. Speaker, Men and Women of the House. I, too, in a different context, have shared the concern that has been expressed about linking criminal convictions with state and other subsidies. I want to talk a little bit about that. When someone has a criminal conviction for certain crimes in our country, they can no longer apply for federal student loans. They are no longer eligible for certain housing subsidies, because of their criminal conviction. I often think, here we have someone who is already sort of on the ropes and we are tying some of the necessary components to getting off of the ropes to getting back on track, to getting a better life ahead of them. We are tying those particular subsidies, those particular programs to criminal convictions. I think if we are going to do that, it is only fair that we do it in all arenas. I ask you to please vote for the Minority Ought to Pass as Amended Report. Thank you very much.

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

Representative DUPLESSIE: Mr. Speaker, Ladies and Gentlemen of the House. This bill only applies to criminal convictions. Let me repeat that, criminal convictions, not criminal charges, but convictions. In the last five years in the State of Maine, there has been only three criminal convictions. None of

these convictions, these companies did not get this tax subsidy, the BETR Program: One was a tire problem Down East, after there was a court order against the business, they continued to violate the law. Yes, that was a criminal conviction. Another one was a firm removing large fuel tanks. Going down the road with the tanks tipped so that the fuel that was left in the tanks was running along the highway. It is a very serious egregious violation with a criminal conviction. Another one was an individual, yes, you are going to hear stories tonight about rogue employees, employees doing things against the employer. If there has been so much of this going on, I am sure we would have heard a lot about it. You are going to hear that it could happen in labor situations because of rogue or disgruntled employees. I think it is doubtful on this scale that we are talking about. One of these three convictions in the last five years was an employee that was falsifying records. He was doing wrong things. That employee was charged with a criminal conviction, but not the employer.

Those three firms, none of them would have even applied under this program. They don't receive BETR Program funds. All of these companies that currently receive BETR, none of them are even in this category. We hear about these large \$100,000 penalties that get assessed. Yes, they do sometimes, but usually those are through consent decrees with the DEP and not criminal convictions. Let me just ask you to please support the Minority Ought to Pass Report as amended. We owe it to the taxpayers of the State of Maine. This Legislature sets policy, not the DEP. The DEP is part of the Executive Branch. That is why they don't come here and ask for tougher laws for some of these problems. All the penalties and stuff that the DEP has to enforce, it comes from this body, the Legislative Branch, not the Executive Branch. Please support me in the pending motion, otherwise, we can just hold out a banner, come to Maine, take our money, break our laws and we will pay your fines. Thank you.

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

Representative DAIGLE: Mr. Speaker, Ladies and Gentlemen of the House. I thought it was appropriate to break the suspense and weigh in on this subject. I want to first say how I have enjoyed the Natural Resources Committee to work on environmental matters all last year and so far this session and now I get to work on Title 36 tax matters. I am really not going to respond to a lot of the concerns I have heard expressed. I really want to make two basic kinds of points to the body.

First of all, is there a problem? One of the things that we learned when the committee dealt with this issue was how the existing enforcement policy works in the state. It was news to most people. It was news to many of the groups, for example, that have communicated to us in some of these handouts. They were aware of it, because I spoke with some in the hallway before the public hearing and asked if you are aware of the enforcement policy and they were not. In the public hearing I asked if they had become informed about the enforcement policy and they were not. We, as a committee, immediately took that up as our first order of business to understand just how you penalize somebody today. It turns out the state does a pretty good job at it. The policy has been developed for over 20 years and it contains various procedures for saying what did they do. Have they done it more than once, if so, it is going to cost them more? Did they do it intentionally? That is going to cost them more also. Did it really cause a problem? Was there real

damage? That is going to cause them more too. It just adds all those things. In fact, nobody could think of any possible item that wasn't included in the enforcement policy saying that this is a good thing to decide just how much of a penalty should the state assess? When that enforcement policy is utilized, there is also an opportunity for public involvement because what happens is you get a consent agreement and the public, ultimately, gets to see what settlement has been proposed. It is out there in front of everybody. In fact, it has to go before the Board of Environmental Protection, a 10-member citizen's board, that receives confirmation hearings by our committee and confirmation in the Senate.

It has happened before that there have been penalties proposed and have gone before that citizen's board, who then heard about it, and has been commented on by the public and they have said that that is not enough of a fine. That is not an appropriate penalty. We think they should be charged more and they were. Settlements were rejected. They were redrawn and when it was appropriate, they were penalized more. Everybody got pretty secure that nobody is out there committing environmental violations that isn't getting an appropriate penalty for the charge. In fact, in the last three years, we asked for a report of the last three years of enforcement action, and there was approximately 190 such events that took place. Throughout the workshop not one enforcement action on that list was pointed out by anybody on either side of this argument as being inappropriate. Nobody thought anyone had been undercharged or overcharged for that matter.

I relay all of this because if you don't like the consent decree process, then it kicks up to a criminal conviction. That is what happens. You see the overwhelming majority of them, if you propose a consent agreement, if you don't think it is a reasonable settlement, the person who is being charged has the right to appeal it to go to court. For that background, I think everybody agreed that that part of the system isn't broken. The penalties referred to earlier by my good friend from Millinocket, Representative Clark, are in fact \$25,000 a day. I will even amplify that a little bit more. It is per penalty per day. Let's say you have a hazardous waste violation of leaving the lid open and you didn't have a label on the container and you didn't have it stored properly. That is actually three charges, so that is \$75,000 a day, one for the lid, one for the label and one for where you put the container. That is how it stacks up. You start off with a charge that high and then you start subtracting stuff off and you work within that policy to see what you ultimately end up seeking as a penalty. I am personally very comfortable that the public is being properly represented and people have substantial economic reasons to do the right thing.

Let me get to the point of why putting this component onto this current, very well working enforcement machine, is really a problem. It is really something that I don't think this body can accept. It makes my point, I would like to illustrate a little scenario that as we all go home tonight, let's assume we are driving home and we get pulled over by the police and he says you are speeding. I am going to give you a speeding ticket. You think in your own mind that you were not speeding. That is not so. You have a choice. You can refuse to pay the fine and you can go to court. Understand something under this scenario, if you go to court and you lose, they are going to take away your house. Well, that is a different matter. If somebody treated me that way, I wouldn't feel that I really had the right to contest the speeding ticket because I can't afford to lose my house. That is

kind of the way this would be applied, because it is not mitigating the amount of the penalty, it is either enacting the whole BETR reimbursement for any criminal conviction.

I go to a facility, perhaps a small woodlot somewhere in the corner of Maine, and they have a bad culvert problem. I accuse them of having a problem with a culvert. I propose a consent agreement and the facility says they didn't do anything wrong. Fine, reject the consent agreement and go to court. If you are convicted in court of having a problem with a culvert in your little woodlot in the eastern corner of Maine, you are going to lose a \$3 million for a BETR reimbursement for that biomass plant you have located 400 miles away in the other corner of the state. That is not right. I don't think it is even constitutional, but I didn't go to law school. That is why it is wrong. That is why tax policy that is all or nothing at all isn't really appropriate to apply to an enforcement policy.

The examples given earlier about student loans, housing subsidies and so forth, those are things that take place in the future. If I commit a criminal conviction, I cannot apply for a student loan. They are not taking my house. My speeding ticket is totally unrelated to my property that I own or maybe even my wife's property. Remember this woodlot owner may be a different division of the company as the one who is in the BETR Program. That is what a corporation is. We are defining this as a person and a person is the entire corporation. Every individual as an employee of that corporation, then it is tied to everyone else, which is why my example of a woodlot is exactly the case. I hope you understand why this is a good idea. It intuitively feels like something that you ought to do, but when you apply the mechanics in the real world, the outcome isn't a good one. It is not right to be having an enforcement policy with consent agreements that basically says to the person you can't deny that consent agreement. You can't deny it. You can't fight it. You can't do anything, because you cannot afford to contest it even when you are right. That is not appropriate. I urge you to reject the pending motion and go with the Majority Report. This is why the majority felt this way and vote Ought Not to Pass on this bill. Thank you.

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

Representative COLWELL: Mr. Speaker, Men and Women of the House. I, like many of my colleagues, were waiting with great anticipation for the previous speaker. Actually, I am still waiting with great anticipation to get the answer about how I am going to go to the voters in my district and tell them that if you reach this incredibly high level of pollution, intentional, willful, pollution into the waters or the air of every person in the State of Maine, that not only is maybe okay, but we are going to give them, the people who did it, a subsidy check to do it. I haven't heard that answer yet. I guess, for me, I am still waiting in anticipation. I would suggest that if, in fact, we were talking about prepaying the income taxes for a convicted criminal that we were going to send to Thomaston, we would probably be having a whole different debate here. This is an egregious bit of willful, intentional pollution that we are talking about. Yes, the process does work fine up until that point when you cross that criminal threshold. I would suggest to you that my good colleague from Portland started off his eloquent floor speech with the fact that this is a modest proposal. We are talking about criminal intent in polluting the waters and air of the people of the State of Maine. We are talking about not an entitlement check, but we are talking about an incentive check. Let's not forget who

is writing that incentive check. It is the taxpayers of the State of Maine who have to breathe that air and drink that water. Thank you Mr. Speaker.

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

Representative SAMSON: Mr. Speaker, Men and Women of the House. I very seldom speak on any issue outside of labor, but I feel I must speak on this issue. I rise in support of the Minority Report and I will tell you why. It was said earlier that these things seldom happen. Well, it happened in my community with a large facility. At the time, it was believed and the community's belief that the DEP was not doing their job. They were not enforcing the laws that we had on the books. My community, the Town of Jay, passed an environmental ordinance that actually duplicated state law after years of litigation. I actually sit on that planning board. I have been on that planning board for 12 years and I help oversee the environmental ordinance. We had a facility in our town that was a violator. I was in court the day the federal judge decreed four felony counts against that company for what it had done polluting. I am happy to say that since then the company has cleaned up its act, because the Jay Environmental Ordinance worked. It gave the people in the community local control, which was something that was lacking. Because of that, we brought them kicking and screaming, at times, to a better place. That better place is, it appears to me, that that facility has made itself a model for the company. It still has some problems, but we work with that company. These things do happen. I am standing up here to say that we shouldn't reward companies that purposely, criminally break our laws. That company today is a double dipper. It has a TIF from the Town of Jay and it also is in the BETR Program. Now, even if this criminal law would have been in place, it would have still had that because it is only one year. I have long memory. I don't forget things, but I can forgive. I do forgive and I am willing to give anyone a second chance or a third chance and, if necessary, a fourth chance. Why should a company that willfully breaks the law, why should they be rewarded as well as a company they compete with in the State of Maine that does not break the law and goes the extra mile and does what they should do? I think it is a matter of fairness here. Maybe other communities should do like we did in the Town of Jay and work with that facility to make it better. I am certainly going to vote for the Minority Report.

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

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

The SPEAKER: The Representative may pose his question.

Representative BULL: Mr. Speaker, Men and Women of the House. Is it conceivable that a company could get a reimbursement check from the state and use the money from that reimbursement check to pay off the fines to the state?

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

Representative GAGNON: Mr. Speaker, Men and Women of the House. The answer is yes.

The SPEAKER: The Chair recognizes the Representative from Hallowell, Representative Cowger.

Representative COWGER: Mr. Speaker, Colleagues of the House. While agreed with my colleague from Arundel, my fellow

engineer and seatmate on the last issue, I am afraid we don't see eye to eye on this one. I, too, like my colleague from Gardiner, see this as a very simple and straightforward bill. I believe as legislators each one of us here are sent by our constituents to be fiscally responsible for the revenue that we collect from Maine citizens. This bill, in its drastically amended version, is a simple safeguard that attempts to prevent what I would consider a terrible use of Maine's hard earned tax dollars. The bill is very straightforward. I am just going to remind you again what it does. If you were to go out and intentionally ignore the environmental laws of our state and you are subsequently convicted and found guilty of a willful and criminal violation of those environmental laws, you will not be entitled to any tax reimbursement under the BETR Program for the year following that conviction. This is indeed the removal of a future benefit after a conviction of a crime. That is it. That is the entire bill. As the committee members who actually offered up this Minority Report, I urge you to vote to support the pending motion. Criminal violations of our environmental laws are exceedingly rare, as the good Representative from Westbrook pointed out. These criminal violations do not happen by responsible Maine companies. They do not happen by any of the companies that we see every day out in the hall. They do happen, although very rarely, by someone who doesn't care about the environment and someone who intentionally goes out and violates an environmental law. I don't believe we should be spending any of our public dollars to float people who are convicted of environmental crimes. Please vote with the Minority Ought to Pass Report. Mr. Speaker, when the vote is taken, I ask for it to be taken by the yeas and nays.

Representative COWGER of Hallowell **REQUESTED** a roll call on the motion to **ACCEPT** the Minority Ought to Pass as Amended Report.

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

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

Representative CIANCHETTE: Mr. Speaker, Ladies and Gentlemen of the House. I don't serve on the Natural Resources Committee, but as the Representative from Arundel, Representative Daigle, suggested, this is about as much about tax incentives and tax subsidies as it is about the environment. As a Tax Committee member, I am going to offer a different perspective this evening. To my mind, this is a significant change to our Economic Development Incentives. Maine's economic incentive policies have been subject of debate and scrutiny for years. In 1998, the Legislature created the Economic Development Incentive Commission, also known as the EDIC. The EDIC was created with the unanimous support of the Taxation Committee and if my memory serves me correctly, near unanimous of the Legislature just two years ago. The EDIC was designed to provide a broad-based review of Maine's economic development programs and to return to the Legislature with recommendations for changes and improvements. Out of the EDIC's work, a comprehensive picture of Maine's economic development programs will be developed. Unfortunately, this bill we have before us tonight is a rush to judgment before the EDIC has finished its work. Proposals to significantly restructure Maine's economic development programs without the advice of the EDIC, I believe, would be premature. The commission's work is important and I think the Legislature should await the commission's recommendations before it takes action that would

surely destabilize Maine's economic development climate. I believe that common ground can be found between differing view points on economic development policy and I urge you to allow the commission, I failed to mention I am also a member of the commission, which is probably why I feel so strongly about this. I urge that you allow the commission to seek the common ground before implementing a significant change to our economic development policies and programs. This provision, by the way, has not even been thoroughly discussed or debated by the full EDIC. I urge you, let the process that we all set up or at least the Legislature set up, let it work. I urge you to defeat the pending motion. Thank you.

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

Representative SAVAGE: Mr. Speaker, Men and Women of the House. I need to address the speeding ticket, take your house scenario. It confuses the issue in four different ways. First of all, this is not about punishment. The Representative from Arundel spent a great deal of time taking about how this is an enhancement to punishment. It is not about punishment. It is about where we choose to spend the taxpayer's money. Second of all, the house speeding ticket scenario fails to address proportionality. This bill does address proportionality. By proportionality, I mean the relative severity of the offense versus the severity of the consequence. A speeding ticket is a civil offense and what we are talking about here are criminal offenses. Finally, the question is, who bought the house? Thank you.

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

Representative CAMERON: Mr. Speaker, Ladies and Gentlemen of the House. Just a quick response, I would buy the argument that this is a measured approach if the BETR money was taken away based on the severity of the crime. There are all kinds of levels of criminal conviction. This says that any kind of criminal conviction related to the environment, all of it goes. That is not a measured approach. It is too absolute. Thank you very much.

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

Representative TOBIN: Mr. Speaker, Ladies and Gentlemen of the House. It is late in the evening. I am one of the last speakers on this bill. I know I am not going to change any votes. Everyone has made up their mind how they are going to vote, but I am going to try anyway. Most laws have a maximum penalty, but no minimum. It is left up to the judge for a minor offense, you get a minor penalty. In this case, even a minor criminal action you lose your entire BETR Program for an entire year. For a marginal company, that may be just enough to put it out of business. As has been stated earlier this evening, there have been no cases in the last five years that would trigger this action. If there have been no cases in the last five years, what do we need the changes for? It just sends a bad message that the State of Maine is not receptive to business. I urge you to vote against this measure. Thank you.

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

Representative JOY: Mr. Speaker, Ladies and Gentlemen of the House. It does my heart good to hear this body wants to be fiscally responsible with taxpayer dollars. I have argued that now for the last three or four terms and yet we have continued to

spend the overcollected taxes from those taxpayers on programs that we can't sustain down the road.

I would like to address a couple of points here. We indicate that there have only been three criminal violations. The reason that there have only been three criminal violations because they work out with the violator and come down with a consent agreement. If there had been a bill accepted by this body that I put in a while back that would have put all the fines into the General Fund, I would have worked very hard to convince every one of these names that you see on the top of this divided report, down to the bottom, but with those fines not going to the General Fund, it is going to make a much higher level of consent decree worked out between the DEP and the violator. The reason being is that the DEP works and part of their budget is made entirely of fines. If you go back and check their reports, they had penalties of about \$83,000 in January and \$83,000 in February and those numbers will increase if this bill is passed because the incentive will be there for higher settlements.

I heard the word entitlement. Nobody ever suggested that these were entitlements. Ladies and gentlemen, most of these BETR reimbursements were on equipment that was purchased to prevent problems with the environment. Many of these, in particular, the paper companies have worked very hard and used this money to buy equipment that is going to protect our environment more.

Finally, in closing, I hope that as you are thinking about being fair to the taxpayers of Maine, I hope that somebody has a bill out there to turn back the \$350 million that we have overcollected in taxes this time. Ladies and gentlemen, I urge you to defeat the pending motion and go on and accept the Ought Not to Pass Report. Thank you.

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

Representative NORBERT: Mr. Speaker, Ladies and Gentlemen of the House. I appreciate your patience. I just wanted to respond to a couple of points and then I will sit down. I salute my worthy opponent on the level of the debate and it has been a very interesting journey. The Representative from Arundel, Representative Daigle, pointed out a hypothetical idea involving speeding. It just got me thinking that you may debate whether you truly were going over the speed limit at time, but certainly you know when you are criminally speeding, which is 30 miles per hour over the limit here in Maine. That is what we are talking about. Yes, it is true that any criminal violation would come into scrutiny, but to get to that level, it has to be a criminal violation. That is not just any criminal violation, it is a criminal intentional violation and that this is a very high bar indeed. The other thing I would point out is that if one challenges a civil consent decree and they appeal it to court and lose, then you have a civil judgment and not a criminal judgment. It is not a criminal conviction. Criminal charges are rare and they are at the discretion of the prosecutor. I encourage you to keep that in mind that it is very unlikely that just any rogue employee would be charged. Prosecutors have plenty to do without wasting our resources and they certainly are going to save charges for the most severe and egregious cases. The other point, the analogy to a house, the good Representative from Buxton, Representative Savage, pointed out correctly that if ever the notion of entitlement came into this debate, it might have been brought into that. A house is something that is owned or at least had some ownership interest in it where as these payments really are the public's money. They are not entitlements, in fact,

it makes it legitimate, therefore, for us to demand something in return and that is obeying current laws. It is a significant change, but I don't think it needs to really call into question the central mission of EDIC. As was mentioned we were just talking about four criminal violations within recent years, it is a significant change in that it sets finally a limit, but it is an outer limit on the BETR Program. Again, it is only the most egregious cases. Finally, it does indeed send a message to the business community. It says that we welcome responsible businesses and those who aren't shouldn't expect our public money. Thank you.

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

Representative DAIGLE: Mr. Speaker, Ladies and Gentlemen of the House. To the anticipation of others, I will speak at least one more time and here I am. I guess the last thing that I want to leave you with is a better understanding of intent and willful and so forth. If you ever have a consent agreement with DEP now, one of the things you do when you settle that is you admit to what happened. It is in the findings in a consent agreement. It automatically makes a trigger that everything that ever happens again is intentional because you knew better. It was willful because you knew better. It is one of the things in the existing enforcement policy of how they adjust penalties to say whether or not you have come access this once before. Under the constant and imputed knowledge and the way corporations are structured, it applies corporate wide. Any branch having a consent agreement for this example of hazardous waste drum, but then in another branch in another location has a similar violation then it is becomes intentional because the guy over here knew it was wrong and it becomes willful because you agreed when you settled that one four years ago that you wouldn't do it again and here you are doing it again over here. That is part of why that is in there. The effect this will have is to say that you must settle, because you can't pick it up. If you pick it up to court, you will lose. Thank you.

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

Representative MCKEE: Mr. Speaker, Ladies and Gentlemen of the House. I am the lay person on the Natural Resources Committee. I am sure that the committee feels that when Representative McKee can understand it, we are finally ready to take it to the floor. Everyone else on the committee seems to have some background in science, engineering, environmental law and so forth. This is the simplest bill that I saw all session. I am reminded of that wonderful book *Everything I Learned in Life, I Learned in Kindergarten*. I can tell you from raising children that everything I learned about life, I learned from raising kids. My husband and I believed in tough love and in fairness. We believed in economic incentives. We called them allowances for good behavior. We believed in fines for violations. If you broke a window, you paid for it. We believed in penalties too. If you knowingly and willingly broke the house rules and those actions affected the family in a harmful way, you got no allowance and no rewards for an indefinite period of time. Parents who did otherwise enabled their children. We don't reward criminal behavior. We don't take hard earned dollars and give them to companies. This is a straightforward bill and I hope you will accept the Minority Ought to Pass as Amended Report.

The SPEAKER: The Chair recognizes the Representative from Yarmouth, Representative Buck.

Representative **BUCK**: Mr. Speaker, Men and Women of the House. I think one of the earlier speakers really addressed the issue and that was the Representative from Millinocket, Representative Clark. I think he made a clear and convincing and quite eloquent case why we should defeat this motion. We have heard tonight a lot of reasons why we want to do something with the BETR Program. The Representative from Hallowell talked about fiscal responsibility. The thought occurred to me is why do we have this BETR Program. Many states don't. Many states don't tax personal property. We have the BETR Program because those of us in this chamber have not practiced fiscal responsibility, in my mind. This session alone is a good example of that. We have a \$300 million surplus. What are we doing? I am talking about folks on both sides of the aisle. We are spending it all. We are not saving it. We are not investing it. We are going to raise the level of government spending once again. Those of you who were in the Legislature in the early '90s, I was not. Remember all of the agony that the Legislature went through because we didn't have enough revenue coming in to provide for the programs that state government provided. What we have done since then, since all of these revenues have come in? We have raised the level of revenues. We have expanded our services. Some day the economy that exists now is going to go down and we are going to have to tighten our belt. We are going to have to eliminate programs, reduce the workforce and all of those things that happen when we go into a recession. We are ignoring that right now in this Legislature. We are spending it like there is no tomorrow.

BETR exists because we don't have the discipline here in this House, Republicans and Democrats, to realize that if we want to have a thriving economy, we have to reduce taxes so that we can attract businesses without having to have the BETR Program.

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

Representative **MARTIN**: Mr. Speaker, Colleagues of the House. I, if you can believe this, had really no intentions of rising again, but the Representative from Yarmouth, Representative Buck, has brought me to my feet. All of us, to some degree, rewrite history as we best want to write it. I, for one, want to make it clear as to why this Legislature got into its mess in 1990 and 1991 and why some of the programs such as BETR became part of reality. During the Reagan years the Congress and President Reagan cut federal programs. The Legislatures throughout this country had to make a decision as to whether or not they were going to continue programs that had been started at the federal level and fund them or whether we were going to cut services to its citizens. Various states around the country went in different directions. This state chooses and this Legislature chooses to fund those programs for Maine citizens and in particular the elderly. Those in nursing homes, home care, on Medicaid and so the cost of government went up and the Representative from Yarmouth is absolutely correct. It was a conscience decision and we made it. We made it for the citizens of this state. It was a conscience decision. We have done that over and over again unfortunately. There are programs over which many times this Legislature had very little control. I will say that my heart is hardened or I should say weakened perhaps. Against or for this bill, I am not sure, but to hear members of the minority congratulate the work of the Department of Environmental Protection tonight and how affective they are in preserving the environment of this state and how pleased I am to

hear that. How pleased I am. I suspect as we now move forward that that means that we can put additional money in the department to fund additional employees to protect the environmental laws of this state. I know I will have at least the support, I hope, of a majority of the minority in putting funds in to protect the environment. That ought to be the goal of all of us.

The SPEAKER: The Chair recognizes the Representative from Waterville, Representative Gagnon.

Representative **GAGNON**: Mr. Speaker, Men and Women of the House. I am tempted to say, welcome to my world. Much of this discussion has been about tax policy. In fact, if I could sit back and close my eyes, I would just think I was in the Taxation Committee room listening to this. The BETR Program has been a subject of much debate and some of the issues that the good Representative from Yarmouth talked about. In fact, he and I are in agreement on some of these issues. Before the session is over, I want to remind folks at what he was talking about and what he and I often talk about and it is called volatility or revenue streams. This discussion tonight is about values. I have heard the term global economy tonight. I have heard that many times. In fact, the Representative from Monmouth, Representative Green, and I often have a little tally sheet on her side of how many times we have heard the term global economy and fairness issue, that is another big one we hear in the committee.

There are inequities in the tax system, but ultimately, ladies and gentlemen, Maine's tax code, which I have half of it here is a reflection of the values of the people of the state. We are using taxpayer money to provide incentives to businesses and it is certainly our role to place any restrictions or no restriction on that. This morning when I picked up my local paper and it had some discouraging news in it. There was an article about a business in my city that has received tens of thousands of dollars in BETR reimbursement and the paper said they are closing the doors. They are putting almost 150 people out of work. It is discouraging. These things don't work well. We have to determine at what point our values kick in, taxpayer money, the people who sent us here. I am encouraged by the debate tonight. These are things that often go on in our committee room. I would just hope that folks would search their souls on what the values of the people of the state are and vote. Thank you.

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

Representative **BOWLES**: Mr. Speaker, Ladies and Gentlemen of the House. Often times I sit here and I listen as my colleagues stand and characterize bills as either good bills or bad bills. I would suggest to you tonight that this bill is neither of the above. It is neither good or bad. It is simply unnecessary.

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

ROLL CALL NO. 575

YEA - Bagley, Baker, Berry RL, Bolduc, Bouffard, Brennan, Brooks, Bryant, Bull, Chizmar, Colwell, Cote, Cowger, Davidson, Davis, Desmond, Dudley, Dunlap, Duplessie, Etnier, Frechette, Fuller, Gagne, Gagnon, Green, Hatch, Jabar, Jacobs, Kane, LaVerdiere, Lemoine, Mailhot, Martin, Matthews, McDonough, McGlocklin, McKee, Mitchell, Norbert, O'Brien LL, O'Neil, Pieh, Povich, Powers, Quint, Richardson J, Samson, Savage W, Saxl JW, Saxl MV, Shiah, Skoglund, Stevens, Sullivan,

Thompson, Townsend, Tripp, Tuttle, Twomey, Volenik, Watson, Williams, Mr. Speaker.

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

ABSENT - McAlevey, Perry, Rines, Shields, Sirois.

Yes, 63; No, 83; Absent, 5; Excused, 0.

63 having voted in the affirmative and 83 voted in the negative, with 5 being absent, and accordingly the **Minority Ought to Pass as Amended Report was NOT ACCEPTED.**

Subsequently, the **Majority Ought Not to Pass Report was ACCEPTED** and sent for concurrence.

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

**ENACTORS
Mandate**

An Act to Clarify Responsibilities for the Maintenance of Veterans' Grave Sites

(S.P. 302) (L.D. 873)

(H. "A" H-995 to C. "A" S-581)

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

Representative TUTTLE of Sanford **REQUESTED** a roll call on **PASSAGE TO BE ENACTED.**

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

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

In accordance with the provisions of Section 21 of Article IX of the Constitution, a two-thirds vote of all the members elected to the House being necessary, a total was taken.

ROLL CALL NO. 576

YEA - Ahearne, Andrews, Bagley, Baker, Belanger, Berry DP, Berry RL, Bolduc, Bouffard, Bowles, Bragdon, Brennan, Brooks, Bruno, Bryant, Buck, Bull, Bumps, Cameron, Campbell, Carr, Chick, Chizmar, Cianchette, Clark, Clough, Collins, Colwell, Cote, Cowger, Daigle, Davidson, Davis, Desmond, Dudley, Dugay, Duncan, Dunlap, Duplessie, Etnier, Fisher, Foster, Frechette, Fuller, Gagne, Gagnon, Glynn, Green, Hatch, Heidrich, Honey, Jabar, Jodrey, Jones, Kane, Kneeland, Labrecque, LaVerdiere, Lemoine, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, Mailhot, Martin, Marvin, Matthews, Mayo, McDonough, McGlocklin, McKee, McKenney, McNeil, Mendros, Mitchell, Murphy E, Murphy T, Muse, Nass, Norbert, Nutting, O'Brien JA, O'Brien LL, O'Neal, O'Neil, Peavey, Pieh, Pinkham, Povich, Powers, Quint, Richard, Richardson E, Richardson J, Rosen, Samson, Sanborn, Savage C, Savage W, Saxl JW, Saxl MV, Schneider, Sherman, Shiah, Shorey, Snowe-Mello, Stanley, Stanwood, Stevens, Sullivan, Tessier,

Thompson, Tobin D, Tobin J, Townsend, Tracy, Trahan, Treadwell, Tripp, True, Tuttle, Twomey, Usher, Volenik, Watson, Weston, Wheeler EM, Wheeler GJ, Williams, Winsor, Mr. Speaker.

NAY - Cross, Gerry, Gillis, Gooley, Jacobs, Joy, Kasprzak, Perkins, Plowman, Skoglund, Stedman, Waterhouse.

ABSENT - Goodwin, McAlevey, Perry, Rines, Shields, Sirois.

Yes, 133; No, 12; Absent, 6; Excused, 0.

133 having voted in the affirmative and 12 voted in the negative, with 6 being absent, and accordingly the **Mandate was PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

CONSENT CALENDAR

First Day

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

(H.P. 33) (L.D. 42) Bill "An Act to Implement the Recommendations of the Commission to Examine the Rate Setting and Financing of Maine's Long-term Care Facilities" (EMERGENCY) Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-1089)**

(H.P. 1900) (L.D. 2644) Bill "An Act Relating to Eligibility for the Elderly Low-cost Drug Program" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-1088)**

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

There being no objection, the House Papers were **PASSED TO BE ENGROSSED as Amended** and sent for concurrence.

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

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

Bill "An Act to Repeal Certain Inactive Boards and Commissions and to Amend Certain Laws Governing Boards and Commissions"

(H.P. 1932) (L.D. 2676)

Which was **TABLED** by Representative AHEARNE of Madawaska pending **PASSAGE TO BE ENGROSSED.**

Representative AHEARNE of Madawaska **PRESENTED House Amendment "A" (H-1091)** which was **READ** by the Clerk.

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

Representative **AHEARNE**: Mr. Speaker, Men and Women of the House. This amendment just clearly makes a technical correction. It repealed a whole section of law that we did not intend to repeal, but it does correct that we are removing on commission that deserves to be removed.

House Amendment "A" (H-1091) was ADOPTED.

The Bill was **PASSED TO BE ENGROSSED as Amended by House Amendment "A" (H-1091)** and sent for concurrence.

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

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

Representative **FULLER**: Mr. Speaker, Men and Women of the House. Earlier this evening I missed Roll Call 574. Had I been present, I would have voted yea.

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

REPORTS OF COMMITTEE
Divided Report

Majority Report of the Committee on **NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-1086)** on Bill "An Act Regarding the Requirement of Notice in the Acquisition of Solid Waste Hauling, Incineration Residue Disposal and Related Assets" (H.P. 1736) (L.D. 2442)

Signed:

Senators:

TREAT of Kennebec

NUTTING of Androscoggin

Representatives:

MARTIN of Eagle Lake

JOY of Crystal

TOBIN of Windham

ETNIER of Harpswell

McKEE of Wayne

CLARK of Millinocket

COWGER of Hallowell

DAIGLE of Arundel

DUPLESSIE of Westbrook

CAMERON of Rumford

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

Signed:

Senator:

LIBBY of York

READ.

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

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

Representative **JOY**: Mr. Speaker, Men and Women of the House. I think that this bill is a much better representation of the efforts that we put into the deliberations on our committee this year. I ask the permission of my good chair, the Representative from Eagle Lake, Representative Martin, for the privilege of putting this in. It is so rare that I find myself on the Majority Report three times in a row. Thank you Mr. Speaker.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-1086)** 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-1086)** and sent for concurrence.

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 yesterday, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

Bill "An Act to Promote Maine's Dairy Industry"

(H.P. 1696) (L.D. 2402)

- In House, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-858)** on March 15, 2000.

- In Senate, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-858) AS AMENDED BY SENATE AMENDMENT "A" (S-562)** thereto in **NON-CONCURRENCE**.

TABLED - March 23, 2000 (Till Later Today) by Representative SAXL of Portland.

PENDING - FURTHER CONSIDERATION.

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

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

On motion of Representative BELANGER of Caribou and Representative DAVIS of Falmouth, the House adjourned at 9:38 p.m., until 9:00 a.m., Friday, April 7, 2000 in honor and lasting tribute to Robert Francis McMahan, of Caribou and the Honorable Edward William Rogers, of Falmouth.