

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
Index

ONE HUNDRED AND NINETEENTH LEGISLATURE
SECOND REGULAR SESSION
29th Legislative Day
Saturday, April 8, 2000

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

Prayer by the Honorable Joanne T. Twomey of Biddeford.

Pledge of Allegiance.

The Journal of yesterday was read and approved.

The SPEAKER: The Chair recognizes the Representative from Waterboro, Representative McAlevey who wishes to address the House on the record.

Representative **MCALLEVEY**: Mr. Speaker, Ladies and Gentlemen of the House. As you know, the last couple of days have been pretty difficult for my family. I want to thank everyone in this body and the staff for your kind words and notes and cards and phone calls. Because of the circumstances, I had to get away from things yesterday and the choice was to stay home alone or be with my family here. I want you to know how much I appreciate your kind words and how much they mean to me and how much they helped me get through yesterday and last night. Thank you all very much. I am proud to be part of this family and we argue and we cajole each other, but we are a family. That is very, very important. My wife gets upset sometimes when I say that I have to pack and go home. We have all said that from time to time, but thank you all my friends.

SENATE PAPERS

Non-Concurrent Matter

Bill "An Act to Amend the Maine Workers' Compensation Act of 1992 as it Pertains to Occupational Health"

(H.P. 1454) (L.D. 2075)

Minority (4) **OUGHT NOT TO PASS** Report of the Committee on **LABOR READ** and **ACCEPTED** in the House on April 4, 2000.

Came from the Senate with the Majority (9) **OUGHT TO PASS AS AMENDED** Report of the Committee on **LABOR READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1034)** in **NON-CONCURRENCE**.

Representative HATCH of Skowhegan moved that the House **RECEDE AND CONCUR**.

On further motion of the same Representative, **TABLED** pending her motion to **RECEDE AND CONCUR** and later today assigned.

Non-Concurrent Matter

Bill "An Act to Amend the Control of the Revenue Generated by Games of Chance at the Agricultural Fairs"

(H.P. 1756) (L.D. 2462)

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1045) in the House on April 5, 2000.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1045) AND SENATE AMENDMENT "A" (S-647)** in **NON-CONCURRENCE**.

On motion of Representative TUTTLE of Sanford, the House voted to **RECEDE AND CONCUR**.

COMMUNICATIONS

The Following Communication: (S.C. 632)

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

April 7, 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 the following nominations:

Upon the recommendation of the Joint Standing Committee on Agriculture, Conservation and Forestry, the nomination of Jacquelyn L. Webber of Stockholm for appointment to the Land Use Regulation Commission.

Upon the recommendation of the Joint Standing Committee on Natural Resources, the nominations of Marcia McKeague of Medway for appointment and Dennis L. Higgins of Mattawamkeag and Warren Balgooyen of Norridgewock for reappointment to the Land for Maine's Future Board.

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:

In Memory of:

Margaret Beliveau, of Rumford, beloved wife, mother and grandmother. Mrs. Beliveau was an advocate for people with developmental disabilities. She was a founder in 1956 of the Hope Training School for mentally retarded children and served many years as principal of the school. She also helped form the Oxford County Association for Retarded Children and helped establish Horizons Unlimited. She taught special needs children in the Rumford school district until 1965. She received the first Kiwanis Community Citizen of the Year Award, was a gubernatorial appointee to the Committee of the Problems of the Mentally Retarded and was a board member of the Pine Tree Society for the Handicapped. She was an active member of the St. Athanasius-St. John Parish and was a president of the Maine Diocesan Council of Catholic Women. She was a board member of the Rumford Community Concert Association and was involved in numerous other community, civil and political organizations. She will be sadly missed by family and friends;

(HLS 1221)

Presented by Representative SAXL of Portland.

Cosponsored by Speaker ROWE of Portland, Representative SHIAH of Bowdoinham, President LAWRENCE of York, Senator PINGREE of Knox, Senator RAND of Cumberland,

Representative CAMERON of Rumford, Senator FERGUSON of Oxford.

On **OBJECTION** of Representative SHIAH of Bowdoinham, was **REMOVED** from the Special Sentiment Calendar.

READ.

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

REPORTS OF COMMITTEE

Ought to Pass Pursuant to Resolve

Representative POVICH from the Committee on **CRIMINAL JUSTICE** on Bill "An Act to Implement the Recommendations of the Commission to Consider the Enhancement of Fire Protection Services Throughout the State"

(H.P. 1940) (L.D. 2685)

Reporting **Ought to Pass** pursuant to Resolve 1999, chapter 65, section 8.

Report was **READ** and **ACCEPTED**. The Bill **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.

Ought to Pass As Amended

Report of the Committee on **TAXATION** on Bill "An Act Concerning Technical Changes to the Tax Laws" (EMERGENCY)

(S.P. 981) (L.D. 2524)

Reporting **Ought to Pass As Amended by Committee Amendment "A" (S-641)**.

Came from the Senate with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-641) AS AMENDED BY SENATE AMENDMENT "A" (S-652)** thereto.

Report was **READ** and **ACCEPTED**. The Bill **READ ONCE**. **COMMITTEE AMENDMENT "A" (S-641)** **READ** by the Clerk. **SENATE AMENDMENT "A" (S-652) TO COMMITTEE AMENDMENT "A" (S-641)** **READ** by the Clerk and **ADOPTED**. **COMMITTEE AMENDMENT "A" (S-641) AS AMENDED BY SENATE AMENDMENT "A" (S-652)** thereto **ADOPTED**.

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

Under further suspension of the rules, the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-641) as Amended by Senate Amendment "A" (S-652)** thereto in concurrence.

Divided Report

Majority Report of the Committee on **JUDICIARY** reporting **Ought to Pass pursuant to Joint Order (H.P. 1912)** on Bill "An Act to Provide Equal Treatment for State Employees under Certain Federal Employment Laws"

(H.P. 1939) (L.D. 2682)

Signed:

Senators:

LONGLEY of Waldo

TREAT of Kennebec

Representatives:

THOMPSON of Naples

LaVERDIERE of Wilton

BULL of Freeport

MITCHELL of Vassalboro

NORBERT of Portland

JACOBS of Turner

Minority Report of the same Committee reporting **Ought Not to Pass pursuant to Joint Order (H.P. 1912)** on same Bill.

Signed:

Senator:

BENOIT of Franklin

Representatives:

PLOWMAN of Hampden

MADORE of Augusta

WATERHOUSE of Bridgton

SCHNEIDER of Durham

READ.

Representative THOMPSON of Naples 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.

Majority Report of the Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-1078)** on Bill "An Act to Authorize Portland College to Grant Degrees" (EMERGENCY)

(H.P. 1657) (L.D. 2326)

Signed:

Senator:

BERUBE of Androscoggin

Representatives:

RICHARD of Madison

WESTON of Montville

STEDMAN of Hartland

DESMOND of Mapleton

BRENNAN of Portland

ANDREWS of York

BELANGER of Caribou

SKOGLUND of St. George

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

Signed:

Senator:

MURRAY of Penobscot

Representatives:

WATSON of Farmingdale

BAKER of Bangor

Senator SMALL of Sagadahoc - of the Senate - abstaining.

READ.

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

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

CONSENT CALENDAR
First Day

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

(S.P. 974) (L.D. 2520) Bill "An Act to Amend Investment-related Provisions of the Maine Insurance Code" Committee on **BANKING AND INSURANCE** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-663)**

(H.P. 1138) (L.D. 1623) Bill "An Act to Provide Services for Children in Need of Supervision" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-1103)**

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

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

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

UNFINISHED BUSINESS

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

Bill "An Act to Clarify the Process for a County Bond Referendum Election"

(H.P. 1706) (L.D. 2412)

- In Senate, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-805)**.

TABLED - March 22, 2000 by Representative GLYNN of South Portland.

PENDING - **ADOPTION OF COMMITTEE AMENDMENT "A" (H-805) AS AMENDED BY HOUSE AMENDMENT "A" (H-889)** thereto.

Representative GLYNN of South Portland **PRESENTED House Amendment "B" (H-910) to Committee Amendment "A" (H-805)**, which was **READ** by the Clerk.

The same Representative **REQUESTED** a roll call on his motion to **ADOPT House Amendment "B" (H-910) to Committee Amendment "A" (H-805)**.

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 Glynn.

Representative **GLYNN**: Mr. Speaker, Ladies and Gentlemen of the House. I will be very brief. The issue that is before you is to delegate the authority to float county bonds to put them on the ballot instead of by the Maine State Legislature delegating that authority to the county commissioners. In Cumberland County we have an accountability problem with that process and very quickly that problem is that the county bonds are paid for by local property tax dollars. We have budget advisory committees in many of the counties and those budget advisory committees are made up of selectmen, aldermen and councilmen. In Cumberland County we have three county commissioners and we have nine members of the budget advisory board. As this bill stands today, the county commissioners over the objections of the local town councilmen, selectmen and aldermen that are elected for three year terms to oversee the budget process can be totally cut out of the process and bonds can put on the ballot against their objections. The

purpose of the amendment is to include the elected budget advisory committee in the process by requiring they, by the same two-thirds vote that the county commissioners vote to put in on the ballot can concur and agree to put the question before the voters. I urge your adoption. Thank you.

Representative **AHEARNE** of Madawaska moved that **House Amendment "B" (H-910) to Committee Amendment "A" (H-805)** be **INDEFINITELY POSTPONED**.

The same Representative **REQUESTED** a roll call on his motion to **INDEFINITELY POSTPONE House Amendment "B" (H-910) to Committee Amendment "A" (H-805)**.

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

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

Representative **AHEARNE**: Mr. Speaker, Ladies and Gentlemen of the House. This amendment should be rejected. It is an attempt to force one aspect of county budget making into a single mold. Since 1985 each county working with its legislative delegation has developed its own local budget making process. There are four basic configurations ranging from the appointed budget advisory committees to appointed budget committees, which share power with commissioners to publicly elected budget committee and in my own county, a publicly elected finance committee. The details of how county budgets are developed and passed vary from county to county. This amendment ignores all that and imposes on one aspect of budget making a requirement that two-thirds of the budget committee approve the issuance of bonds before the question goes to the voter. In some counties, this would give budget committees more authority than they presently have and in some counties, less. It raises questions of how budget committees conduct their business. Issuance of a bond is ultimately tied to other aspects of budget making, but would be subject to a different set of rules if this amendment were adopted.

We have accepted an amendment, which ensures that county commissioners involve their budget committees in the borrowing of money through the issuance of bonds. It was a reasonable measure, but not a straightjacket. This amendment that we are currently debating today is an unnecessary intrusion into local control. I ask you to support the pending motion.

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

Representative **KASPRZAK**: Mr. Speaker, Men and Women of the House. As a member of the Majority Report on this Ought to Pass bill, I would encourage you to support this amendment. I think it gives the local control procedure some kind of accountability and integrity. I think that is always a good idea. I would encourage you to vote against Indefinite Postponement. Thank you.

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

Representative **SAVAGE**: Mr. Speaker, Ladies and Gentlemen of the House. I urge you to Indefinitely Postpone this amendment. If you will review the House Amendment (H-889) that is the one that I placed on this bill because I had a concern that this bond procedure would go to the commissioners and then directly to the people. My amendment would have the budget committee review, I use the word review, because every budget committee in the state, each county, is made up differently. I think you are muddying up the waters. I would agree with the good Representative from Madawaska,

Representative Ahearne, in his review of this amendment that we are voting to Indefinitely Postpone. Thank you.

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

Representative **GLYNN**: Mr. Speaker, Ladies and Gentlemen of the House. We currently have a process that has checks and balances today. If the county commissioners want to float a bond and would like to put that on the ballot, they need to come to us, the Maine State Legislature, and get our consent. We are cutting them loose with the passage of this LD. The purpose of the amendment is quite simple, having checks and balances. Do we believe that two people in elected office should have direct access to the ballot to put initiatives on or do we believe that that process should have the checks and balances of the people that pay the bills, which happens to be the area town board selectmen, aldermen and councilors because the debt for the bonds of the county are issued just like utility bills to the towns and cities and all of the taxpayers in Maine pay for those in their local property taxes. Please don't allow a process to be set up with necessary checks and balances. Review means nothing unless there is authority to say no. Thank you.

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

Representative **AHEARNE**: Mr. Speaker, Ladies and Gentlemen of the House. I don't mean to belabor this issue any further, but, in my opinion, this amendment is of major substantive change to the county process. I remind members that this one amendment will not just affect one county, but nine others counties. We have yet to hear any type of public hearing in terms of what these other counties would feel. Those counties are Hancock, Kennebec, Lincoln, Piscataquis, Sagadahoc, Waldo, Washington and York County. This would affect their budget process without a public hearing or without any type of review. I ask you to support the pending motion.

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

Representative **CHICK**: Mr. Speaker, Ladies and Gentlemen of the House. What I will have to say about this process would be based on what I serve on in York County as a non-voting member of the budget process from this body from the York County Delegation. I would say that I am talking about a board of county commissioners of five people and ever since I could remember, county commissioners have been some of the finest administrators that I have seen in county government. I don't believe that it is necessary for us to require that elected county commissioners are required to come here. With that, I realize that possibly in some of the municipalities there are different numbers and different procedures. I really believe that we need to give the county commissioners their rightful place in deciding for their county what would go out to a bond issue and in the case of York County in the selection of county commissioners, they are not centered in one particular spot in the county. They come from around the county and in that case there are 29 towns. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "B" (H-910) to Committee Amendment "A" (H-805). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 593

YEA - Ahearne, Andrews, Bagley, Baker, Belanger, Berry DP, Berry RL, Bouffard, Bragdon, Brennan, Brooks, Bruno, Bryant, Buck, Bull, Cameron, Campbell, Chick, Chizmar, Clough,

Collins, Colwell, Cowger, Daigle, Davidson, Desmond, Dudley, Dugay, Duncan, Dunlap, Duplessie, Etnier, Fisher, Fuller, Gagne, Gagnon, Gerry, Gillis, Goodwin, Gooley, Hatch, Heidrich, Honey, Jabar, Jacobs, Jodrey, Kane, Kneeland, Labrecque, LaVerdiere, Lemoine, Lindahl, Lovett, Mailhot, Martin, Mayo, McDonough, McGlocklin, McKee, McNeil, Mendros, Mitchell, Murphy E, Murphy T, Muse, Nass, Norbert, Nutting, O'Brien JA, O'Neal, Peavey, Perkins, Pieh, Povich, Powers, Quint, Richard, Richardson E, Rines, Samson, Sanborn, Savage C, Savage W, Saxl JW, Saxl MV, Schneider, Sherman, Shiah, Skoglund, Snowe-Mello, Stanley, Stevens, Sullivan, Tessier, Thompson, Tobin D, Townsend, Tracy, Trahan, Treadwell, Tripp, True, Tuttle, Twomey, Usher, Volenik, Waterhouse, Watson, Wheeler EM, Wheeler GJ, Williams, Winsor, Mr. Speaker.

NAY - Bowles, Carr, Cianchette, Clark, Cross, Davis, Foster, Glynn, Jones, Joy, Kasprzak, MacDougall, Mack, McKenney, Pinkham, Plowman, Rosen, Shorey, Stanwood, Stedman, Tobin J, Weston.

ABSENT - Bolduc, Bumps, Cote, Frechette, Green, Lemont, Madore, Marvin, Matthews, McAlevy, O'Brien LL, O'Neil, Perry, Richardson J, Shields, Sirois.

Yes, 113; No, 22; Absent, 16; Excused, 0.

113 having voted in the affirmative and 22 voted in the negative, with 16 being absent, and accordingly **House Amendment "B" (H-910) to Committee Amendment "A" (H-805) was INDEFINITELY POSTPONED.**

Subsequently, **Committee Amendment "A" (H-805) as Amended by House Amendment "A" (H-889) thereto was ADOPTED.**

The Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-805) as Amended by House Amendment "A" (H-889) thereto in NON-CONCURRENCE** and sent for concurrence.

An Act to Improve School Safety and Learning Environments
(S.P. 298) (L.D. 870)
(C. "A" S-657)

TABLED - April 7, 2000 (Till Later Today) by Representative STANLEY of Medway.

PENDING - **PASSAGE TO BE ENACTED.**

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

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **Committee Amendment "A" (S-657) was ADOPTED.**

The same Representative presented **House Amendment "A" (H-1102) to Committee Amendment "A" (S-657) which was READ** by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Medway, Representative Stanley.

Representative **STANLEY**: Mr. Speaker, Men and Women of the House. What this amendment does is to allow a municipality that has money in what they call a municipal trust fund, I have a community that has that with about \$150,000, they would like to do is be able to take that money out of this municipal trust fund and use it for school construction or renovation. It has to be approved by the voters in the municipality at the next election. Basically what this municipal trust fund is money that was there back in the 1780s when we were part of Massachusetts and there were certain parts of the state, every town had what they

called public laws and the money for this public law went in for the education of the children. This is money that is there and has been there forever. It is about \$150,000 that they would like to use for school renovation. Thank you.

House Amendment "A" (H-1102) to Committee Amendment "A" (S-657) was ADOPTED.

Committee Amendment "A" (S-657) as Amended by House Amendment "A" (H-1102) thereto was ADOPTED.

The Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-657) as Amended by House Amendment "A" (H-1102) thereto in NON-CONCURRENCE** and sent for concurrence.

The Chair laid before the House the following item which was **TABLED** and today assigned:

TABLED AND TODAY ASSIGNED

SENATE DIVIDED REPORT - Majority (7) OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-661) - Minority (6) OUGHT NOT TO PASS - Committee on JUDICIARY on Bill "An Act to Protect the Health and Well-being of a Nursing Infant of Separated or Divorcing Parents"

(S.P. 888) (L.D. 2307)

- In Senate, Majority **OUGHT TO PASS AS AMENDED** Report of the Committee on **JUDICIARY READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-661).**

TABLED - April 7, 2000 by Representative TRACY of Rome.

PENDING - Motion of same Representative to reconsider whereby the Minority OUGHT NOT TO PASS Report of the Committee on JUDICIARY was READ and ACCEPTED in NON-CONCURRENCE.

Subsequently, the House **RECONSIDERED** its action whereby the Minority **Ought Not to Pass Report was ACCEPTED.**

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

Representative **LAVERDIERE:** Mr. Speaker, Men and Women of the House. I hope that you will note that on this particular bill I signed on the Minority Report. I did so because I had concerns with regard to the effect of this bill. I want to explain my concerns and then I want to tell you that I am going to change my vote. I want to ask you to follow my light.

My concern with regard to this bill is that for years those of us that work in the court system have been working diligently to remove gender as an item, in particular family proceeding. All too often in my experience and I think other attorneys will tell you the same thing, family proceedings have resulted in men often times having advantage in financial matters in the divorce and women often times having advantage with regard to custody matters. We have outlawed that. Like discrimination in the south in the '60s that we outlawed, it is no longer legal to do that, but it lives. It continues to live in our courts in the form of, many times, unconscious decisions on the part of participants to go in favor of one party or another. I did not want to interject that back into this proceeding.

This is the part where I fall onto my sword. In this particular case, I am convinced that if, in fact, we are going to have bias in a court proceeding, then lets be up front and honest about it. Let's allow the court to consider this matter, have an open discussion and then decide fairly between the parties. So, although I continue to have concerns about the injection of

gender into family matters, in this particular matter, I am satisfied that the courts will handle that appropriately and I would ask that you join with me in supporting the Majority Report. Thank you.

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

Representative **LORING:** Mr. Speaker, Men and Women of the House. Just a little background as to why this bill has been brought before this body. Many of you might be familiar with the case that happened last summer. It was a divorce proceeding and a six month old child was involved. The case manager gave custody to the father, the infant was breast feeding, for every other day. It really put a burden on the mother who was breast-feeding this child. You would think that the case manager would have taken the breast-feeding in consideration and obviously that didn't happen. What this bill does is add that section P so that the case manager would have to take that into consideration and there would be no question about that. We would ask that you vote yes on this bill. Thank you.

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

Representative **SOCTOMAH:** Mr. Speaker, Ladies and Gentlemen of the House. I ask you to support LD 2307. This is a simple bill, which would add one line to an existing list. MRSA, Title 19, Section 1653, which the courts use to consider the best interest of the child. This one line addition would state, "If the child is under one year old and whether it is breast-feeding." This does not give special rights to anyone. All it does is look at the best interests of the child. It adds breastfeeding as a consideration for the judge. Breast-feeding goes back to the beginning of time. It is a basic right of that child. Let's start looking at the infant's rights and needs before we look at anything else. As a father of seven daughters and many other fathers like me, look at the best interests of their children. I see this type of bonding for mothers and their children as a special type of bonding. Men and their children have also a strong type of bonding that needs to be nurtured. I ask you to support this basic need and please support LD 2307. Thank you.

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

Representative **PLOWMAN:** Mr. Speaker, Men and Women of the House. I hope you will continue to support the Minority Ought Not to Pass Report. During this case, which was a highly publicized case, the issue of breast-feeding was considered. It was highly debated. It was not something that wasn't brought up before the Case Management Office. The decision by the case management officer was not against the mother's bonding. It took into account nursing. What it also took into account was this was a child who at a very age in life needed not only to bond with mom, but to bond with dad. If you have a six month old baby and your wife is nursing, you know how hard it is to get that baby out mom's arms. Nursing moms actually try to somehow work it in so dad gets to give the baby a bottle every once in a while so a dad can bond with a baby. It is very important. We are talking about something that goes on in the first year of the life. Yes. The judge said, here is a good dad and this child should bond with a good dad. Do you know how often you even hear somebody say that? That a dad would get much visitation. That is very rare. This must have been an exceptional man for someone to say that he could have his child every other day in order to bond with him.

Having said that, and that is what the case was about, all of the other paragraphs, A through O, have been worked out to the

best interest of the child. If you want to add this, you can go ahead and add this, but, to me, it is not necessary to put that in there. Just because we don't like a court decision, doesn't mean that we can keep coming in here and adding and adding and adding until you finally get everything taken care of. You may have dad use disposable diapers, but mom really likes to use cloth, would you like that be Q? I mean, when does it stop. We have enough on the statutes as to what should be looked at for the welfare of the child. It is the welfare of the child. That baby deserves a dad just as much as a mom. There are working mothers at six months who have to go back to work and have to make special arrangements in order to continue to feed their babies breast milk. Women deal with this all the time in the way that they have to. The fact is this man was told by a case management officer that he was good enough to be a dad. If you don't like the decision, you don't like the decision. If you don't feel like you were heard, then complain to the judge or the Chief Justice and complain that you have a case management officer who doesn't listen.

I just think that we need to stop getting into these very particular scenarios and let the judges and the case management officers have some discretion. Thank you.

The SPEAKER: The Chair recognizes the Representative from Farmingdale, Representative Watson.

Representative **WATSON**: Mr. Speaker, Men and Women of the House. When we, as a body, had previously voted on this, I had been detained with other issues outside of the chamber, but when I came in with the little information that I had in not hearing the debate, I voted and made an assumption that was obviously incorrect, that I would be voting with the majority of the body and not in the minority. Since that vote was taken and I have had time to talk to people who were on the Judiciary Committee in regards to this issue, I felt compelled to rise today to perhaps add just a bit of personal information that might help others to maybe reconsider the decision that they made yesterday when they voted. In all due respect to the good Representative from Hampden, Representative Plowman, I certainly understand some of her concerns about this being another issue that the courts have to look at, but I think the courts in the State of Maine are perfectly capable of, especially when it comes to those issues that have to do with parents who are separated or divorced and what is in the best interest of the child? Considering sometimes what is in the best interest of the child, we would hope that the court would also decide what is in the best interest of parents. I appreciate, again, what Representative Plowman bringing up those issues that are important to all of us in regards to the fathers parental, not only responsibilities, but rights of enjoyment and bonding with their infant child.

I do have to dispute some of the remarks that were made in regards to, again, it might get a little personal, as a mother of two adult children on having experienced the advantage of being able to breast-feed both of my children until they decided to wean themselves, both around the age of one, because it was natural for them to do this because they were able at that point in their lives to hold a cup and felt very independent in drinking milk in that manner. I felt that certainly breast-feeding my children was not only my choice, but a choice that both my husband and I made together because we felt it was something that we both could share as a bonding mechanism with our infant children. The father of my children did not insist upon feeding them a bottle and making me go through what every nursing mother knows is the torturous expression of milk prior to a feeding so

that you can actually fill the bottle. My husband and I decided the best way he could bond was after I fed, he would always do the burping part, which he really enjoyed because he would like to walk around and pat the baby. I think that he was part of that process.

I have a problem with a court actually interfering with a mother's biological choice whether or not she is the primary source of sustenance for a young infant, whether she is doing it on a regular basis in the natural form or in the less natural form of having to express milk and put it into a bottle on those occasions that she has to be either at her job or has other obligations towards her family. For a court to actually expressly tell a woman that she must interrupt her natural biological cycle by an artificial procedure that is used, again, by the choice of the mother, seems very contrary to our support of what women and their infants are most naturally attuned to doing. I just can't even imagine a judge, whether a male or female, actually making a court order that says she shall fill so many bottles if she is breast-feeding that have to accompany that infant on visitation with her husband. I just find it absolutely abhorrent that that the court would interfere to such a great extent with a very personal, intimate, issue that a woman confronts when she does make a choice to breast-feed her children. Again, I would ask the members of the body if they would please vote against the pending motion and to please support the Majority Report of the committee, Ought to Pass. Thank you.

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

Representative **BAKER**: Mr. Speaker, Men and Women of the House. I appreciate the Wilton, Representative LaVerdiere for his thoughtful reconsideration of this important issue. The family law section of the Maine Bar Association endorses this LD stating that with our statutory provisions prohibiting favoring either parent based upon the sex or the parent or the age or the sex of the child, there may be a need to list breast-feeding to recognize that breast-feeding involves concerns beyond the age of the parent and the sex of the child. Breast-feeding has been shown to enhance brain development and to protect children against a host of illnesses that includes insulin dependent diabetes, Crones Disease, ulcerative colitis, lymphoma, allergic diseases, chronic digestive diseases, lower respiratory infections, bacterial meningitis, botulism, urinary tract infection and the American Academy of Pediatrics says that breast-feeding should continue for at least 12 months.

I know that some have said that mothers can pump milk, but I need to tell you that pumping milk is not all that easy and not always successful. Sometimes the breast-fed baby refuses a bottle. A have a three month old grandson who is finally been willing to take his first bottle. It is not easy and pumping can mean that you lose the ability to breast-feed or the baby loses the desire. We are actually subjecting that infant to unnecessary illnesses with a decision that does not make breast-feeding, one in a list of things that a judge must consider.

I am so happy to hear testimony about the importance of paternal as well as maternal bonding. We need two parents for each child. I believe that firmly. I believe that those babies needs to bond with those dads and I want those parents to stay in those marriages. I want them to stay together for that child, at least for the first year. I do not want those parents staying together if there is abuse. I am not talking about endorsing spousal abuse on either part, but those parents need to get responsible. We need healthy families in this country and in this

state. Rather than making it easier for parents to split and use that child, virtually tearing that child in half, we need an emphasis to strengthen families. We need to appreciate the special gift of breast milk for the infant for at least the first year of life. Fathers have another kind of gift that they give. Those gifts are myriad. I have four daughters. They adore their father and his gifts to them. He could not breast-feed, but there are many, many other things he can do. I want us to value this special gift. I want us to honor the court's attempt to make a decision, truly, in the best interest of the child. I hope today you will give a vote for breastfeeding. Thank you.

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

Representative THOMPSON: Mr. Speaker, Men and Women of the House. I hope you will join with me in opposing the Ought Not to Pass report and then passing the Ought to Pass report after that. I don't think I did a good job of it yesterday when this bill first came up. There are currently 14 categories that the court considers, but the one standard the court uses is what is in the best interest of the child. There are 14 different things we have put in there to tell the court that to consider all the factors that are in the best interest of the child, but to make sure you look at these as some of those factors. I am going to disagree with the Representative from Farmingdale even though she is voting with me on this issue because I don't find it abhorrent for the court to order a woman to do that. I don't find it abhorrent when it otherwise is in the best interest of the child because this is only one factor. I think the court has to take breast-feeding into consideration, which is why I am voting to put it into the law. If there are other overriding factors that can make it more important that the child be with the father, then the court has to be able to do that too. This change does allow the court to do that and that is important because that shouldn't be the first and only issue that the court looks at and it won't. It will be the 15th item in a list of 15 items. Each of those have to be considered as a factor. We have made it very clear to limit this to a child only up to age one. I think that makes it very reasonable. I agree with the result. I agree with other Representatives on the bill, but this is not making it the only factor. This is making it a number of issues that the court considers. You reach a bottom line, which we all look to do and that is make a decision based on what is in the best interest of the child. I hope you will join with me in opposing the Ought Not to Pass Report and go on to accept the Majority Report. Thank you.

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

Representative SCHNEIDER: Mr. Speaker, Men and Women of the House. I realize I may be whistling in the wind here, but this bill was a bad idea yesterday and it was a bad idea today. The proponents have really made the primary arguments against the bill. The first of these is this is a bill that was prompted by a single individual who was disappointed and unhappy with the decision that the judge made for custody in her case. The decision happened to have been made by a female judge. Anyone who doesn't think the argument was made and the judge considers it, is certainly fooling themselves. The judge has plenty of room to consider this argument in the catchall phrase in the custody statutes. There is a phrase that says that the judge can consider any other information that has to do with the welfare of the child. This is the way judges make this kind of a decision. We try very hard in the Legislature and the courts try very hard to keep the law gender neutral. Child custody is an

area where it is a particularly sensitive issue. This would, for the first time if this bill passes, enshrine in our law a provision that is not gender neutral that favors one sex over the other in a custody decision and it is not the right thing to do. I urge you to vote not to pass on this bill.

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

Representative SAVAGE: Mr. Speaker, Men and Women of the House. Clearly if this was a question or a vote on the advisability of breast-feeding and the special bonding that can result, I think we wouldn't be having this debate. What is disheartening to me is to hear individuals, as the good Representative from Durham, Representative Schneider pointed out, the individuals in favor of this have presented the arguments against it as they all jump ship from principles that they hold. I highly respect the Representative from Wilton, Representative LaVerdiere, but I have to disagree that if we are going to reintroduce a gender specific factor into the determination of custody that we should just be up front and do it on the books. I just think that that is an interesting analysis of that. I don't think that we should be introducing a gender specific factor. The Representative from Farmingdale, Representative Watson, has raised some very, very strong points as to why breast-feeding is a positive thing, but the focus seems to be on the bond, the feelings or the choices of the parents. The custody decision is about, as we have it in law, the best interests of the child as the Representative from Naples pointed out. The Representative from Bangor, Representative Baker, talked at length of discouraging the splitting of families. I couldn't agree with her more, but if this was a bill to make it harder to get a divorce in this state, I find it hard to believe she would be making that argument. I think what we have to say is there are some complexities of the human condition that can't be addressed in statute. There is an old saying that says that hard cases make bad law and we are about to do that.

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

Representative LEMOINE: Mr. Speaker, Men and Women of the House. I will follow the two Representatives and attorneys who have just spoken in favor of the Minority Ought Not to Pass Report. I do that having practiced a considerable amount of family law. In looking at this statute and the proposal, it is just so we all understand what it is we are doing. At best or at worst, this proposal does nothing. The statutes are already very clear that we are making these decisions and the court should look at all relevant factors and decide what is in the best interests of that child. It may be that a nursing mother is in the best interests of a child and it may be that a nursing mother who smokes very heavily is not or for a variety of other factors, the court makes some kind of decision about where the child will spend his or her time. It is an allocation of parental rights and responsibilities that is only done when the parents cannot make the decision themselves. You are in a litigation format. For that reason, I want to have a judge retain as much flexibility as possible in determining what is in the best interests of that child. I trust that in a contested matter, breast-feeding, if at issue, will be brought to the judges attention. What I would not like to see this body do is enter a new law onto the books, which changes a core aspect of family law in this state. It is a presumption that you walk into that courtroom as a father or a mother, you come in on equal footing. If that changes once you are in there, it is because of factors specific to you, your lifestyle, your work habits, your

home life. All of those things go at issue before the judge and the judge uses that information to determine what is in the best interests of that child. I hope that we will continue to trust the judges in this state to acquire the information that comes before them to judge it and to determine it based upon all the relevant factors of what is in the best interest of the child at issue. Thank you.

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

Representative **MCKEE**: Mr. Speaker, Men and Women of the House. I will be brief with just two points. If we completely trusted the judges of their own will to consider factors that were in the best interest of the child, we would not have made 12 distinctive delineations of those factors. I would argue that breast-feeding is as important as any one of those factors. At some time this body did designate those 12 factors. We are simply asking to add a 13th. Mr. Speaker, when the vote is taken, I would request a roll call. Thank you.

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

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

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

Representative **JABAR**: Mr. Speaker, Ladies and Gentlemen of the House. You have six lawyers and you have six different opinions. This is a real good testament to that. I support the bill. I would ask you to defeat the Ought Not to Pass. I want to tell you why. I do believe it is important as everybody has said to keep gender out of it. In my experiences over the years when the issue of breast-feeding comes up, the courts do take it into consideration. It is unrealistic to assume it is not a factor considered by the court. If it is going to be a factor considered by the court in those cases, then we should list it as a factor because it is considered. Anybody who has had a case dealing with a young mother and we are talking about one year. Many times if there is a divorce, unfortunately, during the time she is breast-feeding, the first year, that is a short time after the birth of a child, which is really unfortunate. It is taken into consideration so let's include it. I think that is why the Family Law Advisory Commission said that. We should take that into consideration. This is a group of attorneys, men and women, who practice in the family court who deals with these issues all the time. They feel it is their recommendation that it be a factor among many other factors. My good friend, Representative Thompson, indicated it is not conclusive. This is not the only issue before the court. Let's be up front about it. If the court is going to consider it, let's list it upfront as an issue and let them deal with it. I urge you to defeat this motion and go on to accept the Ought to Pass. Thank you.

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

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

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

Representative **MCNEIL**: Mr. Speaker, Men and Women of the House. I am still confused. I still hear people saying that it is only weighed as a factor, but because it would be listed as one of the factors, would it weigh more heavily in the court system that gave the woman the advantage of keeping the child or would it be weighed equally with all the others?

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

Representative **THOMPSON**: Mr. Speaker, Men and Women of the House. In response to the question, it would be weighed equally with all of the other items that are listed, which include the age of the child, the relationship of the child with the child's parents, the preference of the child if they are old enough for the court to be able to consider that preference, the duration of the current living arrangements, how long they have been living with a parent, whether one parent had more to do with the upbringing than the other, the motivation of the parties, the capacity of each parent to allow and encourage frequent contact with the other parent, capacity of each parent to cooperate or assist in child care. I am shortening some of these sentences, but just to give an outline. All those are issues and I didn't go through the whole list are all considered. Some of them exist in some of the cases and some of them don't exist, but they are all just identifying that this is an issue that has to be looked at. It has to be an issue that can be addressed in the court's decision.

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

Representative **TRUE**: Mr. Speaker, Ladies and Gentlemen of the House. I thought I voted properly before and after I have listened this morning, I am a little bit in the gray area. I would like to present a question, if I may, through the chair. It seems in talking to those engaged in the practice of law that most of these things are taken up in the individual cases now and in listening it seems that in one particular case they want the Legislature to legislate how it should be done. My question is, can anyone tell me if it is case after case that this is happening or is this presented for one particular case? Thank you.

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

Representative **SCHNEIDER**: Mr. Speaker, Men and Women of the House. In order to answer the good Representative from Fryeburg, my understanding is that this bill was prompted by one specific case in which the person was not satisfied with the result from the judge. Thank you.

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

Representative **THOMPSON**: Mr. Speaker, Men and Women of the House. I agree with the Representative from Durham that that is what brought it before us, but once an issue is brought before the Legislature sometimes one case raises a policy issue. The issue then comes to my committee when we are looking at issues such as child custody is what is in the best interest of the child? Is it a factor that should be considered? There aren't a lot of these cases because luckily enough there are not a lot of divorces involving kids under the age of one year old relative to the number of divorces that are being done. There aren't that many cases for it to come forward in. The point is, if it is a valid policy and it only involved one case, which this law won't affect that other case. It has already gone past that to a different level. The point being if it is the right policy, it is the right policy, regardless of how many cases came before us. We pass laws for whether they are for something that should be done or shouldn't be done and how many cases came forward. The

committee looked at it as a policy decision and when it was brought before us and that is what we are doing. Thank you.

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

ROLL CALL NO. 594

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

NAY - Ahearne, Bagley, Baker, Belanger, Berry RL, Bolduc, Bouffard, Brennan, Brooks, Bruno, Bryant, Bull, Carr, Chick, Chizmar, Clark, Colwell, Cowger, Davidson, Desmond, Dudley, Dugay, Dunlap, Duplessie, Etnier, Fisher, Fuller, Gagne, Gagnon, Gerry, Gillis, Goodwin, Hatch, Honey, Jabar, Jacobs, Kane, Kneeland, LaVerdiere, Mailhot, Martin, Mayo, McGlocklin, McKee, Mitchell, Muse, Norbert, O'Brien LL, O'Neal, Perkins, Pieh, Povich, Powers, Quint, Richard, Richardson J, Rines, Samson, Sanborn, Saxl JW, Saxl MV, Shiah, Shorey, Skoglund, Stanley, Stevens, Sullivan, Tessier, Thompson, Townsend, Tracy, Tripp, Tuttle, Twomey, Usher, Volenik, Watson, Wheeler GJ, Williams, Mr. Speaker.

ABSENT - Bumps, Cote, Frechette, Green, Lemont, Matthews, McAlevey, McDonough, O'Neil, Perry, Shields, Sirois.

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 Minority Ought to Pass as Amended Report was **NOT ACCEPTED**.

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

The Bill was **READ ONCE**. Committee Amendment "A" (S-661) was **READ** by the Clerk and **ADOPTED**.

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

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-661)** in concurrence.

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

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

UNFINISHED BUSINESS

The following 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 Amend the Laws Governing Municipal Elections
(S.P. 878) (L.D. 2293)
(C. "A" S-552)

TABLED - March 31, 2000 (Till Later Today) by Representative SHIAH of Bowdoinham.

PENDING - **PASSAGE TO BE ENACTED**.

On motion of Representative TUTTLE of Sanford, the rules were **SUSPENDED** for the purpose of **RECONSIDERATION**.

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

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

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **Committee Amendment "A" (S-552)** was **ADOPTED**.

The same Representative presented **House Amendment "A" (H-1104)** to **Committee Amendment "A" (S-552)** which was **READ** by the Clerk.

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

Representative TUTTLE: Mr. Speaker, Men and Women of the House. This is a technical amendment from the Speaker's legal staff and the amended version clarifies the procedure when an independent version, panel, is utilized to resolve a ballot dispute. Thank you Mr. Speaker.

House Amendment "A" (H-1104) to **Committee Amendment "A" (S-552)** was **ADOPTED**.

Committee Amendment "A" (S-552) as Amended by **House Amendment "A" (H-1104)** thereto was **ADOPTED**.

The Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-552)** as Amended by **House Amendment "A" (H-1104)** thereto in **NON-CONCURRENCE** and sent for concurrence.

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

REPORTS OF COMMITTEE

Refer to the Committee on Appropriations and Financial Affairs

Pursuant to Joint Order (S.P. 1022)

Report of the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** on Bill "An Act to Enhance Economic Development in the State of Maine"

(S.P. 1078) (L.D. 2683)

Reporting that it be **REFERRED** to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** pursuant to Joint Order (S.P. 1022).

Came from the Senate with the Report **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS**.

Report was **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** in concurrence.

CONSENT CALENDAR

First Day

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

(S.P. 1070) (L.D. 2663) Bill "An Act Relating to Reporting Requirements for Political Action Committees on the Flexibility of the Commission on Governmental Ethics and Election Practices

to Assess Fines" Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-666)**

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

There being no objection, the Senate Paper was **PASSED TO BE ENGROSSED as Amended** in concurrence. **ORDERED SENT FORTHWITH.**

The House recessed until 1:00 p.m.

(After Recess)

The House was called to order by the Speaker.

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

**SENATE PAPERS
Non-Concurrent Matter**

Bill "An Act to Provide an Angling Season for Atlantic Salmon" (EMERGENCY)

(S.P. 1011) (L.D. 2579)

Bill and accompanying papers **INDEFINITELY POSTPONED** in the House on April 7, 2000.

Came from the Senate with that Body having **INSISTED** on its former action whereby the Minority (5) **OUGHT TO PASS AS AMENDED** Report of the Committee on **INLAND FISHERIES AND WILDLIFE** was **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-590)** and **ASKED FOR A COMMITTEE OF CONFERENCE** in **NON-CONCURRENCE**.

Representative DUNLAP of Old Town moved that the House **ADHERE**.

Representative LaVERDIERE of Wilton moved that the House **RECEDE AND CONCUR**.

Representative DUNLAP of Old Town **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 Old Town, Representative Dunlap.

Representative **DUNLAP**: Mr. Speaker, Men and Women of the House. I hope that you will vote against the motion to Recede and Concur. I am somewhat at a loss as to what a Committee of Conference would accomplish in this matter since this chamber voted fairly overwhelmingly yesterday to not have salmon season. I am not sure exactly what agreement could be worked out. The original bill calls for salmon fishing to be open in all Maine rivers. The Minority Report said it would be only open in, essentially, two and a half rivers. I guess I would ask you to project in your mind what a compromise would consist of, a couple of pools within a couple of rivers to the point where you are asking the department to issue a statewide license that will only be applicable to a few areas in the state. I don't see any practicality in a Committee of Conference. I think we should stay

with our position. I think that the salmon have enough to worry about without this on top of it. Thank you.

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

Representative **LAVERDIERE**: Mr. Speaker, Men and Women of the House. We all revert to our previous lives at times. At this stage we believe that the arguments that were made in the other body and if people look at the results in the other body, we believe that it is appropriate for this bill to receive passage for all of the same reasons that we discussed the last time. We would like for this body to join with the other body in making sure that anglers have an opportunity in this state to continue to help preserve and protect the Atlantic salmon in these rivers where they have been restored. Thank you.

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

Representative **TRAHAN**: Mr. Speaker, Members of the House. I just want to make one very quick point. After we had the debate last night I went home and I spoke to my wife and I laid out this scenario to her about Atlantic salmon. She knows absolutely nothing about salmon. When it comes to a fishing rod, it might as well be a closet rod or a curtain rod. I laid the whole scenario out for her. I said, "Honey, what do you think of this?" She said, "What, are you people crazy? I can't imagine what you are doing this for. Why don't you chase eagles around and harass other endangered species?" It didn't make any sense. I hope this body will follow the light of the chairman of the committee. 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. 595

YEA - Ahearne, Andrews, Bagley, Belanger, Bolduc, Brooks, Bryant, Buck, Campbell, Carr, Cianchette, Clark, Clough, Colwell, Daigle, Dugay, Duncan, Duplessie, Fisher, Fuller, Gagnon, Gillis, Goodwin, Jacobs, Kasprzak, Kneeland, LaVerdiere, Lovett, Mack, Martin, Marvin, Matthews, McDonough, McGlocklin, O'Neal, Perkins, Pinkham, Rosen, Samson, Sanborn, Schneider, Shorey, Stanley, Tuttle, Twomey, Usher, Waterhouse, Weston, Wheeler EM, Winsor.

NAY - Baker, Berry DP, Berry RL, Bouffard, Bowles, Bragdon, Brennan, Bruno, Bull, Cameron, Chick, Chizmar, Collins, Cote, Cowger, Cross, Davidson, Davis, Desmond, Dudley, Dunlap, Etnier, Foster, Gagne, Gerry, Glynn, Gooley, Hatch, Heidrich, Honey, Jabar, Jodrey, Jones, Joy, Kane, Labrecque, Lemoine, Lindahl, MacDougall, Madore, Mailhot, Mayo, McKee, McKenney, McNeil, Mitchell, Murphy E, Murphy T, Muse, Nass, Norbert, Nutting, O'Brien JA, O'Brien LL, Peavey, Pieh, Plowman, Powers, Quint, Richard, Richardson E, Richardson J, Rines, Savage C, Savage W, Saxl JW, Saxl MV, Sherman, Shiah, Snowe-Mello, Stanwood, Stedman, Stevens, Sullivan, Tessier, Thompson, Tobin D, Tobin J, Townsend, Tracy, Trahan, Treadwell, Tripp, True, Volenik, Watson, Williams, Mr. Speaker.

ABSENT - Bumps, Frechette, Green, Lemont, McAlevy, Mendros, O'Neil, Perry, Povich, Shields, Sirois, Skoglund, Wheeler GJ.

Yes, 50; No, 88; Absent, 13; Excused, 0.

50 having voted in the affirmative and 88 voted in the negative, with 13 being absent, and accordingly the motion to **RECEDE AND CONCUR FAILED**.

Representative LaVERDIERE of Wilton moved that the House **INSIST** and join in a **COMMITTEE OF CONFERENCE**.

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

Representative **DUNLAP**: Mr. Speaker, Men and Women of the House. I hope you will vote against this motion as well. I request the yeas and nays.

Representative **DUNLAP** of Old Town **REQUESTED** a roll call on the motion to **INSIST** and join in a **COMMITTEE OF CONFERENCE**.

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

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

ROLL CALL NO. 596

YEA - Ahearne, Andrews, Bagley, Belanger, Bryant, Buck, Campbell, Carr, Cianchette, Clark, Colwell, Dugay, Duncan, Duplessie, Fisher, Fuller, Gagnon, Gillis, Goodwin, Hatch, Kasprzak, Kneeland, LaVerdiere, Lindahl, Mack, Matthews, McGlocklin, Murphy E, O'Neal, Perkins, Pinkham, Plowman, Richard, Rosen, Samson, Sanborn, Saxl JW, Schneider, Sherman, Shorey, Stanley, Sullivan, True, Tuttle, Usher, Waterhouse, Weston, Wheeler EM, Winsor.

NAY - Baker, Berry DP, Berry RL, Bolduc, Bouffard, Bowles, Bragdon, Brennan, Brooks, Bruno, Bull, Cameron, Chick, Chizmar, Collins, Cote, Cowger, Cross, Daigle, Davidson, Davis, Desmond, Dudley, Dunlap, Etnier, Foster, Gagne, Gerry, Glynn, Gooley, Heidrich, Honey, Jabar, Jacobs, Jodrey, Jones, Joy, Kane, Labrecque, Lemoine, Lovett, MacDougall, Madore, Mailhot, Martin, Marvin, Mayo, McDonough, McKee, McKenney, McNeil, Mitchell, Murphy T, Muse, Nass, Norbert, Nutting, O'Brien JA, Peavey, Pieh, Powers, Quint, Richardson E, Richardson J, Rines, Savage C, Savage W, Saxl MV, Shiah, Snowe-Mello, Stanwood, Stedman, Stevens, Tessier, Thompson, Tobin D, Tobin J, Townsend, Tracy, Trahan, Treadwell, Tripp, Twomey, Volenik, Watson, Williams, Mr. Speaker.

ABSENT - Bumps, Clough, Frechette, Green, Lemont, McAlevey, Mendros, O'Brien LL, O'Neil, Perry, Povich, Shields, Sirois, Skoglund, Wheeler GJ.

Yes, 49; No, 87; Absent, 15; Excused, 0.

49 having voted in the affirmative and 87 voted in the negative, with 15 being absent, and accordingly the motion to **INSIST** and join in a **COMMITTEE OF CONFERENCE FAILED**.

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

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. As you know, Blue Cross and Blue Shield of Maine and Anthem Insurance Companies, Inc. are seeking approval of a proposed sale of Blue Cross and Blue Shield of Maine to Anthem Insurance Companies. The legal standard to consider the conversion is that it is fair and equitable and that it must not adversely affect, in any manner, the services to be rendered to subscribers.

The Attorney General is defined by statute as an intervener in this process and represents the public in this matter. In order to

consider legislators concerns and have them incorporated into the evidentiary record, the Attorney General will be taking testimony in Room 436 from 3:30 p.m. through 5:00 p.m. today.

If you have any questions in this matter, please don't hesitate to contact me or a member of leadership. Thank you.

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

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

Representative **COTE**: Mr. Speaker, Men and Women of the House. If I were present for roll call 593 on LD 2412, I would have voted yea. If I were present for roll call 594 on LD 2307, I would have voted nay. Thank you Mr. Speaker.

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

HOUSE DIVIDED REPORT - Majority (8) Ought to Pass pursuant to Joint Order (H.P. 1912) - Minority (5) Ought Not to Pass pursuant to Joint Order (H.P. 1912)- Committee on JUDICIARY on Bill "An Act to Provide Equal Treatment for State Employees under Certain Federal Employment Laws"
(H.P. 1939) (L.D. 2682)

Which was **TABLED** by Representative THOMPSON of Naples pending his motion to **ACCEPT** the Majority **Ought to Pass Report**.

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

Representative **WATERHOUSE**: Mr. Speaker, Ladies and Gentlemen of the House. I hope you will vote against the present motion. You may hear from the other side that the theory of sovereign immunity goes way back and is based on the King can do no wrong. Really, when I look at this issue on the committee, I looked at the issue of treating a state employee fairly and making sure that their rights were observed as one of the duties that I had and make sure that all citizen's rights were observed. The other one that I feel very, very strongly about is my duty to protect the public purse from unnecessary raids. The original bill that came before us had to do with a court case, I am sure you are all familiar with it, where the certain group of state workers were not paid overtime. That court case was pursued all the way to the Supreme Court. The Supreme Court found that because of the sovereign immunity to states that a lawsuit could not proceed under federal statutes in state court. They could, however, proceed if a federal agency took that case and went in to sue the state if the federal government did that. When you look at the situation, at least from my perspective, the state made a mistake, but it was absence of malice. They wrongly decided that that group of workers was not covered under the Fair Labor Standards Act for overtime and instead gave a 16 percent compensation to address that.

When you looked at one of the charts that we had in the committee and looked at the actual money, that group of people actually got more money than if they had been qualified for the overtime. The state made a mistake and in previous items before the committee, we found that when somebody made a mistake, they should pay for it. In a separate issue, the

committee unanimously decided to pay those state workers that overtime.

The argument you may hear is state employees cannot sue the state in state courts under these federal laws, but private employees can sue. Not meaning to sound hard nosed about it, but those are the decisions some people make when they go to work for the state. A lot of things that are covered in the state that private individuals and employees don't have, there are state workers who are covered under the Maine Tort Claims Act, which private employees don't have that kind of immunity. You might ask if this bill is passed, what will be the next step? Do we get rid of the state's sovereign immunity on personal injuries? This is a can of worms, ladies and gentlemen, it is very serious business. It may sound like a fairness issue, but it is a lot more than that. States have sovereign immunity for a reason.

Under the rules of evidence in a court case, if you mention that a defendant has insurance, you prejudice that you are in a case and if you do that, a mistrial will be claimed. The jury if we surrender our sovereign immunity, will know explicitly, if not implicitly that the state has insurance, obviously, and the award could go quite high because of the deep pockets. We can address any problems of mistreatment of state employees right here in the Legislature. That is what we did. We did that in the committee without going to legal fees, punitive damage and opening up the public coffers needlessly.

Everybody looks at all the states and the state being this big entity, but folks, that money is not our money. It is the taxpayer's money. We have a duty to make sure that there is a little bit of a barrier there when we go after that. The barrier is there, but it is not insurmountable. As I said before, there are remedies. You have heard before dealing with cases like this, that for every wrong there should be a remedy. Well, there is a remedy. There is a remedy. Is it a little bit tougher than normal? Sure. There is a reason for that as I stated earlier. It may sound like the fair thing to do, but if you look back and also the court case mentioned the fact in the majority opinion when they looked at the federalist and the anti-federalist papers back when they were deciding for the Constitution and serious concerns for the states where being subjected to federal laws in their own courts. Some people in the committee will say the Supreme Court made the wrong decision. I, myself, think it was very refreshing and it doesn't happen often that the Supreme Court looked back on the original intent and why the government was formed and why the states decided to join together.

For all those reasons and more, I am sure you will hear from the people who do not want this bill to pass, I would hope you would join me in voting against the present motion. Thank you.

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

Representative THOMPSON: Mr. Speaker, Men and Women of the House. What this bill is about is about remedies and whether the State of Maine should have to follow the laws of this land. I have heard a lot of talk in this House before about if the private employers should have to do it, then the State of Maine should have to do it. That is exactly what this bill does. It is saying that the State of Maine consents to be sued on certain federal laws. The courts have already found that the state is required to follow these laws. They have set up what is a constitutional barrier by saying that because you are a sovereign state, we won't let individuals sue you on a federal law. Only the federal government can sue. An individual cannot sue you unless you consent to be subject to that lawsuit. We have this

interesting dilemma. The State of Maine is required to follow these laws, but, for example, on the fair Labor Standards Law, the only remedy is for the US Department of Labor to go forward to enforce it. Guess what, they have never done it, ever. Not just a few times, but never.

We have federal laws that require the state to follow these standards and the employees are entitled to these protections, but we have no remedy. What are we supposed to do about it? Say to the employees, yes, you are protected under that law and no, we are not going to follow it. Too bad you have nowhere to go. It sounds reasonable doesn't it? I think there is something missing here. There are laws there to protect them. The state is required to do it, but there is nowhere to go to enforce it. In this bill we have set out five specific laws under which the state would allow individuals to bring them to court if they violate those laws. They are very reasonable laws. They have been passed by the federal government. They are valid laws. If they are there and if every private employer is subject to being sued under these laws and if the state is required to follow these laws, then we should give those employees the remedy to enforce those laws. I would ask that you join me in supporting the Majority Ought to Pass Report. Thank you.

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

Representative SCHNEIDER: Mr. Speaker, Men and Women of the House. I urge you to vote against the Majority Ought to Pass Report. This bill is an extremely bad idea. What it does is it enacts a sweeping waiver of the state's sovereign immunity. That is something we should do rarely, if ever, and only if after great deliberation. This is a bill that was introduced at the last moment in front of Judiciary and we debated for only a very short period of time. It deals with an evolving area of the law. As I am sure you have heard, the suit by the Maine Probation Officers that went to the United States Supreme Court was just ruled on several months ago and in that suit they ruled that the probation officers could not sue the State of Maine. That would appear to leave them without a remedy, but they do have a remedy. They could come to the Legislature and they could ask the Legislature to do the right thing, which is exactly what we did during the last week.

The Judiciary Committee listened to the case of the probation officers and decided that they had been unfairly treated and decided to pay them the back overtime that they were owed. The system worked perfectly. We passed the law last week. There are many different ways to accomplish the goals that this bill attempts to accomplish. One way is to enact this kind of a sweeping waiver of the state's sovereign immunity. Another way would be to pick out specific provisions of the federal law and waive the state's sovereign immunity for those specific provisions. Another possible way would be to enact the federal provisions of labor law that we want to see implemented in Maine into Maine law. This topic needs more discussion and needs more work in the committee before it is ready to be reported out. We need to appropriately and properly debate the different merits of the different ways to accomplish the goals of this bill and decide which is best. It is a bill that is unnecessary at this time because the remedy exists here in the Legislature. We have proven it. We just did it in the last week. It is before its time because it hasn't had a good discussion and the Legislature hasn't had a chance to come up with the right solution to the problem. Therefore, I urge you to vote Ought Not to Pass on this bill. Thank you very much.

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

Representative SAXL: Mr. Speaker, Men and Women of the House. Thank you for the very good remarks from the Representative from Durham. He suggests an alternative and what his suggestion was to the original bill, which was to waive the state's sovereign immunity dealing with employment law. One of the Representative's suggestions is what we really ought to do is pick and choose the federal laws that we really need to deal with right now that the court has defined. While that wasn't my original choice or desire in sponsoring this legislation, that, in fact, is exactly what the Majority Report does. It looks at the Fair Labor Standards Act, which guides hourly wages and overtime, which is what the all the case that you have heard referred to, was all about. It looked at the Jones Act and the Jones Act is some kind of obscure law that deals with workers' compensation for fair able-bodied seamen. These folks have no other remedy in law in the State of Maine. It looked at age discrimination, which was the other case that is before us as well as a case called Kissimmee. In Florida they ruled that state employees don't have those protections.

What the Judiciary Committee in their wisdom did was to calm me down a little bit and make me focus a little bit and they came up with a better answer. They said, you are right. They accepted the Representative from Durham's arguments and maybe this isn't appropriate to have a sweeping waiver of sovereign immunity, but it is appropriate for state employees to have the same rights, the exact same rights as every other private employee in the State of Maine. Let me say that again. If you are a private employee in the State of Maine, you can sue your private employer in federal court for violation of the Federal Labor Standards Act, the Americans With Disabilities Act, the Jones Act. You can do that right now. That was the law in Maine until June of this year. The day the Alden case came down, I put in this bill to reinstate that law to make sure that everybody in the State of Maine was on an even playing field and that everyone in the State of Maine and the workplace has the identical rights. If you pass the Majority Ought to Pass Report, it takes a step in that direction. It is not as greater step as I would have liked, but it definitely takes a positive step in that direction.

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

Representative PLOWMAN: Mr. Speaker, Men and Women of the House. Could it be that the Department of Labor never brought its case because it was under the impression, as well as we were, that the state employees had a right to bring to a case. Probably. Now that the Supreme Court has made a decision that they don't, there is a remedy and there always has been a remedy. That is that the Department of Labor is supposed to bring the suit. That is the way that it is supposed to work now that this has been found unconstitutional. The federal government should bring the suit against the state. Now we are going to have two remedies for state employees. This bill is in the wrong place. This idea should be before Congress or there should be something before Congress urging them to get the Department of Labor to bring suits on behalf of state employees. That is where the attention should be directed. That is where the most effective means of getting relief for a group of people will come from. There is a remedy. Let's pick the right remedy and let's not go creating an extra remedy, which also goes right to the heart of our sovereignty. There are people in this room who

wouldn't give up one iota of sovereignty. I speak of our Tribal Representatives. They wouldn't concede one iota of sovereignty because they believe in it. We stand here ready to give ours up when there already is a federal remedy. I would ask you to reject the Majority Ought to Pass Report and go on to accept the Minority Ought to Pass and let the feds do their job. If they are not doing their job, we can lobby our Congressmen and our Senators. Thank you.

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

Representative THOMPSON of Naples **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought to Pass** Report.

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

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

ROLL CALL NO. 597

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

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

ABSENT - Bumps, Frechette, Green, McAlevey, Perry, Shields, Shorey, Sirois.

Yes, 76; No, 67; Absent, 8; Excused, 0.

76 having voted in the affirmative and 67 voted in the negative, with 8 being absent, and accordingly 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.

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

Bill "An Act to Amend the Maine Workers' Compensation Act of 1992 as it Pertains to Occupational Health"

(H.P. 1454) (L.D. 2075)

Which was **TABLED** by Representative HATCH of Skowhegan pending her motion to **RECEDE AND CONCUR**.

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

Representative TREADWELL of Carmel moved that the House **RECONSIDER** its action whereby it voted to **RECEDE AND CONCUR**.

Representative MATTHEWS of Winslow **REQUESTED** a roll call on the motion to **RECONSIDER** whereby the House voted to **RECEDE AND CONCUR**.

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

Subsequently, Representative MATTHEWS of Winslow **WITHDREW** his **REQUEST** for a roll call.

Subsequently, the House **RECONSIDERED** its action whereby it voted to **RECEDE AND CONCUR**.

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

Representative **TREADWELL**: Mr. Speaker, Men and Women of the House. I apologize for being a little slow on the trigger on this. This is the second time I will be debating this bill here on the floor and I apologize for that also. I just wanted to remind the body that occupational disease, at the present time, is treated the same as any other injury. We had two doctors in committee that testified to the difficulty of diagnosing occupational disease and the fact that we don't have an adequate reporting system currently available in the system between the Workers' Comp Board and the Bureau of Health. A question that was asked by one of the members of this body could not be answered. Specifically the question was in the summary of the amendment, which replaced the bill, it says, "An employee is considered to have suffered an injury when the employees knows or should have known the nature and seriousness of the disease and the casual relationship between the employees work and the disease." That is very broad statement and I think we have heard testimony that opens the Workers' Comp System up to a lot of legal wrangling. I don't think that is very specific and I don't think it is anything that we want to pass through this body. Mr. Speaker, I would ask for a roll call on the motion to Recede and Concur.

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**: 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. 598

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

NAY - Andrews, Belanger, Berry DP, Bowles, Bragdon, Bruno, Buck, Cameron, Campbell, Carr, Chick, Cianchette, Clough, Collins, Cross, Daigle, Davis, Dugay, Duncan, Fisher, Foster, Gillis, Glynn, Gooley, Heidrich, Honey, Jodrey, Jones,

Joy, Kasprzak, Kneeland, Labrecque, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, Marvin, Mayo, McKenney, McNeil, Mendros, Murphy E, Murphy T, Nass, Nutting, O'Brien JA, Peavey, Perkins, Pinkham, Plowman, Richardson E, Rosen, Savage C, Savage W, Schneider, Sherman, Snowe-Mello, Stanwood, Stedman, Tobin D, Tobin J, Trahan, Treadwell, True, Waterhouse, Weston, Wheeler EM, Wheeler GJ, Winsor.

ABSENT - Bumps, Frechette, Green, McAlevey, Perry, Shields, Shorey, Sirois.

Yes, 72; No, 71; Absent, 8; Excused, 0.

72 having voted in the affirmative and 71 voted in the negative, with 8 being absent, and accordingly the House voted to **RECEDE AND CONCUR**.

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 Create a New Category of Liquor License and to Exempt Pool Halls, Bowling Alleys and Off-track Betting Facilities from the Prohibition Against Smoking"

(H.P. 1807) (L.D. 2533)

TABLED - April 7, 2000 (Till Later Today) by Representative SAXL of Portland.

PENDING - ADOPTION OF COMMITTEE AMENDMENT "A" (H-1004).

Subsequently, **Committee Amendment "A" (H-1004) was ADOPTED.**

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

Under further suspension of the rules, the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-1004)** 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:

REPORTS OF COMMITTEE

Ought to Pass Pursuant to Joint Order (S.P. 860)

Report of the Committee on **TAXATION** on Bill "An Act to Provide Equity in the Taxation of Public Pensions"

(S.P. 989) (L.D. 2542)

Reporting **Ought to Pass** pursuant to Joint Order (S.P. 860).

Came from the Senate with the Bill and accompanying papers **INDEFINITELY POSTPONED.**

Report was **READ.**

Subsequently, the Bill and all accompanying papers were **INDEFINITELY POSTPONED** in concurrence.

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

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

HOUSE DIVIDED REPORT - Majority (9) Ought to Pass as Amended by Committee Amendment "A" (H-1078) - Minority (3) Ought Not to Pass - Committee on EDUCATION AND CULTURAL AFFAIRS on Bill "An Act to Authorize Portland College to Grant Degrees" (EMERGENCY)

(H.P. 1657) (L.D. 2326)

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

Representative **MARTIN** of Eagle Lake moved that the Bill and all accompanying papers be **INDEFINITELY POSTPONED**.

The **SPEAKER**: The Chair recognizes the Representative from Mapleton, Representative **Desmond**.

Representative **DESMOND**: Mr. Speaker, Colleagues of the House. It is difficult whether starting out in the workforce or starting a new business. You have no previous experience in which to prove your worth. This is true of Portland College. However, the people involved in this venture have done their homework. I would like to address a few questions that you might have. Who is Portland College for? Portland College is designed for working adults who see higher education as a means to career advancement or change. High school graduates should not take courses via the Internet. Admissions requirements include: minimum of 2 years work experience, employment references and a professional resume or other record of post-secondary accomplishments. Eighteen to 22 year old students should pursue a traditional college experience.

How will students interact? Students need to interact with other students of the facility. Principal components of online learning are group discussion, real-time chat sessions with instructors and other students and collaborative learning projects. Students interact with instructors and other students via e-mail, threaded discussions, real-time chat and telephone conferences. Much of the learning comes from other students who bring diverse backgrounds from different industries and regions of the country. As working adults, many with families, Portland College students received much of their socialization and networking through their means and engage Portland College solely for learning purposes.

What is the status of online education nationally? This is not an untried concept. Online education is growing rapidly across the country as well as at some Maine institutions. The University of Phoenix increased from 6,500 to 11,000 online students during 1999. Jones International University, University of Phoenix, Capella University and other online universities across the country are fully accredited by regional accrediting bodies. Our own University of Maine System has extensive online course offerings through the net. Cornell University, University of Maryland, Temple, NYU and others have recently created for-profit subsidiaries to pursue online education.

What is connection to MES? Maine Education Services, MES, tried to establish an online university, but could not. Former Governor Ken Curtis is the chairman of the board of ILC/Portland College. Former MES employees started Intelligent Learning Corporation with the intention of severing ties with MES as soon as practicable. A letter addressing this issue has been provided to Representative **Brennan**, chair of the Education Committee. No current MES employees serve as director, own

any portion, work for or are in any way connected to Intelligent Learning Corporation.

What kind of facility will Portland College have? Faculty members are carefully selected from a nationwide pool of more than 400 candidates with doctorate and graduate-level degrees. The majority of candidates already are teaching at traditional or online universities. Twenty-three faculty members from Maine institutions have applied and been approved to teach at Portland College.

How about certification? The State Board of Education will conduct one and two year reviews of Portland College to insure that the 11 state standards that were met for initial degree granting authority continue to be met. In addition, Portland College will report back to the Education Committee.

Finally, Portland College has indicated that they will immediately seek accreditation from the New England Association of School and Colleges, the regional accrediting agency for higher education.

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

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

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

Representative **MARTIN**: Mr. Speaker, Colleagues of the House. I would like to know how much money is involved in Portland College that comes through the state bonds that were given or allocated for MES or any organizations? Second question, when and if the money will be returned for student loan purposes? The third question, what will be the interest rate that will be given if that money is returned? Fourth question, what method will be used for certification or peer review for faculty members that will be teaching at Portland College?

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

Representative **BRENNAN**: Mr. Speaker, Men and Women of the House. In response to at least a couple of those questions that were posed by the Representative from Eagle Lake, currently there are three financial intersections between MES and the proposed Portland College or intelligent learning situation. The first one, there is a 10 percent equity interest that MES has in the intelligent leaning system. The second, there is a \$1 million line of credit from People's Heritage Bank that has been guaranteed by MES. The third, there is a contract relationship between employees of intelligent learning systems and MES to provide certain services around marketing and software and educational development programs.

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

Representative **MARTIN**: Mr. Speaker, Colleagues of the House. I thank the Representative from Portland for a partial response to the question. I want to know if I could have the information if it is available how much money is that 10 percent that is apparently given in equity. What is that amount? What is the guaranteed interest rate back to MES or is MES simply going to be an owner of 10 percent of Portland College? What is that arrangement and who is going to be voting the 10 percent share of the stock that apparently MES is going to have in Portland College? Is that what I am hearing? I hear there is a \$1 million line of credit, which apparently MES will be guaranteeing, which, of course, is a state structure. If that is all true, which is what I

am probably being lead to believe, I think there are a lot of people who would love to go into that kind of business. If it is not and I am wrong, and Portland College is going to be a freestanding institution like Bowdoin, Bates, Thomas and other private institutions in this state and I certainly would look forward to supporting an entity such as that.

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

Representative **BELANGER**: Mr. Speaker, Men and Women of the House. From our deliberations on the Education Committee, I would say there is no, zero, state bond money that is going from Portland College from MES. MES earns its money be performing administrative services for the two organizations that are involved with the state bonding capacity. Just as they paid for other services, they contract out. What we really should focus on here today is that this proposal has gone before the State Board of Education not once, but twice. It has received unanimous approval for both its curriculum and its financial situation. Why should we treat this private endeavor any differently than we do anyone else?

The Majority Report is a bipartisan report and the implementation of this program will benefit people from all over the State of Maine and perhaps all over the country. This is a business that we should support in Maine, not close the door. Thank you.

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

Representative **MARTIN**: Mr. Speaker, Members of the House. I have just been provided a sheet, which lists how MES got its money. It received its money from tax-exempt bonds that it sold from MELA, the Maine Education Loan Authority and MELMC, the Maine Education Loan Marketing Corporation. I have a feeling the last time I checked that when someone gets something from tax-exempt bonds from a state organization, which is MELA, these fees that were received in excess of \$27 million since 1993, that interest that should have gone to decrease the cost of the loans that college students pay and I guess I am not following the line of reasoning. If that is the case and I need to find out who is committing their money for this institution. Who are the individuals that are putting up cash for whatever else they might own because this looks like this comes entirely from MELA and MELMC to MES and then MES simply dishes out the money. It then, of course, results in the profit corporations that are then created under Portland College. If that is incorrect and that line of reasoning doesn't follow through, then I would kind of like to know that.

I repeat, I am not opposed to Portland College. I want to make that clear. I am not opposed to a new institution being created. That is not where I am coming from. The question is, where is the beginning sources of money? It is one thing to say it is interest that was generated from Maine Education Service, but Maine Education Service is a result of two organizations created by this Legislature for the operation of loan purposes using tax-exempt bonds that the citizens of this state have, in fact, guaranteed. If I am wrong, then I would ask that a member of the committee tell me.

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

Representative **O'NEAL**: Mr. Speaker, Ladies and Gentlemen of the House. I will try to help the Representative from Eagle Lake, Representative Martin. From my understanding, MES is allowed to make 4 percent on the state

ceiling bonds. Of the 4 percent, 2 percent can be profit and the other two percent is used to pay for the cost of doing business. How that breaks in there, I cannot tell you. There is a 4 percent figure given in law.

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

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

The SPEAKER: The Representative may pose his question.

Representative **THOMPSON**: Mr. Speaker, Men and Women of the House. On that same issue, I would ask that if there have been an accounting on those monies on the 2 and 2 percent?

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

Representative **STEDMAN**: Mr. Speaker, Ladies and Gentlemen of the House. It should be noted that this whole series of questions was satisfied to the State Board of Education when they reviewed the plan for this particular school. They were fully satisfied that the school was operating within its legal rights. The plan for finance was approved. Unless you don't trust your State Board of Education, I would say that this is a pretty good idea, this Portland College idea. The whole concept is something that is coming. It is already available in other parts of the country. There is a good chance that this could be a real boon to the state. It also is a good chance for a private organization to take the test and find out if they can pass it. If they do and the idea catches on, it is something that the public institutions in the state could also buy into and maybe help our post-secondary education system in the State of Maine. As you noticed and have been reminded, this is a bipartisan report. We felt that since the State Board of Education did all the investigating behind this, they were not satisfied totally when they first got their information. They went back for a second review. The second review gave them confidence to go ahead and approve the granting of degrees by this institution. I would urge that we would go against the Indefinite Postponement and support this concept when the vote comes about.

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

Representative **DUNLAP**: Mr. Speaker, Men and Women of the House. I guess I am a little skeptical about all of this. I know that the University of Maine System has tried some distance learning classes. It has been a rough go mostly of lack of funding. I guess this is where my skepticism arises from because the University System has been trying to do something similar to this and has been unable to do it, essentially for a lack of resources. When we have all these other needs in the University System that we cannot meet and we have this program that the University can not execute for a lack of resources, I guess I am posing this as a question, has anyone considered that situation as we take this particular chain of events and resources, which drive toward an availability for a competing college, operated as a private institution, essentially funded with public dollars? Has anyone considered that on the committee or elsewhere?

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 Madison, Representative Richard.

Representative **RICHARD**: Mr. Speaker, Ladies and Gentlemen of the House. Yes, we considered that. I personally discussed this with people from the University of Maine System. I personally discussed this with presidents of some of the private colleges. They all see this as competition, but they all see each other as competition. They understand that whether we do this or we do not do this, this type of education is out there. It is coming to Maine. We can either sanction these young gentlemen who have come up with this idea to do this or somebody from another state can come in and do this. It is here. Previously the Representative from Mapleton mentioned Phoenix College. Phoenix College is very active. You can take courses from Phoenix College on the Internet today if you want to.

The chairman of the committee that reviewed this is the President of Husson College. I happen to be on the board of Husson College. I discussed this with him at length. He said it is competition. We know it is competition. There is a lot of competition out there. There was a member on this board from New England College. There was a member on this committee from St. Joseph's College. They all gave us the approval. We talked about competition quite a bit because that was the first thing I, as a member of the board of a private college, thought of. This is going to competition. The funding was the one place that we asked the most questions. The funding was the place that the committee did not have complete satisfaction with the first time they reviewed this. We received more information on the funding which the committee and the state board reviewed the second time and then they came back to us and said that they were satisfied that this funding was acceptable. The funding we are talking about is a guaranteed loan. That is what we are talking about basically as far as funding is concerned.

Another thing that some of us took into consideration was, first of all, the committee was made up of people what are all people associated with colleges and who have a great deal of prestige. You have some prestigious people on this board of directors. You have already heard mentioned a former Governor of the state. If these people can agree that this is acceptable, we felt that was a plus. There are other things that I could say about Internet learning. Some people highly disagree that Internet learning is a way to go. It is here, whether we like it or not. We felt that we had enough answers to our questions to agree that we could not say we cannot do this. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Farmingdale, Representative Watson.

Representative **WATSON**: Mr. Speaker, Men and Women of the House. As you may have noticed, I am on the Minority Report in regards to Portland College having our sanctions to begin as a university offering online courses. I just want to give you some of the reasons, and there were many, why I could not support their initiative at this time. You have heard from members of the Education Committee that the State Board of Education actually is the very beginning of the process that they had to go through to get to where we are today. The State Board did approve them in all areas, except for one, which we, as a committee had asked them to go back upon receiving more information from Portland College in regards to their financial stability were able to give us an okay in that area also. When the members of the State Board were before the committee, I had questioned them about their process. It was explained to us that any institution of learning has to go to them first before they can come and seek the approval of the Legislature. They felt, even though they were giving this approval and I agree with the good

Representative from Madison that we all have the greatest respect and esteem for members of that body and especially in their judgments. They did report out to us, again, a unanimous okay for the Portland College, with the one caveat that has not been mentioned today. Given their procedures and approval, they had never, ever, been asked to approve an institution that was only virtual at this point in time. Everything they reviewed was on paper and has not begun, except for those few administrators that they have hired at this point in time to obviously put the package together and present it to the State Board.

I had problems with that and I think that in talking to some of those members of the State Board of Education, even though they were giving their okay before the Education Committee, they, again, had reservations because this was the first time they had been asked to use their process for something that really wasn't in existence at this point in time. Even though they were able to use a process, it was a very difficult task for them in some ways without any means of really looking into the day to day operations. For instance, we had just done an approval in our committee this session of the Salt Institute, which is a private educational institution that has obviously been in the state for quite a number of years. They actually had documentation of programs that they have been able to offer, the success of those programs and the expansion of those programs. I think when I was comparing in my mind the Salt Institute coming before them for approval and the Portland College coming before them for approval. They were looking at two very different organizations. I know it is a leap of faith that people have when we look at any business plan of a business that is not up and running. I know loan officers and banking institutions do that all the time. This isn't like any other private enterprise as far as I am concerned. A lot of you know that I, like the good Representative Dunlap, have a vested interest in our publicly funded university system and have for years been involved with and in support of the online and distance education opportunities that we are able to offer given our limited resources that he alluded to. It is not as though I am unfamiliar with the technology and certainly know nationally those universities, the University of Maryland, for instance, that has been offering online degree programs for approximately 30 years that are absolutely tried and true. People know when they are signing up for a course through the University of Maryland, they basically know that they have as the good Representative from Eagle Lake has already alluded to, some faculty oversight as to what the academic standards and course offerings will be. Again, I come from a traditional university setting where those things are all in place and tried and true. We are looking at, as I said, a virtual university that doesn't have any of those standards, except at this point in time in print. Again, my reservations were primarily around what was being offered. As far as students are concerned, being one myself, I really wasn't as interested or involved in the financial aspects, but, again, I was very proud to be part of the Salt Institute being approved unanimously by the Education Committee. I just didn't have the same feeling when this initiative came before us. Thank you.

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

Representative **ANDREWS**: Mr. Speaker, Men and Women of the House. I am going to ask you to defeat the pending motion and go on to pass the Majority Report from the committee. I, too, had some concerns when this came forward. The committee worked long and hard on these issues. Alluding

to the good Representative from Farmingdale, Representative Watson, the committee was well aware of the state boards concerns or the issues that they dealt with in approving a program that they never had experience with before. The committee tended to agree with some of these concerns. That is why the committee had put on the passage of this bill that they must come back with a preliminary report in one year and a second report in two years so that they can assess these courses in operation in the degree programs to see if they do fit the criteria for the State Board of Education.

Finally, before I close, I would like to say that this is an individual standing here that could have used that program a number of years ago. In my other life, I was a registered nurse with a management position and was informed that in order to hold that management position, I needed a college degree. Back when I obtained my RN, nurses generally did not go through the college course. It was a three-year hospital program. In order to get this degree to hold my position in management, I was forced to work full-time, 40 to 50 hours a week because I was a manager, travel distances at night to get the necessary courses to obtain my BS degree. This created a great deal of hardship for myself, my employees that worked under me for my family. I could have used this kind of program. I am seriously contemplating going on for my masters under this program. I truly feel you can never have enough education. This is a program that will offer opportunity for anyone to have access to higher education. You can take the classes at 3:00 in the morning if that is the only time you can do it. For a lot of people this is going to open up another avenue for them to obtain higher education, with me, that is a priority.

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

Representative ANDREWS of York **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE** the Bill and all accompanying papers.

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

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

Representative **WESTON**: Mr. Speaker, Ladies and Gentlemen of the House. There is a first time for everything. The State Board did come back and say this is the first time they have dealt with this. This is my first term and my first time working with the State Board. As I experienced their expertise and their true interest in doing the right and proper method, then I could trust their process of review for this school. That being said, there are some other issues that have been mentioned, one being the direct route of, perhaps, state money going through. To my understanding, MES is not funded at all by state money. It is actually a servicer. There is no General Fund money actually given to MES that is used.

The other issue as far as MES and their money, we are actually supposed to be looking at whether they have followed the process, met the test and I certainly believe they have. You have also heard that the review team was made up of representatives from the University of Maine and private colleges that were checking for financial resources, but their objectives, their organizational structure, their faculty and they passed this test. There will be a review because, as I said, there is a first time for everything. We are going in somewhat uncharted waters, but I do trust the system. I believe that we should allow them to start granting degrees in this state. Thank you.

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

Representative **THOMPSON**: Mr. Speaker, Men and Women of the House. I hope to get more information as I asked before on whether there have been accountings provided by MES on those profit areas. I would like to get that information from someone if possible.

What we are doing is not just allowing a college to be created, we are putting the name of the State of Maine behind it and accrediting by using the good name of the State of Maine saying we are allowing this to be an organization that we put into place through legislation. I think we have to look at things very critically before we are willing to do that. To answer the comment from the good Representative from Hartland, Representative Stedman, to me, personally, I can't just rely on the Board of Education's decision. It isn't whether I trust the Board of Education, it is that it is up to us to make the policy decision, not the Board of Education. We are here to make the decision whether we should pass this legislation to create this institution. In doing so, I have not been given the assurances that I feel are necessary to vote for this legislation.

My understanding is that the sole financial backing, being the \$1 million line of credit, exists solely because MES is guaranteeing that line of credit. Yet, there is some provision and I am not sure if this is part of the agreement, the bill or a voluntary situation, MES is going to be out of the picture on this institution in 18 to 24 months. They indicate in 18 to 24 months they will have no ownership interest and no participation in this. If they are the sole guarantors of the line of credit so what other provisions have been made have been made to make sure this is a financially secure institution and have those questions been answered to the satisfaction of the committee and if so, where is that money coming from or where is that credit going to come from? I would suggest that those questions haven't been answered and we already have it on the table that we have a financial backing for a period of 18 months and then no knowledge whether there will be financial backing after that. What if students who have paid tuition and at the end of that 18 month period if there is no credit and there are no assets and there is no cash flow, what becomes of them if there is a problem?

Those are questions that I have and I hope that someone can enlighten me more to answer those questions before I am asked to vote on this matter.

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

Representative **MENDROS**: Mr. Speaker, Ladies and Gentlemen of the House. There are two issues here, two distinct issues, as I see it. One, the whole MES, MELA and MELMC interlocking situation. We have dealt with in Business and Economic Development. Much to the chagrin of many of my committee members, I have been very critical of that situation. We dug into it and let me suffice it to say you are going to hear a divided report from our committee that deals with that situation. If I were to get into it now, we wouldn't be coming back on Tuesday, we would still be here on Tuesday.

My point is we beat this up in committee. We hammered it down to just a couple different options. A lot of the accountability that the good Representative from Naples asked about, we have got and the rest will come assuming one of those two committee reports passes. A lot of it will be dealt with there. In my opinion, we should have gone after them in committee as we did and

dealt with that issue. However, they said our committee dealt with that. This issue here is about an online college, an opportunity to have people be able to get an education anywhere in the State of Maine online. Yes, my committee doesn't do much about online colleges or colleges. While we do do student loans, I make my profession online. I can tell you that is the future. These people can pack their bags and open up in New Hampshire tomorrow and bring those jobs to anywhere in the country. They are opening up in Maine and they are creating jobs in Maine.

Is there a question as to where MES got their money? Were their interlocking boards a problem? As they said, my committee, our report will give you a report on that and you can hammer them. If I worked for Representative Bragdon and he paid me too much and he is upset with me and I give somebody else a loan to start a business, I give a loan to Representative Collins to start a business, should Representative Bragdon put him out of business because he paid me too much? No. I get my loan back and Representative Bragdon can come after me, which is exactly what our report tries to do in Business and Economic Development, but Representative Collins shouldn't be suffering because of what happened between me and Representative Bragdon. That is what is going on here. There are some problems with the MES, MESA and MELMC. Absolutely, in my opinion, others on my committee and on my side of the aisle may disagree. That has been dealt with and that is being dealt with. This is a separate issue. This is an online college that has been nationally accredited. It has qualified programs that it is going to offer to people anywhere in the State of Maine on education. I urge you to defeat the pending motion and if we want to deal with the MES, MESA and MELMC issue and we will deal with that whenever our committee report comes out.

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

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

The SPEAKER: The Representative may pose his question.

Representative **MATTHEWS**: Mr. Speaker, Men and Women of the House. To anyone that might answer, my question goes to the students that this Portland College will serve or hopes to serve. As I understand it, MES has an interest in the creation of this college, maybe a fiduciary interest and MES is a student loan company. May I ask the question hypothetically then would you have students that are applying for this college getting loans from MES to a college that MES has helped create?

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

Representative **MARTIN**: Mr. Speaker, Members of the House. Since I asked my question, my first sets of questions, I have received more material on my desk from legislators who I am not sure why they don't want to answer the questions or they don't want to make available the information that they have in their possession.

Here is what I now know. The money that went through this process came from two organizations that were being administered, one a quasi-state agency that has the use of tax-exempt bonds that makes college loans, the Maine Education Loan Authority and the Maine Education Loan Marketing

Corporation. From the profit of those two, it then went to the third organization. The third organization gave the money to start Portland College. Now, that doesn't look like much of investor donations or investment does it to you? It seems that the profit from bonds created by this state went to MES. MES then created Portland College. Apparently then someone decided that it didn't quite look right and they then gave 10 percent of the stock of Portland College to MES. Then Portland College got a \$1.3 million contract to do MES marketing for the student loans. Then Portland College got a \$1 million line of credit from MES to support Portland College for 18 months. Now, if this is information that has been provided to me just now is incorrect, then it should be corrected. If it is correct, then I have a feeling this Legislature has a liability of preventing those dollars from going to Portland College. Remember, we are the fiduciary agents for the state.

I repeat, I am not opposed to the creation of Portland College. That concept makes sense. What are we allowing in its creation here? I have more stuff here than I ever dreamed I would ever have when I raised these questions and initially. It really concerns me that this profit, which apparently is in one of these other documents that I have just received on my desk, has been used for this fashion rather than going to help students with student loans and interest. I don't have any problem with the salaries that have been paid to the officials of the corporations in operating the loans. That is a given for me. They need to be paid. They need to be paid well if they are going to do a good job. I believe they have. That is not where I am coming from. I repeat, I am not opposed to the creation of Portland College. I am not opposed to the salaries because some people might say that. That is not where I am coming from. I am concerned with how the money got to Portland College for its creation and for its existence. That is where I am coming from. Please don't confuse my opposition to the creation of the institution.

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

Representative **BRENNAN**: Mr. Speaker, Men and Women of the House. There has been some fire about this issue and I would like to focus a couple of minutes on the facts. Right here is only part of the information about Portland College that was supplied to us by MES. It contains all the audit reports from MES that would be available to anybody in the House that would like to see that. This was made available to the committee.

Some people have suggested here that this is rocket science. It is not. All this was presented to the committee and within a half hour or 45 minutes it was very clear and very understandable the relationship between MELA, MELMC, MES and Portland College. It is not a mystery. It is not a mystery where the money starts out, the bond money, and how it gets to MES and how MES has created two for-profit entities. They are, one, the Learning Center and the other Intelligent Learning Corporation. While a number of people have questioned where the money comes from, it is very easy to understand where the money comes from.

The next question that has been raised, is whether or not that is a legal or an illegal relationship? There is nothing presented to the committee to indicate that that relationship was illegal or financially inappropriate. What the committee has been left with is the process that we have established through the State Board to determine whether or not organizations that come before us that look to whether or not they can grant degrees was sufficient and appropriate. There was, as has already been mentioned

several times, a review committee that was established of professional educators that looked at 10 different standards. The standards organization in government met the standard; institutional objectives, met the standard; financial resources, met the standard; academic programs, met the standard; library and learning resources, met the standard; faculty, met the standard; physical facility, met the standard; student services, met the standard. That is the process that was established and that is the process we have applied to every other organization that has come before the Legislature that has asked for this authority. Not only did they go through that process once, but because of a number of questions that were raised by the Education Committee, they went through the process a second time. In particular went through the second time to address concerns around the financial issues around the relationship with MES, MELA and MELMC. The second time the review committee came back and said it met the standard and the State Board unanimous recommendation through the Education Committee endorsed that report.

There have been a number of people that have asked questions. Was the information available to the Education Committee? Yes it was. Did the Education Committee review that information? Yes it did. Did the Education Committee have concerns about that relationship between MES, MELA and MELMC and Intelligent Learning Systems? Yes it did. What did it do? It went through the appropriate process to have those questions addressed and to have those questions answered. Again, through that whole process, that whole discussion, never once was there anything that was found to be illegal. Never once was there anything that was found to be financially inappropriate.

I think what a number of previous speakers have raised in terms of public policy issues is whether they like that relationship between MELA, MELMC and MES and whether or not they like that relationship of how the money flows into Portland College. I think that is a legitimate question for everybody here to ask. Whether or not you think that is appropriate, that is a legitimate question to ask. On the facts, we got the information. We got the audit. We understood where the money came from and there was nothing found to be illegal or financially inappropriate.

I want to make one other quick point on a factual nature. This has nothing to do with accreditation. All this simply does is to say they are allowed to grant degrees. Accreditation is given by other bodies that are independent from the Legislature and that is true of any institution of higher learning. This doesn't even necessarily speak to the quality of the programs. Again, every other time that we have given an institution the ability to grant a degree, we have not spoken to accreditation or to the quality.

The last and final point I want to make is we have a lot of discussion about education and the importance of education and how we think that state can best offer programs to people from K-12, the University, adults and whatever. One of the things that we know is the research is beyond question about this. That is that each and every one of us and our children learn differently. There are different learning styles for all of us. I had a real prejudice when I first started to think about Internet learning, learning over the computer or having a university that was a virtual university. I had never had that experience before. All I have ever known is you go to a classroom, you have a professor, you have a teacher, you have a book and you take tests and you move on. What we know is that people need different ways to

learn. They need different environments to learn and they need different opportunities to learn. Portland College, as the good Representative from York already pointed out, offers that opportunity for people that are unable, for a number of different reasons, to have a traditional education that we all know and have experience to learn at a higher education level. Despite my prejudice, I put that aside and I said that is an initiative that should go forward for the state and that is an opportunity that we should make available to our citizens as well as other people. Thank you very much.

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

Representative BAKER: Mr. Speaker, Men and Women of the House. This type of education is not coming to Maine. This type of education has been in Maine for at least a decade or longer. It is here. We have had interactive television since the late '80s. You all remember the Roger Connick's attempt to create the eighth University of Maine years and years ago. Every single public institution in this state is offering education online. It means the student can access it anytime of the day or night. I, myself, am teaching currently a course online. I have never seen the students. I find that somewhat difficult, but nonetheless, those of us who teach at the universities and the colleges are doing this. Our institutions of higher education have been offering quality instruction from faculty online. That is not the issue here. I do have a question about the quality of this particular institution and it has to do with the absence of any faculty. As I understand it, all of the faculty are adjuncts. That means they are hired to teach a course or more at \$1,500 to \$2,000 a course. That is very cost effective, but the students are paying the same amount of money for the courses as they would pay at Thomas College or the University of New England or anywhere else. Somebody is making the money because there is not a faculty putting together a curriculum. I haven't seen the results of this and I am worried about the quality because I think it takes a lot more work and a lot more experience to create good education at a distance. It is not coming. It is here.

I have another question and that is about the finances that we have been talking about here. I am somewhat puzzled because on the board that approved this institution, sort of going through two reviews, I believe there were five people on that review committee, one of whom excused him or herself for conflict of interest. A couple of us people are connected to private institutions in the state. Why I am puzzled is I have in my hands a letter from 10 or so private colleges. It is called the Maine Independent Colleges Association. It includes Husson, the College of the Atlantic, Bangor Theological Seminary, Bowdoin, Colby, the University of New England, the Maine College of Arts, St. Josephs, Thomas and Unity College. All of these independent colleges have written to the Education Committee opposing Portland College. In fact, as they put it, they are writing to convey the strong opposition and here is why. They talk about the transferred research from MES, valued at hundreds of thousands of dollars to a for-profit corporation doing business in Maine, known as ILS, the Intelligent Learning Systems.

In addition to transferring research that Intelligent Learning values at hundreds of thousands of dollars, MES has agreed to provide the \$1 million guarantee on the line of credit that you have already heard about. Finally, MES has signed a contract for services with ILS whereby ILS will provide marketing services at \$1.3 million annually. They note in this letter that this is no on

transaction. Rather the top executive of MES has signed a contract with a former top executive of MES and so the appearance of conflict, if not impropriety or illegality, the appearance of conflict is profound and that is what has raised so many questions here. This loan's guarantee and transfer of assets is disconcerting says the Maine Independent College Association. However, it becomes even more so when you consider that the president of ILS was until recently an executive employed by MES. Ten former employees of MES own 50 percent of Portland College. Remember MES owns 10 percent. Now 10 former MES employees own 50 percent and that 40 percent of remaining stock options may be available to those very people. Where is the concern? Here is my concern, loans were given out to students to attend colleges all over Maine at a very good rate, a 3 percent rate, if you do not miss a payment. Now, it sounds good, but unfortunately how many of our students do not miss a payment.

The SPEAKER: Would the Representative Defer? The Chair recognizes the Representative from Sanford, Representative Bowles, and asks why the Representative rises?

Representative **BOWLES**: Thank you Mr. Speaker. I would question the germaneness of this testimony regarding the bill at hand.

On **POINT OF ORDER**, Representative **BOWLES** of Sanford asked the Chair if the remarks of Representative **BAKER** of Bangor were germane to the issue.

The Chair asked that Representative **BAKER** of Bangor stay as close as possible to the issue at hand.

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

Representative **BAKER**: Thank you Mr. Speaker. I believe it is about 15 to 20 percent of our students are able to repay their student loans without default. That leaves a hefty profit. It is that profit that we have questions about. The function of Maine Education Services for which it has received public support is to administer student loan funds for Maine students. They are funds derived from public sources should be used by MES to deliver student loans at the lowest possible cost. In other words, those profits should be plowed back in to low-cost loans for Maine students. Portland College, as I understand it, is a private, for-profit corporations funded solely by public funds. Such an action is unprecedented and has never happened before in this state. Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative **MARTIN**: Mr. Speaker, Men and Women of the House. Since I didn't get any answer to my question, I will pose it directly to the Representative from Portland who happens to be the chair of the Education and Cultural Affairs Committee. The funding for Portland College in the way in which I raised the issue, is that the way in which the money is coming? All I need is a yes or no answer. The second question is whether or not the matter of that funding was discussed with the Attorney General's Office?

The SPEAKER: The Representative from Eagle Lake, Representative Martin has posed a question through the Chair to the Representative from Portland, Representative Brennan. The Chair recognizes that Representative.

Representative **BRENNAN**: Mr. Speaker, Men and Women of the House. I am going to have to ask the good Representative from Eagle Lake to refresh my memory as to how he described that flow of money.

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

Representative **MARTIN**: Mr. Speaker, Colleagues of the House. Let me rephrase the question that I have now asked three times and have not received an answer. The way in which was outlined in material provided to me that the quasi-state agencies, ie. Maine Education Loan Authority and Maine Educational Loan Marketing Corporation, from that money generated from the administering of those loans, went to MELA and MELMC. From MELA, the money then was given to start Portland College in terms of investigating the process and whatever else has to be done for the creation of the college and \$1 million was given as a line of credit from MES, which, of course, got its money from the quasi-tax-exempt bonding authority. Is this correct or is it incorrect?

The SPEAKER: The Representative from Eagle Lake, Representative Martin has posed a question through the Chair to the Representative from Portland, Representative Brennan. The Chair recognizes that Representative.

Representative **BRENNAN**: Mr. Speaker, Men and Women of the House. Substantially the way that was just described by the good Representative from Eagle Lake I think that is true. I just would like to add to that if I may, Mr. Speaker.

Again, our best understanding that was presented to the committee was that money starts out with MELA and MELMC and there is an exclusive contract with MES. That money came into MES, initially resources within MES were used to develop part of Intelligent Learning Corporation. Intelligent Learning Corporations then spun off as a separate for-profit corporation. The \$1 million is a loan guarantee through People's Heritage Bank.

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

Representative **WESTON**: Mr. Speaker, Men and Women of the House. I would like to address one item that was recently discussed. We also this year, as a committee, approved the State Board's decision to grant degrees to the Salt Institute. At that time they shared with us that they only have one full-time faculty member in the entire institute. That was not a problem to our committee or to the State Board. Portland College for every major that they offer, they have one full-time department head.

I would like to share one thought. As we were listening as a committee to the testimony about Portland College, one thing came to my mind. When we took the northern trip as legislators by the Economic Development Group. One of the things we did was go to the University of Maine and we were shown a lot of wonderful new businesses that had been spun off out of the University of Maine through our R & D investment. Were there state funds involved in that? Did they get their start there? Yes, they did. I couldn't help but see some correlation at least if we are going to talk about a tie, there seems to be some parallel there. Thank you.

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

Representative **MCKEE**: Mr. Speaker, Men and Women of the House. It is extremely important for us to be talking about widening the accessibility of our education for Maine's students. Although I will admit that years ago I started out thinking that

perhaps this wasn't a good idea and over the years I have come to realize this is going to be a part of education. I was just out in Phoenix, in fact, over the Thanksgiving vacation and when I picked up the newspaper the first morning, I saw that Arizona State University does, in fact, have an online university that very successfully serves numerous degree programs. In my opinion, it is entirely different kind of program. Quite frankly I was rather shocked today to start this discussion and not to have on every single desk a portfolio about Portland College, where it is, all the people who are involved, that one faculty member who is in charge, who the professors or the adjuncts are. I thought we would have more information than probably we would never need. If we are going to authorize an online university to grant degrees, certainly we need to know a whole lot more about it than we do today. I think it is premature for us to authorize this virtual university/college to grant degrees with so little information. A pallor of mistrust hangs over this applicant. We have just spent several months trying to understand our constituent complaints about this organization. As a new legislator, that was one of the my first introductions into the loan program and some of the many difficulties that parents had had with MES. There is an appearance of impropriety, whether that is reality or not, I don't know, but the impropriety, the appearance of that does exist. I would suggest that we delay this discussion until another session when Portland College can provide us with more information. We do want our students to go on to college and many students as the good Representative from Portland suggested, can avail themselves of this type of learning and do quite well in it. We are certainly not turning our backs on it. I would be far more receptive to this idea if the University of Maine was, in fact, establishing the first instate, online university, a university with a long history of excellence. It would be an entirely different conversation that we would be having today. I do have a question and if I may pose my question to the Chair? To the chairman of the Education Committee, the question is, whom has Portland College been accredited by? If I could please know the accrediting organization?

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

Representative BRENNAN: Mr. Speaker, Men and Women of the House. My understanding is to this point is the Portland College is not accredited by anybody. It has not had its first student yet. Thank you.

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

Representative RICHARD: Mr. Speaker, Men and Women of the House. I would just like to make reference because I think it is important to a letter that a lobbyist gave us from the Maine Independent Colleges Association. I was disturbed by this letter. I told you I am on the Board of Directors of Husson College. The president of Husson College was the chairman of the committee that did this review. This particular letter indicates that it comes from all of the independent colleges, including Husson College. After receiving this letter, I called the president and said, "How can you do both?" He did not know this letter had been written. Thank you.

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

Representative CLOUGH: Mr. Speaker, Ladies and Gentlemen of the House. I am a little bit confused. Are we

concerned about providing advanced education over the Internet for our students or are we concerned about limiting competition in the education industry? Everyone knows that MES has provided contract services to MELA and MELMC for which they get paid. There has been no evidence, however, that they charge more for these services than would have some other independent provider. There has been evidence that the students in the State of Maine have received some of the lowest rates on student loans in the country. Is it our business to dictate to a private corporation what they can do with their profits? I really don't believe that it is. The real question before us today is whether we should authorize Portland College to grant degrees. I think the evidence that we have heard indicates that we should. I would ask you to vote against the pending motion.

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

Representative BOWLES: Mr. Speaker, Ladies and Gentlemen of the House. I appreciate the comments of the Representative from Scarborough, Representative Clough, who has got us, I think, back on point on the real question here. Let me first say that I commend all of you who have had the intestinal fortitude to sit here through this debate. You have heard a lot of testimony and some of it is conflicting testimony. I have started to make notes of all the misstatements of fact that I heard earlier. Frankly, I got writer's cramp and had to stop part way through. The real question about granting authority to grant degrees is a question that was not before my committee and I have to assume the Education Committee under its guidance and leadership from its chairman, the good Representative from Portland, Representative Brennan, has done its job in this regard. I am willing to accept the Majority Report that they came up with.

Some of the misstatements of fact have been so severe and so substantial that they just beg to be corrected. I am just going to lay out a couple of them and I will try to be brief. No public dollars are being used in the formation of Portland College. No State of Maine dollars are being used in the formation of Portland College. MES has never received private activity bond allocations, never. MES is a service organization that contracts with the Maine Educational Loan Authority, MELA, and with the Maine Education Loan Marketing Corporation, MELMC. It provides services, as the good Representative Clough is pointed out to us. Not only does it provide services, but at its regular audits, which are conducted by national firms including bond auditor, Smith and Barney, this organization has consistently been shown to charge lower rates for its service contracts than the national average. Those are the facts, ladies and gentlemen. The decision that you make on the college is certainly your own, but I would ask you to search your soul and to determine whether or not you are making a decision based on the merits of the college or on some false and misleading information that has been passed out.

One last point that really needs to be stressed here. There seems to be some concern raised by the good Representative from Wayne, Representative McKee, about the fact that the employees who are starting up Portland College had some prior connection to MES. I would like to point out to you that just as an example nearly all the startup companies in Silicon Valley started from one or two or three main companies. Microsoft employees leaving Microsoft in the last few years have probably been responsible for more startup companies in the computer industry than all other business startups in this country

combined. The point is there is nothing unusual, suspect or awkward about someone who is previously in any educational business moving to a new company in the educational business. We don't generally have truck drivers suddenly become educators. We don't generally have farmers suddenly become doctors. People come from related industry. Thank you Mr. Speaker.

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

ROLL CALL NO. 599

YEA - Ahearn, Bagley, Baker, Berry RL, Bolduc, Brooks, Bryant, Bull, Chizmar, Clark, Cowger, Dudley, Dunlap, Duplessie, Etnier, Fisher, Gagnon, Gerry, Hatch, Jabar, Jacobs, Kane, LaVerdiere, Lemoine, Martin, Matthews, McGlocklin, McKee, Mitchell, Pieh, Powers, Quint, Rines, Samson, Sanborn, Saxl JW, Stanley, Sullivan, Thompson, Townsend, Tripp, Twomey, Volenik, Watson.

NAY - Andrews, Belanger, Bouffard, Bowles, Bragdon, Brennan, Bruno, Buck, Cameron, Campbell, Carr, Chick, Cianchette, Clough, Collins, Colwell, Cote, Cross, Daigle, Davidson, Davis, Desmond, Dugay, Duncan, Foster, Fuller, Gagne, Gillis, Glynn, Gooley, Heidrich, Honey, Jodrey, Jones, Joy, Kasprzak, Kneeland, Labrecque, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, Mailhot, Marvin, Mayo, McDonough, McKenney, McNeil, Mendros, Murphy E, Murphy T, Muse, Nass, Norbert, Nutting, O'Brien JA, O'Brien LL, O'Neal, O'Neil, Peavey, Perkins, Pinkham, Plowman, Povich, Richard, Richardson E, Richardson J, Rosen, Savage C, Savage W, Saxl MV, Schneider, Sherman, Shiah, Skoglund, Snowe-Mello, Stanwood, Stedman, Stevens, Tessier, Tobin D, Tobin J, Tracy, Trahan, Treadwell, True, Tuttle, Usher, Waterhouse, Weston, Wheeler EM, Wheeler GJ, Williams, Winsor, Mr. Speaker.

ABSENT - Berry DP, Bumps, Frechette, Goodwin, Green, McAleve, Perry, Shields, Shorey, Sirois.

Yes, 44; No, 97; Absent, 10; Excused, 0.

44 having voted in the affirmative and 97 voted in the negative, with 10 being absent, and accordingly the motion to **INDEFINITELY POSTPONE** the Bill and all accompanying papers **FAILED**.

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

The Bill was **READ ONCE**. Committee Amendment "A" (H-1078) 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-1078)** and sent for concurrence.

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:

(S.P. 447) (L.D. 1322) Bill "An Act to Ensure the Availability of Home-based Care" Committee on **HEALTH AND HUMAN**

SERVICES reporting Ought to Pass as Amended by Committee Amendment "A" (S-678)

(S.P. 929) (L.D. 2379) Bill "An Act to Eliminate the Discriminatory Tax on the Electronic Filing of Prescription Drug Reimbursement" Committee on **HEALTH AND HUMAN SERVICES reporting Ought to Pass as Amended by Committee Amendment "A" (S-679)**

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

There being no objection, the Senate Papers were **PASSED TO BE ENGROSSED as Amended** in concurrence.

ENACTORS

Acts

An Act to Stimulate Job Creation and Investment in Maine by Amending the Income Tax Apportionment Formula

(S.P. 360) (L.D. 1064)

(C. "A" S-544)

An Act to Reduce the Release of Mercury into the Environment from Consumer Products

(S.P. 734) (L.D. 2084)

(C. "A" S-648)

An Act Regarding the Solid Waste Hauling and Disposal Industry

(H.P. 1736) (L.D. 2442)

(C. "A" H-1086)

An Act to Establish Criteria for Tax Incentive Programs

(H.P. 1754) (L.D. 2460)

(H. "A" H-1055 to C. "A" H-1021)

An Act to Establish the Council on Children and Families and to Ensure the Continuation of the Governor's Children's Cabinet

(S.P. 1076) (L.D. 2679)

An Act to Require Rules on Temporary Campgrounds to be Major Substantive Rules

(S.P. 1077) (L.D. 2681)

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.

SENATE PAPERS

The following Joint Resolution: (S.P. 1081)

JOINT RESOLUTION RECOGNIZING CITIZENS OF SCOTTISH DESCENT

WHEREAS, the contributions of Maine's citizens of Scottish descent to the history, culture and prosperity of the State are numerous and widespread; and

WHEREAS, it is entirely appropriate that Maine's Scottish-Americans, past and present, be recognized annually for the vital roles they play and have played throughout the history of the State; and

WHEREAS, the month of September, during which the Scots under William Wallace asserted their independence by defeating the British at Stirling Bridge in 1297, is an especially appropriate time to celebrate Scottish-American heritage; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Nineteenth Legislature now assembled in the Second Regular Session, hereby designate the month of September 2000 as Scottish-American Heritage Month and urge the citizens of Maine to reflect on and celebrate the manifold contributions of

Scottish-Americans to the strength and vitality of the State; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Saint Andrew's Society of Maine.

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

READ.

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

Representative **DUNLAP**: Mr. Speaker, Men and Women of the House. Since my ancestors came to America after the Battle of Culloden Moore, I have gotten to know a lot of other people of Scottish descent. I am sorry that the Representative from Holden is not in the room right now, I would like to ask him which portion of the Campbell Pardon has blaze orange and purple in it?

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

Representative **MURPHY**: Mr. Speaker, Men and Women of the House. This past summer I met the Scottish side of my family who are the Hammills. I am 25 percent Scotsmen. I also got a copy of my great grandfather Hammill's will. There is a tightness when it comes to monetary spending in our family that was confirmed by my great grandfather. As I read his will, he came to America in 1888 as a coalminer. He died in 1930. He set a maximum for his headstone. He set a maximum for the flowers and then tripled the amount for the masses. He knew where to put the money. Thank you.

ADOPTED in concurrence.

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

Expression of Legislative Sentiment in memory of Margaret Beliveau, of Rumford.

(HLS 1221)

Which was tabled by Representative SHIAH of Bowdoinham pending **ADOPTION**.

Subsequently, the Legislative Sentiment was **ADOPTED** 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:

ORDERS

On motion of Representative GERRY of Auburn, the following Joint Order: (H.P. 1942)

ORDERED, the Senate concurring, that Bill, "An Act to Increase the Amount of Income that a Resident of a Nursing or Residential Care Facility Who Receives Medicaid May Retain," H.P. 265, L.D. 369, and all its accompanying papers, be recalled from the legislative files to the House.

READ.

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

Representative **GERRY**: Mr. Speaker, Ladies and Gentlemen of the House. What I would like to do is pull back from the dead file LD 363, "An Act to Increase the Amount of

Income that a Resident of a Nursing or Residential Care Facility Who Receives Medicaid May Retain."

Representative KANE of Saco moved that the Joint Order and all accompanying papers be **INDEFINITELY POSTPONED**.

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

Representative **GERRY**: Mr. Speaker, Men and Women of the House. I respectfully ask that you vote against the impending motion. What this LD and the Committee Amendment tried to do was give our nursing home residents who now get only \$40 out of their money a month for spending money, \$50. People who live in boarding homes, which now get \$70 would get \$80. In other words, we are only trying to give these people \$10 more a month. These people, my constituents and yours, have had the same amount of money for over the last 24 or 25 years. My mom was in a nursing home for 20 years. This is about the amount that she had. I feel that we need to do this. With the cost of inflation, the same amount of money that they got 20 years ago, today is almost doubled the amount of money you need to get things. It is true the nursing homes and boarding homes do provide certain things for all the residents. What this does is put a little bit more money into the people's pockets so that they can afford to buy haircuts, fancier perfume, soap, the newspaper to help pay for the telephone, not everyone has a family that can take care of them and help bring in these extra little things, especially in a nursing home. Some of them can't get out. They rely on this little extra money to help out. People in the boarding home, they don't need the skilled care. They get out and run about, but they only have \$70. Seventy dollars does not pay for their newspaper. It does not pay for their haircuts. It doesn't pay for the lady's perms. It doesn't pay for just going out to McDonalds.

During the last part of the session last year, this bill went through. Not one person objected so by implication we all agreed to do this. We both agreed here in the House and in the Senate. It was referred to the Appropriations Table where they couldn't find the money to fund this. This year we have a lot more money. All I am asking is to please let this go to the Appropriations Table. If they have a little bit of extra money, maybe they could also add it to this. I ask of you to defeat the pending motion. Thank you.

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

Representative **BRAGDON**: Mr. Speaker, Ladies and Gentlemen of the House. I ask you to vote for the Indefinite Postponement of this bill. As the Representative from Auburn talked about, we did consider this in the Health and Human Services Committee. If money weren't an option, which rarely it isn't in this chamber, it would be something positive to do. However, as you know from the long-term care bill that we passed just a few days ago, there are many people out there who are on waiting lists right now looking for services. We have severe staffing and other problems in our nursing homes and other long-term care facilities right now. Just adding this as another possible appropriation at this time, I don't think is something that we need to consider.

The other point that I would like to make is that people in nursing homes today are very different than the people that resided in nursing homes 20 years ago. Some of the things that the Representative talked about are being provided by the nursing homes. They are also serving a much more acute population. You don't have people who are living in nursing

homes, if you will. Those people are in residential care facilities or assisted living facilities. We have people who have very acute needs who are in nursing homes. I would ask you to support the Indefinite Postponement of this order.

Representative MENDROS of Lewiston **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE** the Joint Order and all accompanying papers.

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

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

Representative **MENDROS**: Mr. Speaker, Ladies and Gentlemen of the House. I disagree with my seatmate. I would ask you to defeat the pending motion. This money, \$40 a month, as the good Representative from Auburn, Representative Gerry said, it is \$70 for those in boarding homes that aren't quite in the acute population that the Representative from Bangor, Representative Bragdon spoke about, would increase it to \$80. This money, \$40 a month, is all they have to live on. We are spending over \$3,300 a month to keep our senior citizens alive and only \$40 a month to let them live. If they want a telephone line so they can call their children or friends or someone who is not there, they have to pay for that out of the \$40 a month. If they want a newspaper, they have to pay for that. If they want cable TV, you can't get television without cable TV, they have to pay for that. If they want to get a haircut or they want to go out to eat once a month or if they want to give their grandchildren a shiny quarter for Christmas because that is all they can afford. This hasn't been raised in 17 years. In 17 years I will still be under 50 and other people here will be much older. Is that what you want to have to live when you live in a nursing home? It won't affect me. It is \$40 a month and to raise it to \$50. It is not even to raise it. It is to let it go and have a chance to be funded at appropriations. We talk about helping people. How about the people that made this country great and the people that got us through the depression and World War II? We are not asking for \$50 million to give laptops to students. We are asking for \$1.5 to \$2 million at the most to let our senior citizens improve their quality of life a little bit. Thank you.

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

Representative **TOWNSEND**: Mr. Speaker, Men and Women of the House. I will be supporting the Indefinite Postponement motion. This bill did have a fighting chance at the Appropriations Table last year. It did not survive that process. I don't think that it is appropriate to bring it back. You need to know that we have an extremely small amount of ongoing funds this year once we do the bills that we absolutely must pay and meanwhile I hear priorities set on both sides of the aisle around general purpose aide to education and from some around tax reductions. If those are, in fact, your priorities, then you need to be spending your limited dollars very carefully towards those priorities. Thank you very much.

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. 600

YEA - Berry RL, Bouffard, Bragdon, Brennan, Bruno, Bull, Cameron, Campbell, Chick, Cianchette, Colwell, Cowger, Cross, Daigle, Davidson, Dudley, Etnier, Foster, Fuller, Gagnon, Jabar, Kane, Labrecque, LaVerdiere, Lemoine, Lovett, Mailhot, Marvin,

Mayo, McDonough, McNeil, Murphy T, Muse, Norbert, Nutting, O'Brien JA, O'Brien LL, O'Neil, Pieh, Powers, Quint, Rosen, Savage C, Savage W, Saxl MV, Schneider, Sherman, Shiah, Stevens, Tessier, Thompson, Townsend, Tripp, Volenik, Watson, Weston, Mr. Speaker.

NAY - Ahearne, Andrews, Bagley, Belanger, Bolduc, Bowles, Brooks, Bryant, Buck, Carr, Chizmar, Clark, Clough, Collins, Davis, Desmond, Dugay, Duncan, Dunlap, Duplessie, Fisher, Gagne, Gerry, Gillis, Glynn, Goodwin, Gooley, Hatch, Heidrich, Honey, Jacobs, Jodrey, Jones, Joy, Kasprzak, Lemont, MacDougall, Mack, Madore, Martin, Matthews, McGlocklin, McKenney, Mendros, Mitchell, Murphy E, Nass, O'Neal, Peavey, Perkins, Pinkham, Plowman, Richard, Richardson E, Richardson J, Rines, Samson, Sanborn, Saxl JW, Skoglund, Snowe-Mello, Stanley, Stanwood, Stedman, Sullivan, Tobin D, Tobin J, Tracy, Trahan, Treadwell, True, Tuttle, Twomey, Usher, Waterhouse, Wheeler EM, Wheeler GJ, Williams, Winsor.

ABSENT - Baker, Berry DP, Bumps, Cote, Frechette, Green, Kneeland, Lindahl, McAlevey, McKee, Perry, Povich, Shields, Shorey, Sirois.

Yes, 57; No, 79; Absent, 15; Excused, 0.

57 having voted in the affirmative and 79 voted in the negative, with 15 being absent, and accordingly the motion to **INDEFINITELY POSTPONE** the Joint Order and all accompanying papers **FAILED**.

Representative **KANE** of Saco **REQUESTED** a roll call on **PASSAGE** of the Joint Order.

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 Passage of the Joint Order. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 601

YEA - Ahearne, Andrews, Bagley, Belanger, Bolduc, Bowles, Brooks, Bryant, Buck, Campbell, Chizmar, Clark, Clough, Collins, Cross, Davis, Desmond, Dugay, Duncan, Dunlap, Duplessie, Fisher, Foster, Gagne, Gerry, Gillis, Glynn, Goodwin, Gooley, Hatch, Heidrich, Honey, Jacobs, Jones, Joy, Kasprzak, Lemont, MacDougall, Mack, Madore, Martin, Marvin, Matthews, McGlocklin, McKenney, Mendros, Murphy E, Murphy T, Nass, Nutting, Peavey, Perkins, Pinkham, Plowman, Richardson J, Rines, Samson, Sanborn, Sherman, Skoglund, Snowe-Mello, Stanley, Stanwood, Stedman, Sullivan, Tobin D, Tobin J, Tracy, Trahan, Treadwell, True, Tuttle, Twomey, Usher, Waterhouse, Wheeler EM, Wheeler GJ, Winsor.

NAY - Baker, Berry RL, Bouffard, Bragdon, Brennan, Bruno, Bull, Cameron, Carr, Chick, Cianchette, Colwell, Cowger, Daigle, Davidson, Dudley, Etnier, Fuller, Gagnon, Jabar, Jodrey, Kane, Labrecque, LaVerdiere, Lemoine, Lovett, Mailhot, Mayo, McDonough, McKee, McNeil, Mitchell, Muse, Norbert, O'Brien JA, O'Brien LL, O'Neal, O'Neil, Pieh, Powers, Quint, Richard, Richardson E, Rosen, Savage C, Savage W, Saxl JW, Saxl MV, Schneider, Shiah, Stevens, Tessier, Thompson, Townsend, Tripp, Volenik, Watson, Weston, Williams, Mr. Speaker.

ABSENT - Berry DP, Bumps, Cote, Frechette, Green, Kneeland, Lindahl, McAlevey, Perry, Povich, Shields, Shorey, Sirois.

Yes, 78; No, 60; Absent, 13; Excused, 0.

78 having voted in the affirmative and 60 voted in the negative, with 13 being absent, and accordingly the Joint Order **FAILED** of **PASSAGE**.

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

Representative **CLOUGH**: Mr. Speaker, Men and Women of the House. Earlier today on LD 2579 on roll call 596 I was here and my records that I keep indicated that I voted yes. The roll call indicates that I was absent. I would ask that I be recorded as having voted yes on that roll call.

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 Prevent the Spread of Invasive Aquatic Plants (EMERGENCY)

(H.P. 1843) (L.D. 2581)

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

PENDING - **ADOPTION OF HOUSE AMENDMENT "A" (H-984) TO COMMITTEE AMENDMENT "A" (H-970).**

Subsequently, Representative PERKINS of Penobscot **WITHDREW House Amendment "A" (H-984) to Committee Amendment "A" (H-970).**

Representative THOMPSON of Naples **PRESENTED House Amendment "B" (H-1105) to Committee Amendment "A" (H-970),** 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 issue regarding the enforcement provision in this Committee Amendment. My amendment simply removes the enforcement provision and I believe that everyone who was concerned with that issue has agreed.

Representative DUNLAP of Old Town **REQUESTED** a division on the motion to **ADOPT House Amendment "B" (H-1105) to Committee Amendment "A" (H-970).**

A vote of the House was taken. 119 voted in favor of the same and 5 against, and accordingly **House Amendment "B" (H-1105) to Committee Amendment "A" (H-970) was ADOPTED.**

Committee Amendment "A" (H-970) as Amended by House Amendment "B" (H-1105) thereto was ADOPTED.

The Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-970) as Amended by House Amendment "B" (H-1105) thereto** and sent for concurrence.

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

REPORTS OF COMMITTEE

Ought to Pass Pursuant to Joint Order (S.P. 1065)

Report of the Committee on **TAXATION** on Bill "An Act Related to Sales Tax on Vehicles Leased and Removed from the State and Watercraft Used in Interstate Commerce"

(S.P. 1082) (L.D. 2686)

Reporting **Ought to Pass** pursuant to Joint Order (S.P. 1065).

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

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

The Bill **READ ONCE.**

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** in concurrence.

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

SENATE PAPERS

The following Joint Order: (S.P. 1080)

ORDERED, the House concurring, that when the House and Senate adjourn they do so until the call of the President of the Senate and the Speaker of the House respectively when there is a need to conduct business.

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

READ and **PASSED** in concurrence.

On motion of Representative SAXL of Portland, the House adjourned at 6:15 p.m., until the call of the Speaker when there is a need to conduct business, pursuant to the Joint Order (S.P. 1080) and in honor and lasting tribute to Margaret Beliveau, of Rumford.