

MAINE STATE LEGISLATURE

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

Volume III

Second Regular Session

March 23, 2000 – May 12, 2000

Appendix
House Legislative Sentiments
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ONE HUNDRED AND NINETEENTH LEGISLATURE
SECOND REGULAR SESSION
30th Legislative Day
Tuesday, April 11, 2000

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

Prayer by Pastor John Hall, Litchfield Plains Baptist Church.

Pledge of Allegiance.

The Journal of Saturday, April 8, 2000 was read and approved.

SENATE PAPERS

Non-Concurrent Matter

Bill "An Act Concerning Previous Passamaquoddy Indian Territory Legislation"

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

Minority (3) **OUGHT TO PASS AS AMENDED** Report of the Committee on **JUDICIARY READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1071)** in the House on April 6, 2000.

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

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

Representative BRYANT of Dixfield **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 Bridgton, Representative Waterhouse.

Representative **WATERHOUSE**: Mr. Speaker, Ladies and Gentlemen of the House. I am sure you remember this debate. I just want to mention a few things about it. You heard a lot in the previous debate about fairness in the process of this issue. I have always taken the position since I have been on the Judiciary Committee and dealt with matters dealing with Indian Territory, but it doesn't make any sense to have a land base way over on one side of the state and to buy a little piece of land way on the other side of the state and drop it right down in the middle of an existing community and have laws applied to that little piece of land right in the center of that community. That is in existence now and that is the policy decided years ago. I don't agree with it and if I had been around then, I would have voted against it. We heard a lot about the court case and how the process was followed and all the necessary steps were taken. I would point out that the process was not fair and it was not followed. The key provision of the process was not dealt with and that was notification and a public hearing for the citizens of Albany Township.

The Maine Indian Tribal Commission admitted they did not follow their own bylaws. A number of the committee members of the Tribal Commission when this bill appeared felt as though it should go through the whole process again. I am against this bill because I think it is not the right thing to do. Not only has the process not been completed and has not been followed, let's not only focus on the possible misstep of one side. There is a community out there that has not had their say in this issue. If we are concerned about being fair and doing the right thing, let's do it for both sides. A fair process for all will bring a fair result.

Let's be honest, folks. If this bill passes what it will be doing is disrupting a community and their way of life, their culture, if you will. Their lives will be changed forever and from the perspective of many of them, it will be ruined. In the Judiciary Committee when we have judges and lawyers appear before us for confirmations and other issues, the constant refrains you always here is about the court system in the State of Maine. When people come into the court, it is very important that they feel as though they have been heard and had their say or their day in court, as it is, and they have a sense of justice and that they were treated fairly when they leave that courtroom. Please remember the people that live in this community of Albany Township and give them their fair hearing in court. Regardless of the outcome, win or lose, it would have been the right thing to do. Please do not try to correct a previous wrong by committing another one. Thank you.

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

Representative **LORING**: Mr. Speaker, Ladies and Gentlemen of the House. I think we should be realistic here and know that this bill is dead. For the record, I would like to say something. In reference to the other body, I sat there while this debate went on and Senator Bennett cried in the Senate. His show of emotion was worth more than all our generations of grief and mourning combined. They heard him, they honored him and we were left with nothing, but another broken treaty.

What about all the years we cried and begged and pleaded in those very halls for our lands. We did not get the respect and honor due us as a people. A people, who have been slandered, cheated, abused and murdered for our resources and our lands. What about our lands that were stolen from us? What about our way of life and the very resources we depended on to survive? Our pleas fell on deaf ears.

I am truly disgusted and discouraged. Please understand what I say, I am not pro-gambling. It is mostly that I am for making Native people economically self-sufficient. I certainly am not for making my people look like criminals just because we are desperate to find something that economically works for us.

My last word on the subject is this. I have heard a lot of mean spirited negative words during the Senate debate and they were calculated to hurt and to criminalize Native people. I left the Senate Chamber feeling personally attacked and wondering about what the integrity of this process is. Will the people of Maine ever get it? Will they ever open their ears, hearts and minds and decide to allow us to share some of the wealth?

Don't criticize us. Don't criminalize us. We are just trying to survive.

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

Representative **MCKEE**: Mr. Speaker, Men and Women of the House. I tried very hard to get here on time this morning, as best I could. All the lights were green on the way in. I saw this on the Internet last night that it would be first. I feared what I saw. The previous speaker, the first speaker, said a previous wrong was done. We are here to correct that wrong and that only. Despite all the e-mails about a bill about gambling, you can call it what you want, but if you don't correct that wrong, to me it is a deed restriction. The highest person in this government has said that that person would not sign this bill unless there was in writing that the Passamaquoddy people would not have high-stakes Beano. Folks, in 1997, we okayed high-stakes Beano for the Passamaquoddy people. Many of you people voted for that.

This is not what that is about. If you don't vote to correct that wrong, you have put a deed restriction on the Passamaquoddy people. We haven't put a deed restriction on a lot of people who have bought land in the State of Maine and decided to put things like polluting waste energy plants and many, many other things.

I think this is about white privilege. It has always been about white privilege. We have been trying to correct those wrongs in the past 20 years and we have come pretty close. In the 1970s a deed was found in an attic. The grandparent of a woman I am writing a book about surfaced after 200 years. It was a treaty that had never been ratified by the Congress. We had to honor that treaty. Folks, we are going to have to honor this wrong, too. It is going to come back. Maybe you don't like gambling and maybe I don't want to encourage it, but I think we have to start doing right by these people. We have started. The 1980 Indian Land Claims Settlement Act did that. A lot of good changes have taken place. We have eliminated the word "squaw" from our place names. We are on our way to showing that we are a state that honors the diversity that we have always had. We have always had diversity. Many of you are testament to that. You have made this state the great state that it is. We can't deny these people what you and I have always had, the opportunity in this body to have a wrong righted. We honored last week the intent of a town. We didn't even talk about a wrong and righting. We honored the intent of a town not to have to pay an agency property taxes for something they didn't get to use. We overwhelmingly voted for that.

Yes, there have been tears. There have been many tears. I am afraid some tears of some people fall on my face without my seeing them. The tears of these people have been seen and heard in this body in the last month and we can no longer refuse to acknowledge them. I quoted the famous quote of Native people. "You have made a lot of promises to us, but you only ever kept one. You said you would take our land and you took it." If you vote against the Passamaquoddy people today, you are doing that again. Thank you.

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

Representative **WATERHOUSE**: Mr. Speaker, Men and Women of the House. I just want to correct the previous speaker, the Representative from Wayne, Representative McKee, who misconstrued my remarks about a previous wrong. I was not referring to the process dealing with this issue before us. I was dealing with the perceived and real wrongs of past history, not on this issue. Thank you.

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

Representative **JODREY**: Mr. Speaker, Ladies and Gentlemen of the House. I rise today to ask you to oppose LD 2607, "An Act Concerning the Previous Indian Territory Legislation." What is this bill about? It is about high-stakes Bingo. A plan has been prepared for the Snake River Finance Unlimited concerning the Albany Township dated August 1996. The plan is a high-stakes Bingo site layout plan. I have this plan in my possession. Duluca Hoffman Consulting Engineers of South Portland have designed a site plan for a 200 by 200 square foot building on the 18-acre parcel with wetlands on three sides. Parking is included on this plan with 190 auto spaces, 16 handicapped spaces and 26 bus spaces. The site also has a quick claim deed without covenant for a possible temporary parking over three underground oil pipelines that pass through the 125-foot right a way of the 18-acre site. This right a way was

deeded to the Passamaquoddy Tribe on August 30, 1994. This shows, in my mind, intent of where this has the potential of going. The site is on the bank of Crooked River, which is the headwaters of the Sebago Lake watershed, which is Portland's water supply.

Last week we voted to help the Waterboro/Limerick people with their public financial funding problems. The 230 residents of Albany Township have no public money to work with. Their defense funding has all been through the Albany Improvement Association. The sources of funding have been yard sales, bean suppers, auctions, membership fees and member contributions. There have also been many, many hours of donated legal services. However, they still have a need for several thousand dollars to pay off legal fees to date.

It is also important to point out, which has been pointed out several times, that the Superior Court and the Supreme Court both have ruled that the final decision on the Albany Township was not properly qualified as Indian Territory. The Legislature should not lightly reverse this outcome. We must support the courts decision. Albany people have been hurting for years over this potential development. There have been many, many sleepless nights for their natives. I urge you to oppose LD 2607. Thank you.

The SPEAKER: The Chair recognizes the Representative from Norway, Representative Winsor.

Representative **WINSOR**: Mr. Speaker, Men and Women of the House. I urge you to approve the current motion and defeat the bill. You know, we have heard the legal reasons from the various attorneys in this body and the committee why we should not support this bill. I can't talk on those matters. I am not really qualified. I have heard from the Tribal Representatives in this body that if we don't approve this current bill, that we are somehow creating a wrong on them and their historical rights. What we do here is we debate on a regular basis the conflicting rights of people we represent. In this case, I think that two wrongs don't make a right.

I wish to speak today of my neighbors. I live about eight or nine miles from the proposed development. Representative Jodrey who you have just heard probably lives less than three miles from this location. We are both intimately familiar with the hills of Oxford County and the mountains and the streams that this area consists of. We love its rural nature. If you approve this bill, this body will be imposing or creating a mandate upon me and my family, my children and the other members of my community a development, which we don't approve of. In addition to that, what you will do is you will cause us to absorb the cost of that development. The members outside of Oxford County won't pay for it. We will. Is that fair? I don't think so.

I have a letter from the Sheriff's Department of Oxford County. He says that he is going to incur significant cost because of the increased traffic that this development provides. We get no tax money out of the development. Is that fair? I don't think so. The county commissioners will have to upgrade the road system for this whole development. It is not designed for development. It is not designed and never has been designed for high traffic. Should we pay for that?

On **POINT OF ORDER**, Representative McKEE of Wayne asked the Chair if the remarks of Representative WINSOR of Norway were germane to the issue.

The Chair believed that the remarks of Representative WINSOR of Norway were germane to the issue and he was allowed to continue.

The **SPEAKER**: The Chair recognizes the Representative from Norway, Representative Winsor.

Representative **WINSOR**: Mr. Speaker, Men and Women of the House. I am sorry if I am emotional about this issue, but as others here are emotional on the other side, so am I. I think that we should fully understand the results and consequences of our vote. You give something to somebody and you take something away. My interest is personal. I am begging with and pleading with you not to force me and my family and my neighbors to suffer the consequences of this development.

The **SPEAKER**: The Chair recognizes the Representative from Buckfield, Representative Gagne.

Representative **GAGNE**: Mr. Speaker, Ladies and Gentlemen of the House. This is not about diversity and this is not about anything but gambling. As a Representative from Oxford County, I feel I have to stand and speak as well. Indian Tribes have been given by the federal government the right to do self-determination on their reservation or Indian land. If we allow them to change the rules of this particular bill, there is no question that they will have the right under federal law to put in high-stakes Bingo, casinos or whatever they want. I live in western Maine as well. I also know the roads through the Bethel area and to Sunday River and some of you must also know. It would be very difficult to open up our county and destroy the way of life that these people consider. It is about change in Oxford County. It is not about rape. Thank you.

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

Representative **MARTIN**: Mr. Speaker, Members of the House. I rise not because I am supportive of casinos. I believe that what we are trying to do or should be concerned about, is the question of whether or not it was intended to be part of the Act. That is the direction I am coming from. I appreciate very much the fact that the people of Oxford County do not want a casino located in that region of the state. I am not sure I would want one in Aroostook County either. Today I believe the issue is not that. It is one of whether or not it should have been included and whether or not the Legislature made a mistake. That, in my opinion, is the vote that we ought to be concerned about. The next question is whether or not that should happen? I do not support the LURC approval that was made in the course of the discussion a couple of years ago. In my opinion, LURC made a mistake in granting that permit. To me, that is a separate issue. I understand that if I lived in Oxford County, I think I would understand exactly the direction they are coming from. Let's not make any misunderstanding and I would assume that the Passamaquoddy Tribe feels strongly about how their land is used.

When I was involved in the Land Claims Settlement, it was always my assumption that the land that would be made part of what tribe ownership would occur, whether it be the Penobscot Nation or the Passamaquoddy Tribe, it would be as close as possible to where the tribe or the nation was located. Part of the restrictions that we imposed upon the tribe and the nation and that was imposed by this state was the requirement that they had to buy land from willing sellers. They couldn't go and decide what piece of land they would like to add to their own land. The federal government said you have this money. The state said that is fine, but whatever land you are going to purchase with that money must be from a willing seller. They started looking for people who wanted to sell land and that is how they ended up in Albany Township.

I would suspect if they had their wish, that it wouldn't be there. They are there. I would hope perhaps that one of the ways that this could be resolved would be if the citizens of Oxford County would start to think about where it is they can trade land in this state with someone else who might be willing so that they could then do what they want to do pursuant to the federal act. That would be one of the things that I would consider. I hope that they would consider that as well. That is what caused the problem. It is not the Passamaquoddy Tribe that caused this mess.

Representative **WINSOR** of Norway **REQUESTED** that the Clerk **READ** the Committee Report.

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

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

Representative **WATERHOUSE**: Mr. Speaker, Ladies and Gentlemen of the House. I just want to reemphasize one of the key points of my original speech when I first started out as the first speaker. We talked about being part of the Land Claims Act. Albany Township was not included in the 1980 Land Claims Settlement. It was added as one of the many amendments later on in favor of the tribe. The key point involved in that amendment was it did not follow its bylaws and there was no public hearing for the people of Albany Township to have their input into that.

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

Representative **LORING**: Mr. Speaker, Men and Women of the House. I rise to remind you that this was an amendment to the Land Claims Settlement Act. This is a government-to-government agreement and not a gambling issue. I would ask that you vote against this Recede and Concur. Thank you.

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

Representative **TWOMEY**: Mr. Speaker, Men and Women of the House. Emotional? Yes. I agree it must have been very emotional for the Native Americans when the white man came in and took their land. My ancestor's mistakes stop here with me. I will be supporting this motion. Thank you.

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

ROLL CALL NO. 602

YEA - Andrews, Belanger, Berry DP, Berry RL, Bowles, Bragdon, Brennan, Bruno, Bryant, Bull, Bumps, Cameron, Campbell, Carr, Clough, Collins, Cross, Daigle, Davis, Duncan, Etnier, Fisher, Foster, Frechette, Fuller, Gagne, Gerry, Glynn, Gooley, Heidrich, Honey, Jodrey, Jones, Joy, Kasprzak, Labrecque, LaVerdiere, Lemoine, Lindahl, Lovett, MacDougall, Mack, Mailhot, Marvin, Mayo, McAlevey, McKenney, McNeil, Mendros, Murphy E, Murphy T, Muse, Nass, Norbert, Nutting, O'Brien JA, O'Brien LL, O'Neil, Peavey, Perkins, Pinkham, Plowman, Powers, Richard, Richardson E, Rines, Rosen, Savage C, Schneider, Sherman, Shields, Snowe-Mello, Stanwood, Stedman, Sullivan, Thompson, Tobin D, Townsend, Trahan, Treadwell, Usher, Waterhouse, Weston, Wheeler EM, Winsor, Mr. Speaker.

NAY - Ahearne, Bagley, Baker, Bouffard, Brooks, Chick, Chizmar, Clark, Colwell, Cote, Cowger, Desmond, Dudley,

Dugay, Dunlap, Duplessie, Gagnon, Gillis, Goodwin, Hatch, Jabar, Jacobs, Kane, Martin, McDonough, McGlocklin, McKee, O'Neal, Pieh, Richardson J, Samson, Sanborn, Savage W, Saxl JW, Saxl MV, Shiah, Shorey, Skoglund, Stanley, Tessier, Tobin J, Tracy, Tripp, True, Tuttle, Twomey, Volenik, Watson, Wheeler GJ, Williams.

ABSENT - Bolduc, Buck, Cianchette, Davidson, Green, Kneeland, Lemont, Madore, Matthews, Mitchell, Perry, Povich, Quint, Sirois, Stevens.

Yes, 86; No, 50; Absent, 15; Excused, 0.

86 having voted in the affirmative and 50 voted in the negative, with 15 being absent, and accordingly the House voted to **RECEDE AND CONCUR**.

Non-Concurrent Matter

An Act to Implement the Recommendations of the Commission to Propose an Alternative Process for Forensic Examinations for Sexual Assault Victims (EMERGENCY)

(H.P. 1927) (L.D. 2673)

PASSED TO BE ENACTED in the House on April 5, 2000.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-674)** in **NON-CONCURRENCE**.

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

COMMUNICATIONS

The Following Communication: (H.C. 421)

STATE OF MAINE

**ONE HUNDRED AND NINETEENTH LEGISLATURE
COMMITTEE ON EDUCATION AND CULTURAL AFFAIRS**

April 7, 2000

Honorable Mark W. Lawrence, President of the Senate

Honorable G. Steven Rowe, Speaker of the House

119th Maine Legislature

State House

Augusta, Maine 04333

Dear President Lawrence and Speaker Rowe:

Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Education and Cultural Affairs has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 2401 An Act to Amend the Laws Regarding the Change of a Cost-sharing Formula in a School Administrative District

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

Sincerely,

S/Sen. Georgette B. Berube

Senate Chair

S/Rep. Michael F. Brennan

House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (S.C. 641)

SENATE OF MAINE

OFFICE OF THE SECRETARY

3 STATE HOUSE STATION

AUGUSTA, MAINE 04333

April 8, 2000

The Honorable Joseph W. Mayo

Clerk of the House

State House Station 2

Augusta, ME 04333

Dear Clerk Mayo:

Please be advised the Senate today Adhered to its previous action whereby the Minority Ought Not To Pass Report from the Committee on Health And Human Services on Bill "An Act to Establish the Maine Council on Aging," (H.P. 1365) (L.D. 1963), was accepted.

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

READ and ORDERED PLACED ON FILE.

The Following Communication: (S.C. 640)

SENATE OF MAINE

OFFICE OF THE SECRETARY

3 STATE HOUSE STATION

AUGUSTA, MAINE 04333

April 8, 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 Business and Economic Development the nominations of John Murphy of Fort Kent and Bruce N. Schatz of Augusta for appointment to the Maine Educational Loan Authority; Michael L. Finnegan of Edgecomb for appointment as the Executive Director of the Maine State Housing Authority; and Margaret S. Hayne of Freeport, Elizabeth Horning of Richmond and James E. Cassidy of Turner to the Maine State Housing Authority.

Upon the recommendation of the Joint Standing Committee on Legal and Veterans Affairs, the nomination of Joseph E. Tinkham II of South Gardiner for appointment as the Adjutant General/Commissioner of Defense, Veterans and Emergency Management.

Thank you for your attention to this matter.

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

READ and ORDERED PLACED ON FILE.

Representative SAXL of Portland assumed the Chair.

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

ORDERS

On motion of Representative BROOKS of Winterport, the following Joint Order: (H.P. 1941) (Cosponsored by Representative TWOMEY of Biddeford)

ORDERED, the Senate concurring, that the Joint Standing Committee on Banking and Insurance report out, to the House, an emergency bill requiring that before June 30, 2000 the Superintendent of Insurance adopt major substantive rules

relating to the regulation of a for-profit stock insurer, including requirements for coverage area and rates, before approving any conversion of a nonprofit hospital and medical service organization to a for-profit stock insurer.

READ.

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

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

REPORTS OF COMMITTEE
Divided Report

Majority Report of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-655)** on Bill "An Act to Prohibit Hunting Animals in Enclosed Areas" (S.P. 457) (L.D. 1332)

Signed:

Senators:

NUTTING of Androscoggin

KILKELLY of Lincoln

Representatives:

GAGNE of Buckfield

WATSON of Farmingdale

PIEH of Bremen

VOLENIK of Brooklin

COWGER of Hallowell

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (S-656)** on same Bill.

Signed:

Senator:

KIEFFER of Aroostook

Representatives:

CROSS of Dover-Foxcroft

GILLIS of Danforth

GOOLEY of Farmington

CARR of Lincoln

FOSTER of Gray

Came from the Senate with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-655) AS AMENDED BY SENATE "B" (S-681)** thereto.

READ.

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

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

Representative PIEH: Mr. Speaker, Men and Women of the House. This is the bill you have all been waiting for, I am sure. This is a bill that considers the issue of shooting animals in enclosed areas. You should have on your desk a handout that will show you the similarities and the differences between the Majority Report, as amended by the other body, and the Minority Report. I would like to explain the bill to you and also explain to you why I made the choice that I did to support the Majority Report.

This bill was put before the Legislature last session and it was sent to the Inland Fisheries and Wildlife Committee. They worked on it hard. They sent the people who were doing this away to come back with ideas about how they should be managed. They came back with some ideas. They worked some more and then the only thing they could unanimously decide on was that it didn't belong to them, it belonged to Agriculture. I had thought it was because they all agreed it wasn't really hunting, but after some spirited discussion in the hall, I was corrected and that there were a lot of different reasons that different individuals agreed and desired to have it come to Agriculture. Anywhere from they didn't feel it was hunting to not being sure who should tell whom what hunting was. It was dealing with domesticated animals so it should be Agriculture. We got it and looked through what had been happening. I went to the Attorney General and asked if we already had language, which had been put in three years ago that made this bill unnecessary if it was the desire to ban this activity. They said that they thought the intent of language was clear, but there was confusion about whether it was hunting or farming or what and which laws from which laws title would apply. They referred to it as a prosecutor's nightmare. They said that if you want to ban this, you need to move forward with this bill.

The Majority Report puts some regulations on the industry. It grandfathered in those that are currently involved or were involved in between October 1, 1999 and March 15, 2000. Both reports set minimum and maximum sizes. There are two grandfathered programs in New Hampshire. One is a hunt club. I was told this weekend it is 30,000 acres. You join the hunt club. I don't believe anybody would fence 30,000 acres of woods. It is probably 3,000 acres. That is kind of what is happening in that state next door that we usually only talk about when we are talking about tax breaks. That is what they have.

The Majority Report does not allow transfer of license. The Minority Report would. Other than that, the regulations that are put in are pretty clear, the restrictions. It only allows certain species of boar and non-native deer. The deer, most of them are raised within the state. It regulates hunting in a tree stand or accompanied by a licensed holder or an employee of the licensed holder. It restricts the weapons to what are now allowed, different types of guns and bows and arrows for hunting. It limits the shooting to daylight hours. It specifies that should there be problems of any kind with disease, the license holder is responsible for paying for those tests. Also, both reports require that the Commissioner of Agriculture, we decided it would be under Agriculture, not Inland Fisheries and Wildlife, to adopt rules and those would be major substantive rules to come back to look at in the next session so that we can make sure that if we are going to continue this, which it looks like with either report we would, it would come under some expectations of behavior.

I am on the Majority Ought to Pass as Amended Report for two reasons. It goes against two traditions that I think are very important in Maine. The first is, traditional hunting. I am not going to go where they would say that this is not hunting. It is certainly not traditional hunting, which is the pursuit of a wild and free animal. In 1831, Maine made laws creating a hunting season for deer and moose. That was banning it from January to September. It was actually a long time ago that they began to think about their wild resource and pay attention to hunting. I think we have heard a lot of debates about guns and that they are in most Maine homes. I think you will find they are in most

Maine homes because most Maine homes house hunters. They are not there for violent purposes or huge protection issues that we don't really have, hopefully, ever in Maine. They are there because of a hunting tradition that is very powerful and important.

The second issue is around animal welfare. I was driving to work one day and I heard talk about cock fighting. I got curious about when cock fighting was made illegal in Maine as something that is cruel to animals. I heard on the radio that most states did it in the '70s. I looked it up and Maine did it in 1873. That was over 100 years ago. They also in 1821, in what I presume would have been their first book of laws, outlawed cruelty to animals. Where, I believe, these activities break down under animal welfare is that they cannot guarantee an instantaneous death. If you own an animal, you are certainly welcome to kill it. You are certainly welcome to kill your livestock. We kill our sheep on a regular basis and when we first began doing it, we actually asked the state vet to come and make sure we were doing what would be called, as humane as possible, a kill of these animals. I can show you how to do it if you decide you want to buy one of our sheep and you decide you would like to come and do the killing yourself. I can make sure it is instantaneous and neither of these reports will change that or make you, as a farmer, unable to deal with your own livestock in a manner of planned death. Once you own an animal, that is the difference between this and traditional hunting, those animals are not owned. Once you own it, you have a responsibility for their welfare both in life and death.

People having been saying to me that slaughterhouses are horrible. I have been to lots of slaughterhouses because I take my goats there and I won't take one there unless I go through. I am telling you that death is horrible for an animal, but they are instantaneous and they have very, very tight laws. You have to knock the animal out with a stun gun or shoot it and then you can deal with it so it is dead. The stun gun will kill it as I have recently learned what those do. Most of us eat meat and we don't think about the fact that it is a dead animal. There is a way those animals die that we eat. I don't believe that these activities can guarantee an instantaneous death. They have been banned outright in 12 states. There are several other states that have grand fathered the ones they have, which is what we are considering doing.

I would be remiss to my fellow colleagues in the other body if I didn't talk a little bit about the fact of disease. Recently Mad Cow Disease has been found in deer and elk in the western states. There is language in these two reports that would make sure that that doesn't come here. There are 150 people in Britain, as I am sure you all know, that actually have Mad Cow Disease from eating diseased meat. I do hope you will support the Majority Ought to Pass as Amended Report. I thank you for your time.

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

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

Representative MARTIN: Mr. Speaker, Members of the House. After listening to some of the comments today, I am wondering whether or not this is an agriculture issue or whether or not it is a matter for Inland Fisheries and Wildlife. If it is an agriculture issue and it has to do with cruelty, we ought to be taking a look at the way in which we do veal in this country and what happens and how we treat animals and how from the time

they are born to the time they die, they are hooked to two metal pieces around their head and are fed and subsequently in darkness and subsequently shot between the eyes and that becomes your veal. If this is a matter, which deals with Fisheries and Wildlife, where I think this properly belongs, that is another issue.

I do want to correct, however, one thing about what Maine did in 1873 dealing with cock fighting. As my history reminds me, this was not done because, especially in this state at that time, it was bad for the animals. It was because Maine was one of those states that believes strongly in blue laws and gambling was the issue. That was the primary reason for outlawing that type of activity in this state. As some of you may remember, Maine was also the first state in the country in 1856 to develop the blue laws for drinking. We became the first dry state in the country and pretty close to the last. We have that tradition as well.

When I looked at the original bill and then started to wonder what this is all about, it became clear that it is not because we have a problem. I am one of those who believes strongly that you deal with legislation when there is a problem. There is none in this case and no one has been able to document any or brought any to my attention. When you have an industry, which is developed as this one has and we only have two of them in this state. They have not been a problem. There has been some animosity perhaps by some member of the Inland Fisheries and Wildlife staff, but that is not my problem and it should not be the state's problem and a reason for us to enact a piece of legislation.

The thing that really concerns me, in part, in most of the Majority Report, here is an industry that has been created where someone has invested about a million dollars or so. We are not going to allow the transfer of a license. What happens to that investment? We allowed that to occur. If we had abolished it before it began and we had said it was illegal and you can't have it, that is one thing. We let that happen, right or wrong, from anyone's point of view, but we let it happen. Someone has made a major investment of their money and now we say, guess what? You can't transfer that license. That is in the Majority Report. It says other things as well, which deals with the whole question, but I believe this is a matter for Inland Fisheries and Wildlife and if they want to come back and bring some suggested regulations, then the Legislature can enact them. I would be more than happy to look at them. I find it ironic that some of the same people who do not want written rules and regulations and let the department do it by promulgation within the department are now attempting to draft more rules and regulations than you have ever seen in your life.

I certainly hope that you will Indefinitely Postpone this bill and deal with it at some other time in another manner and with another way in which it ought to be done properly, in my opinion. Before I sit down, Mr. Speaker, I request that the vote be taken by the yeas and nays.

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

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

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

Representative MUSE: Mr. Speaker, Men and Women of the House. I can't believe we are even considering this. I was

beaten from Augusta to Caribou with a couple of bills that mentioned the words guns because I kept continuously hearing about Maine's hunting heritage. Now we are saying that it is okay to cage up these animals and let some people come in from other states come in and go and shoot them. My gosh, if they can't get one at the end of eight hours, we will send out the dogs and flush them out and bring them right to your doorstep. This is shameful. That is what this is. I cannot believe that we would even consider indefinitely postponing this. I am saddened that we have a weakened amended version that has come from the other body. I will support this because this gentleman or a couple of people have invested substantially in it, we feel that we need to allow them to stay open. Fine, so be it. Let them. Perhaps they could increase their prices and these people from out-of-state could just mail in the check and we could mail them the hide from a deer or something or the head of a bear and they could tack that on their wall.

I also have to wonder if perhaps we had these types of establishments, these shooting camps and I refuse to call them hunting camps. If we had these perhaps 88 to 90 years when LL Bean first started, perhaps Maine and LL Beans would be famous for their Maine hunting slippers instead of their Maine hunting boots. This is shameful, Mr. Speaker, I hope that everyone will go on to vote against the pending motion. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Manchester, Representative Fuller.

Representative FULLER: Madam Speaker, May I pose a question through the Chair?

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

Representative FULLER: Mr. Speaker, Men and Women of the House. Both of these proposed amendments talk about developing regulations and they also set forth certain standards that must be met. My question is, how are these enforced since we are talking about enclosed areas? Do the game wardens have to jump the fence or how would these laws be enforced? Thank you.

The SPEAKER PRO TEM: The Representative from Manchester, Representative Fuller has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Bremen, Representative Pieh.

Representative PIEH: Mr. Speaker, Men and Women of the House. The response to the question is they would be enforced through the Department of Agriculture much like they enforce any other animal welfare laws. The state vet would go to the facilities and make sure they are taking good care of the animals. Thank you.

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

Representative DUNLAP: Mr. Speaker, Men and Women of the House. I would like to answer at least one question of the Representative from Eagle Lake, Representative Martin, even though he did not pose it as a question. The issue was why is this not being handled by Inland Fisheries and Wildlife? I think although there was not much agreement over what was hunting and what was not hunting when it came to this type of activity. There was one general piece of agreement and that was do we really want dollars from hunting and fishing license holders to be used to regulate an activity that most people who hunt and fish in the State of Maine will never be able to afford to undertake, a

commercial private enterprise. That was one piece of general agreement that we decided that was really not an Inland Fisheries and Wildlife issue. Another part of that was that when you talk about animal health and animal welfare. This is really an agricultural issue. This bill was referred from Inland Fisheries and Wildlife to Agriculture and we had the commissioners of Agriculture and Fishing and Wildlife side-by-side answering questions. The Commissioner of Agriculture said we can handle the animal health part, the disease component, but we really don't know much about the hunting piece. The Inland Fisheries and Wildlife Committee said we know an awful lot of about hunting, but we really don't have anything to do with animal health. It is sort of in between. We agreed unanimously that if this is going to be allowed it should be allowed under the Agriculture Statute, Title 7 and not under Title 12, which is wild fish and game, which leads to the origin of how these things came about. It is sort of understood, at least in our minds, that it was not allowed. When you look at how this has come about, Title 12 governs hunting of wild animals. Title 7 deals with the keeping of domestic animals. If you are keeping a wild animal as a domestic animal for hunting purposes and if not one, then the other. It is a very narrow loophole that these operations have moved through.

To be fair, they have existed under the offices of the law as was written. That is why I have supported what the other body has done with this bill in terms of allowing them to continue. If we kill the bill, remember we will not be addressing the issues of animal disease. That is not addressed under the law as it is currently written. One of the arguments against this is that somehow we are opposed to passing legislation like this to rural development. This is a good business for rural Maine. I really question that. I guess it depends on what you understand rural Maine to be about and what you understand hunting and farming to be about. Both hunting and farming deal with interactions of people with nature. Utilizing it for your own well-being, your own recreation or whatever you want to call it. Whatever you think of hunting and farming to be. Those are true interactions. I think when you talk about these types of operations that are sort of pretending to interact with nature being a bit of a rusticator, if you will. It is a philosophical thing. I understand that. Some people don't have a problem with this, but some people really do see this as a rural development. I do not.

I had similar legislation in this last year that was dispensed with in committee. With the idea being that we would carry over this particular piece of legislation so that these groups could get together with the various departments and develop some regulations to regulate themselves. Currently they are under regulated. What they came back with was taking some operations and completely cutting them out and leaving others in that were not in right now. It was not really a compromise of any kind. We moved forward with the legislation as it was written and after several work sessions we decided to send it to the Agriculture Committee based on what I have told you previously.

It boils down to one essential question or a series of questions and that is what do you want rural Maine to look like in 50 years? Do you want it to look like Texas? This has taken off in Texas? This is basically how people hunt in Texas now. They don't go hunting. They go to game ranches. If you watch those cable hunting shows, like I do, much to the annoyance of my roommates down here in Augusta who would have rather watched basketball and I would rather watch turkey hunting. They have a deer feeder and they have a tree stand and they

pick out which buck they want. That is in the wild they are doing that because they have changed their laws to make it more like the canned hunts. It is a very interesting development and really what do you want hunting in Maine to look like in 50 years? Do you want this type of rural development to mean that people who live in those rural areas will no longer have access to those tracks of land, nor will the wild fish and game? It will be fenced off for wild boar, elk and bison for out of staters to enjoy and not Maine residents. I urge you oppose the pending motion.

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

Representative PERKINS: Mr. Speaker, Colleagues of the House. This is a huge issue. I am kind of reminded of the good Representative we had here a few years ago who late in the night on a lobster issue or something would get up with a whole stack of papers and say, I don't know where to start and the House would kind of bail out here. I hope people don't do that. I won't be very long here. This is important to me. It is a very important issue. It is a very important concept here that we are dealing with. We are dealing with something on somebody's private land that kind of doesn't appeal to us, at least to some of us. That is what we are talking about. It is an activity of private lands that doesn't appeal to us aesthetically. Think about that. This bill came from inside the government. It didn't come from the people. We are here to represent the people. Think about it. There were no complaints from the neighbors. In fact, read you packet. Letter after letter from the selectmen, I just had that one distributed, the businesses in the area, the postmaster, the storekeepers in the adjoining towns, the real estate people. We are talking about regulating this.

The Majority Report says that this person can stay in business. Oh great, but he can't pass it on to his heirs. He can't sell it. How is he going to invest anymore in this business? Somebody used the word shameful. I think it is shameful when internally, driven by the government concept of what is aesthetically pleasing, would shut down a business on private land without even going down and looking at it. Only one person, the Representative from Bremen, did go down and look. I applaud her for that. I believe she will substantiate that I was there at the work sessions. I came back and said it was nothing like you see on that television thing. There is a terrible little piece going around from *Date Line* who knows what it took to get it. She said it was nothing like that. Aesthetically she is against it. She has a right to be against something like this. The owner of that particular game ranch down there is out here. He told me that he would be willing to charter a bus to take the whole committee down. He is not hiding anything, but Representative Pieh was the only one that went down.

A couple of Saturdays ago, I called at 8:00 and said I would like to go down and see them. I got there about 9:15. They didn't have a chance to rearrange anything. There were three hunters there from New Hampshire and one of them shot a wild Russian boar with tusks. He was extremely happy. You talk about something that is value added for rural Maine probably the owner might have paid \$100 for this animal. The hunter paid \$400 to shoot it. He was going to get the head mounted for another \$400 in Maine. You are talking about bringing some economic development to rural Maine. We are talking about an industry that doesn't pollute. Compare this with your agricultural feedlots where animals stand around this time of year up to a foot deep in muck and mire. Somebody mentioned instantaneous death, I say that these animals that are scheduled

to go to the slaughterhouse have a prolonged death standing around in a really tightly fenced in area for months and months destined for being killed. What I saw down there, this fellow has 480 acres fenced in. These animals weren't pacing the fence. That surprised me. They weren't anywhere near the fence. They didn't have the feeling that they were fenced in. We jumped a few of the animals that were in there and they seemed quite wild.

If you start down that road of morals as far as hunting, be very careful. The people who are advocating that this could damage our hunting tradition better be very careful when you start talking about these people down there in this huge area. I didn't want to bring this up, but I guess I am going to have to protect people's rights in this state. We allow bear hunting. People go out a month ahead and start baiting for bear. They put timers out and then they have their people come in. They know exactly when that bear is going to come to that bait. Sure, there is no wire fence way out around it, but, in effect, we are doing the same thing. In this State of Maine if you have money and land enough, you could have a 100 acre apple orchard all of your own to attract the deer in. That is legal. You can't put out a pile of apples, but you can raise 100 acres of apples, squash, turnip or anything else. I don't think we want to head down that road of what is moral in hunting or we could really get into some trouble here. Why don't we leave it up to the neighbors in the areas, the local people to decide what is right or wrong here? We haven't heard a word negative from them.

A couple of quick things here and then I will try to wrap up. This Hillside Game Ranch in Aurora in the 1999 Hunting and Trapping Regulation Book that I have here and I am sure you have seen it, the third page in, there is a full page ad that they paid \$4,200 for this ad. Shortly after, some people high up in the Department of Inland Fish and Wildlife after they got the money were trying to shut them down.

Somebody mentioned the disease concern because they are not regulated. They are fully regulated. A lot of their animals come from Canada. When they come through the border, they are inspected. This whole disease thing, people are starting to drum that up as if they aren't regulate. They are regulated already. They have already been inspected. We already have laws about disease and we have laws about animal welfare. If we need to tighten up the laws on how an animal is killed, maybe we ought to look at that specifically instead of dealing a deathblow to these businesses.

I need to tell you this. I was very impressed by this operation. The family has built this beautiful cedar log lodge by hand. They built a log home. They have beautiful grounds with trout ponds and apple trees. I didn't see a cigarette butt on the ground even. People ought to at least go take a look before they try to shut them down. I went up to the local store while I was there. It is about two miles away. I had a hot dog and I said, "I was just down at the game ranch." I was trying to pick up some gossip. The clerk said, "Hardworking people." Her name is Mary Anne and she told me I could quote her. She is a second generation in the store. I took another bite of the hot dog and I said, "Some folks in Augusta would like to shut them down." She said, "They are fine, fine people." She asked me what the problem was and I said, "Have you ever heard anything negative about these people?" He has been there for 19 years. He is a Maine boy from Blue Hill originally. She said, "No, nothing. Well the only negative thing I have heard from people is that some

people are jealous." Think about what we are doing here. Thank you.

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

Representative **TRAHAN**: Mr. Speaker, Honorable Members of the House. I would like to begin first by addressing this book that was circulated to the House at the beginning of the week. I asked people in this body if they still have their book to read the page that was highlighted and then the following page. The first page addresses these types of hunts and tries to call them unethical and then the next page addresses bird-hunting sanctuaries very similar to this where it then tries to say that they are generally okay. In my ethical manual we call it hypocrisy.

In one line I would like to tell you what ethics is. Ethics is what we do as individuals when no one is looking. With that being said, as a body I believe we should not pick and choose the types of hunting that we call right and wrong. I have said this repeatedly in our committee, in newspaper interviews, that when you look into a mirror, you better be ready for the reflection. When you begin to point your finger, be ready for that finger to be pointed right back at you. I say to you on the ethics issue, we should be advocating responsible ethical hunting. Meaning respecting of the animals, respecting of habitat, respecting clean kills and that is the type of ethics that we should be putting forth. That is respect of nature and wildlife. That is as far as I would like to go in dictating the type of hunting that I see as right and wrong.

The second thing that I would like to address is that in all the committee work sessions and in the public hearing, we never heard one iota of complaint. We didn't even hear one. It got to the point in our committee where after the public hearing, people on the committee actually went to the people that owned this farm and apologized for having brought them there and required them to fight for their incredibly well managed farm. To me, that was kind of disheartening.

As far as the regulation of these farms, I do believe this body has a responsibility to regulate these farms to some degree to guarantee there is no disease and these animals are not getting free. I will end this pretty quickly, but I just want to make one more point. One of the previous speakers said that they disagreed with these animals being caged. What a misrepresentation that was. These animals are not caged. There is a fence around these areas for a reason, not because these people are trying to herd them into a little area so that they can go in and murder them, but the fences are there to protect the rest of our habitat, the rest of the State of Maine from disease and from these animals being released into the wild. That should be our responsibility here. We should guarantee to the best of our ability that these animals are not getting free. That is why those fences are there. I would be the first one to stand here if I believed there were farms out there caging these animals in to be harassed and to be tortured. I would be the first one to stand here and passionately fight for that to be outlawed in the State of Maine. Again, we did not have one shred of proof that any of that was going on. The only thing we heard were good things about this farm.

I would like to end by reading just one line from this handout. This came from the Town of Aurora. It was signed by a selectman, a constable and the tax collector. "Taking all this into consideration he has been the greatest asset the Town of Aurora in the past 10 years." Thank you.

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

Representative **MUSE**: Mr. Speaker, Men and Women of the House. A cage is a cage is a cage no matter how big it is or no matter how small it is. We had a whole lot of paperwork put on our desk about what wonderful neighbors these folks are and how much money they have pumped into the economy of Aurora. That is very nice. That is all well and good.

I will tell you a very short story about a young man that I came to know. His name was Marc Hanson. I came to know Marc about 18 years ago. Marc was from Lake Forest, Illinois. He had a business acquaintance who spent about \$1.5 million to buy a piece of ocean front property in northern California. He moved into the neighborhood. He hired local contractors to come to rehab this entire home that was there and to put a very large fence around the entire piece of property. It was several acres. He paid cash for everything. He was a wonderful neighbor. Everyone in this little town loved him. He would go into town evening, you might as well leave your wallet at home. This gentleman would pick up the tab for anyone in sight. Everyone loved him. Nobody could say a bad word about him. After he had been there for about six months on one eventful evening the Coast Guard apprehended an 85 foot ship that was pulling into his dock and off-loading a couple hundred tons of marijuana. He was a wonderful neighbor.

I am not saying these people are breaking laws, but the equation holds true. Wonderful neighbor doing wonderful things and pumping a lot of money into the economy, but right is right and wrong is wrong. What is going on inside these cages is wrong. Thank you Mr. Speaker.

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

Representative **BRYANT**: Mr. Speaker, Ladies and Gentlemen of the House. I won't address that last comment. Our committee did work hard on this issue and the more we looked at this issue the more I couldn't see a problem. I have actually been to the game farm, four or five years prior, with a bunch of us coming up and found no problem with it. You have to be careful when we talk about hunting. If you are in an area that is confined, it could be a narrow space between roads. That traps animals. I don't think we really want to go there. My strongest argument for killing this bill was I should have did it in committee, but I didn't.

The other fact is, if you are going to talk about where we go from here, if you go to get your meat, you can either go to the supermarket or can go here. I don't see a lot of different places or different problems with that. I would just say to try and regulate these types of industries, I think they did a good job and are well regulated already. All animals coming in have to be disease checked. I just think we are going down the wrong road. I would encourage you to Indefinitely Postpone this. Thank you.

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

Representative **TRUE**: Mr. Speaker, Ladies and Gentlemen of the House. I am not going to apologize for showing my feeling. Someone once said when you do, you apologize for the truth. I am a member of the IF & W. I don't remember exactly why we sent it on. There were many doubts, but I think that doubts that came about was the fact that we all wondered what in the world are we even doing taking it up? The young man who addressed us and addressed everybody in the public session said that if someone would tell me what regulations that I am

harming or disregarding, I would like to have them do it and no one stepped forth. As has been stated, even when we had the directors, the Commissioner of Agriculture and the Commissioner of IF & W it was quite evident that each one of them wanted to sort of push it aside.

Mr. Speaker, I would like to ask a question and then may I continue after the question is answered. For anyone who may answer it, is a fish an animal?

The SPEAKER PRO TEM: 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 Belmont, Representative Berry.

Representative BERRY: Mr. Speaker, Men and Women of the House. Yes.

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

Representative TRUE: Mr. Speaker, Men and Women of the House. If this is voted in, what about all of the enclosed and very small sections of water, which is stocked with fish and hundreds of young people are asked to come aboard and fish. Those of you that have fished, have you ever seen a fish coming in that has been hooked up through his mouth and into his brain and is dead? Are we going in that direction? What other citizen of Maine is going to worry about their livelihood and other businesses if we tell someone and pass a law that says he cannot pass on that business to whomever he wishes. That is demise.

There are many things wrong with this when people talk about the inhumaneness. The Speaker has already said that they have been to a slaughterhouse. I have been to them in three or four parts of the county. If you go where the animals that are waiting and smell blood, don't tell me that fear is not painful. I don't want to get into the atrocities that happened all over the world.

We have had many things passed out here to look at and naturally they are to support one case or the other. You put them together and you don't come out with much. Another speaker spoke about a cage. I have hunted and fished in many parts of Maine and I can tell you that over 400 acres, many, many times if you don't know how to use a compass, you are going to get lost. I don't feel that those particular animals are programmed into coming towards a human being. If so, why do we allow thousands and thousands of people, even in if we have a bad winter, to go out and feed the wildlife and those that are on the hunting laws to hunt? There are many in that category.

Many years ago I hunted turkey down south. Certainly it wasn't caged in because those of you who don't know turkeys can fly quite well. I was there three days and never shot one. You could say that I was a poor shot, but I can guarantee you I am not. I just think, ladies and gentlemen, that we are getting into things and trying to legislate things that we shouldn't be and I would ask you to vote to Indefinitely Postpone this bill and papers.

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

Representative TRACY: Mr. Speaker, Ladies and Gentlemen of the House. I have been sitting here and listening to this debate and I have been hearing inhumaneness about not getting a clean shot and a clean kill and all of this and everything else. I don't know if I should be standing up here talking to this great body or if I have experience or not, but I have been hunting

in the Maine fields and forests of this great state for approximately 39 years. Do we have clear clean-cut shots in traditional hunting? Absolutely not. If you suppose we did, ladies and gentlemen of this house, why did this body on occasion this year pass through this chamber on a 123 to 1, an emergency bill, to allow tracking dogs for wounded deer? I would urge you to go along with the Indefinite Postponement of this bill and all its accompanying papers. Furthermore, the good Representative from Dixmont, Representative Bryant, summed it up clear. These animals are completely inspected. At one of our work sessions we asked how that was done and it comes through the commercial part of the Maine State Police where they pull the vehicles over and check out the stock for their paper. Thank you very much.

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

Representative COTE: Mr. Speaker, Men and Women of the House. I wasn't going to rise on this bill because we took care of it during committee. Being a first timer on the Inland Fisheries and Wildlife Committee, there were a lot of issues that were brought up that I was against. In order to help me get through this committee, I went and I asked around when hunting bills came up and when this specific bill came up, I went back home and I spoke to a lot of hunters. I have hunters in my family that have been hunting since they were young ones. I have uncles that have been hunters since they were young. They have had numerous years of hunting. I went and asked them since I wasn't hunter myself so I could get through this. I asked them the question, would they be in favor of going to one of these ranches and hunting? Their reply to me was, it is not hunting. Hunting is when we can go out and look for the animal ourselves and pick which one we want and then make the kill. Going to a ranch like this is not a challenge. The animal is there. It is a guaranteed kill. As you noticed in one of the handouts that was given to you, it is on your blue handout, if you look on the blue handout where it says Russian wild boar, \$400 and up. Come on now. They buy their hunting license to go out and hunt. Do you think the hunters are going to go out and spend that kind of money? Hunters here in Maine can't even afford to pay \$400. Maybe out of state or maybe down in Texas they can, but not here in Maine. I know \$400 to go hunt a boar. I would not want to hunt something that is fenced in or right there to kill. I want to have the challenge by going out looking for it and hunting it myself.

I brought this situation up in committee and I am still going to do the same like I did in committee. I am sorry if members of my committee don't agree with me. I have done a lot of research on hunting and I have asked a lot of hunters and I have done my homework as well as the others, maybe not as good, but to satisfy my voting. I have to urge my fellow colleagues to vote against this pending motion. We have to do something and stop this because it is getting out of hand. I have to agree with my fellow colleague, Representative Pieh out of Bremen. This has to be stopped and this is a bad bill. I urge my fellow colleagues just to go against this pending motion and let's vote on this. I am for the amendment as far as their licenses go. When they go out of business, they are not to be allowed to give the business to somebody else.

You can see on another handout that was given to you on a yellow sheet of paper. I am just going to comment real quick on it. The piece says the great hunter sites its prey, canned hunting. This is not wildlife management control, which is true.

It is not wildlife control. It is the person who has this farm controlling it, not the wildlife. These are wild animals from other states that are being fenced in and fed and raised and bred. I urge you to vote against this pending motion and let's get onto the business and vote this bill out. Thanks.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Grey, Representative Foster.

Representative **FOSTER**: Mr. Speaker, Ladies and Gentlemen of the House. We use dogs to hunt rabbits. We use dogs to hunt coons and we bait bear and we raise beef and we take them to the slaughterhouse, along with a few other animals. This particular operation certainly wasn't designed with the traditional Maine hunting in mind and rightfully so. This probably is one of the more humane ways if an animal comes to an end at the hand of a human being of any that I know of. How many here would know when a deer is wounded out in the wild that it suffers before it finally dies if the hunter does not get him? How long do you run a rabbit or a coon until it finally get out of breath and it meets its maker. I see those things just as bad as somebody going to a controlled hunt, such as this. This individual who runs this thing has been a good citizen. He eventually complies with the animal welfare laws. I see no reason why he shouldn't continue to do this. I think if somebody else would like to have such an operation at some point in the future, they should be allowed to do so. The Majority Report would eventually put this person out of business and anyone else, for that matter, because they couldn't sell the business. I would hope that you would vote to Indefinitely Postpone.

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

Representative **CROSS**: Mr. Speaker, Ladies and Gentlemen of the House. This bill basically to start with disturbed me because all of a sudden we, as the supreme judges, was regulating a business and telling him he only has two years to go and then he is all done. That was changed in an amendment. It is now that he can run the business for as long as he is alive. Once he dies or once he gets old and wants to transfer the business, he can't. Why? Because we as regulators say in this bill that he can't sell his lifelong work. It is gone, no return. What is he going to do?

It has been mentioned here today about disease. All the animals that go into these so-called hunting farms are inspected by the vet. They are cleared. There is no problem that way. It kind of amused me, if you will. We have had one Representative talk about canned hunts. They talked about the fact that they are enclosed as if from here to that window or something. They are in 400 acres. I wondered if the gentleman knew what an acre was. If it is 400 acres, you walk it sometime and you will know it isn't a canned hunt. To suggest that this gentleman is breaking the law is ridiculous. He has been in business for, I believe, eight years. There has never been a complaint. Nobody said a word. You didn't even know he existed. I didn't. I have hunted all my life. All of a sudden we come up and this is wrong, cruelty to animals. That particular phase of this discussion is debatable. There are those that would consider it inhumane and the others say it is just natural the way it is.

I ask you, do we want to put this person out of business? I certainly don't. I certainly can't remember when I was either campaigning or doing anything else to come down here that I was going to put people out of work. I was trying to find some kind of business to keep them working. The Town of Aurora and the yellow sheet, which you all received, tells you what the Town

of Aurora thinks of this operation. Read it and then tell me what is wrong with what they are saying. How can you tell me that what he does is wrong after you read that? Ladies and gentlemen, please vote to Indefinitely Postpone. I thank you very much.

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

Representative **TWOMEY**: Mr. Speaker, Men and Women of the House. I am not here to tell any other Representative what is right or what is wrong, but I definitely want to go on record saying I am totally disgusted. It makes me ill sitting here. I don't think I will ever see this farm again the same way. We have one in Scarborough. They grow deer or elk or something. It is all caged in. Every time I ride by, the tourists are lined up to come and see the animals, because they just love to see the animals. They come to the State of Maine because they want to see wildlife. They are lined up and these poor animals are behind this fence and you can walk through the woods and the children can put their hands through the fence. I, for one, have a family who hunts. My son was not allowed to bring the deer home. I was not going to hang bambi in my garage so I could see that. That is how I feel. I am not ashamed of that. If I have a bumblebee in my house, I will capture it in a jar before I kill it, to bring it outside. Maybe that to some is foolish and it is to the extreme, but I have a sensitivity to creatures large and small and I am totally opposed to this. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Hodgdon, Representative Sherman.

Representative **SHERMAN**: Mr. Speaker, Ladies and Gentlemen of the House. I think it is almost time to vote on this. There are two points I would like to bring up. I have been listening to this debate with some amusement as the good Representative mentioned. Two comments, one of them is, we are going to determine what rural Maine looks like. We have a rural Maine caucus. I think the rural Maine caucus would like to have something to say about what rural Maine looks like. The other issue is, as you listen to this, it is all right for the state to have canned hunts. If you read in today's *Bangor Daily*, they are lamenting that they may not be able to kill enough deer this fall because the deer herd is so large. It is state run and state regulated. I would mention one other thing about canned hunting. I don't know what you call it when you hire a sharpshooter to go down on Peaks Island in Casco Bay and shoot 233 deer on the island that is less than a square mile, leaving 15 deer alive. The goal being 15 to 16 deer per square mile. That certainly sounds like a canned hunt to me. It is interesting how we view this problem. There is a quote again in the *Bangor Daily*. They are talking about disease and car crashes. Having too many deer presents problems. Car/deer crashes have been rising for several years and so have complaints as hungry deer ravage gardens and shrubs. They kill trees and spark fears of Lime Disease. I am not sure all those natural folks have been tested either. Maybe we can get into DHS and they can do a test on 300,000 deer. They climb on your porch. They eat your tomatoes through the fence and sleep on your deck, a lady from Peaks Island was quoted. She said it smells like a cattle farm. The state took care of that. They put sharpshooters out there and shot 233 deer in Casco Bay. You can sit on the dock and watch out over the Bay. I move we vote on this.

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

Representative TRAHAN: Mr. Speaker, Honorable Members of the House. I will be very brief. I would like to address something that the Representative from Lewiston, Representative Cote said that illustrates my previous testimony when I said be careful where you point the finger. If the Representative would check with Inland Fisheries and Wildlife, you can get a list that defines what the State of Maine believes the price of a deer is worth to the State of Maine in revenue or value to the State of Maine. You can also apply for six chances in the moose lottery. Those six chances are not to manage the moose herd. Those six chances are to bring revenue into the State of Maine. Again, I must illustrate my point. Be real careful when you point the finger at one group of people, because the finger will be pointed right back at you. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Buckfield, Representative Gagne.

Representative GAGNE: Mr. Speaker, Ladies and Gentlemen of the House. The present motion is a mistake. It is a mistake to pretend that there is no concern here for the Legislature to act. It is a mistake to think there is no problem. The IF & W Committee grappled with this last year and this year with the hearing process and extensive work sessions. It was sent to our Agriculture Committee and we spend hours and hours that bored me out of my mind discussing and coming up with regulations. You need to vote against Indefinite Postponement. Without this bill our state would be open to the growth of more farms anywhere at any rate. As one of the others had mentioned, do we want to become a Texas? Is that our special farms where you buy the opportunity to hunt, to shoot a deer or a boar, because that is what this bill will suggest that it will only be a deer or a boar? Otherwise, you have sheep, goats, elk, bobcats and any other creature that they wish to bring in. Is this what the state needs to add to its sporting spirit? Is canned hunting or enclosed area shooting to be the future of hunting in Maine? I don't want it to be. I can remember sitting out in the fields by a rock waiting for the deer to come out and listening to the quiet of the evening coming down through and listening for the rustle of deer coming out or even watching from the side of the field and not getting a deer. Not that night or maybe not that whole season, but that is deer hunting in Maine.

As a member of the Agriculture Committee, I am surprised that we were transferred this particular bill. They called it farming. I looked at it as farming and I thought what are we going to do with regulating it? That is what we do with farming. We check on various things to do with the animals that are farmed. Here the deer are raised or imported by the owner of a hunt farm, deer or boar, it will have to be. They are kept within a 50-acre block or larger, fed and watched by the business owner. Advertising is done and you have seen a leaflet. A customer buys the opportunity to shoot a deer, a red deer in particular, or a boar from a fee ranging from several hundred dollars to several thousand dollars. The customer is set up in an enclosed tree stand while the owner and helper pluck dogs, roust the animal and chase it toward that blind. The customer shoots the animal and is done. If he wounds the animal, he or she can descend the tree blind and finish off the animal. If the wounded animal bounds away, the business owner shoots or finishes off the prize before it gets away. This is humane, but it is not hunting as I see it in the State of Maine.

Our choice today is to continue to call this business development, maybe, and allow more farms to grow. In fact, the Minority Report, suggest a county where this might take place

and went through a group of regulations to go with it. I don't see this as economic development. A Senator from the other body who was a member of our committee raises cows in Leeds. I told him when you have animals that you don't need anymore and you eliminate them, you don't hire someone to come in and shoot them. To expand that in Maine is not what we want. In fact, the compromise of the Majority Report was enough for us to even come that way, to allow the ones who already exist to continue to exist until they are done, but we do not want more of this in Maine. I don't see this as how Maine is supposed to end up. I still remember the time, as I say, when you could go out on your own and you think about and contemplate where you are in this beautiful state.

Of course there are health concerns. Yes, we do have inspections from the animal welfare people and the Agriculture Department and they do a great job. This is going to add to it. They are going to have to get more involved with other kinds of animals and visit these farms. We have two or three now, but there will be more if you allow this to go forward. Vote against Indefinite Postponement. Vote for the Majority Report with the amendment.

Another concern is that the owners in the farm complete control. Sure, they invested a lot in fencing, but you cannot always predict what is going to happen with animals in an enclosed environment or a zoo environment. They can get out, which they did in New Hampshire in the '80s and there are still wild boar in New Hampshire there. Let us go then with the compromise from the other body and the Majority Report. I do not want to be a member of the Legislature that changes hunting in Maine to be what this would suggest. Vote against Indefinite Postponement and allow the Majority Report.

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

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

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

Representative TRACY: Mr. Speaker, Men and Women of the House. Does the State of Maine, through the IF & W, auction any moose permits off to the highest bidder, to anybody on the face of this earth, to subsidize a conservation school in Bryant, Maine?

The SPEAKER PRO TEM: The Representative from Rome, Representative Tracy has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Penobscot, Representative Perkins.

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

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

Representative CARR: Mr. Speaker, Men and Women of the House. I am going to take a little different angle at this and some of the other things I have heard, but I want to discuss for just a minute how we got to where we were during the committee. As most of you know, our committee, the Agriculture, Conservation and Forestry Committee generally comes in with unanimous reports. But on occasion, we do have a divided report and most of those times it is like one person or two people who have a specific feeling about a specific subject. We had several negotiations. We discussed this in length. I think one of the things that got into the way during this negotiation was that we weren't dealing necessarily with just facts, we were also dealing

with feelings, our feelings toward animals. We can very easily relate to our own animals that we have. It is pretty difficult to think about shooting your dog or shooting any of your other domestic animals. I had to deal with these feelings the same as everyone else even though I am a hunter. I hunt every year. I like to fish. I am a registered guide. These are all of the things that traditional hunting offers.

I had to go the next step and I had three major areas that I considered as problems with what we were trying to address. The first major problem was disease. I think that you have heard enough discussion about disease. I came up with the conclusion that disease is under control. It is checked by the vets from the Department of Agriculture so I could scratch that one off. The next problem I had, this was a big problem to me, was the appearance. I was finally convinced that this is not really hunting. I wasn't really sure what it was, but it certainly isn't hunting in the traditional manner. However, it is a sport. There are a lot of people that enjoy that. My next concern was the humane treatment or the humane slaughter of these animals. This, I really struggled with. Many of the things have been discussed previously here and as I see it, anyone who has eaten meat, hamburgers at McDonalds or Burger King, those animals have all been slaughtered. Many of them have been done in a non-humane manner. The animals on this farm, even though they are gated in or caged in or whatever you want to call it, they do roam freely within that barrier and they really don't know if they are going to be killed or if they are just grazing.

Through all this, I finally came to the conclusion that I would support the continuation of this farm. I do think we need rules to govern it. There are rules in place. However, I think there needs to be another look at this. The two amendments that you have before you, I think are both flawed. I am on one of those, but I still think it is flawed. I think the best thing we can do today is to kill this bill and when the next Legislature comes back, this needs to be addressed and it needs to be addressed in a way that will allow the continuation of business, but also with some guidelines. Thank you Mr. Speaker.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Buckfield, Representative Gagne.

Representative GAGNE: Mr. Speaker, Ladies and Gentlemen of the House. I read the other day that this House was discussing what to do about cable television back in 1975 and they voted to Indefinitely Postpone because they didn't see where that was much of a concern. Maybe you don't think that this is going to be any big deal right today. I think you have an opportunity to do something and I think we should do it.

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

Representative TRUE: Mr. Speaker, Ladies and Gentlemen of the House. A previous speaker has said that they would like to see Maine perhaps as it always was. Some of us that are a little older can remember going fishing and could catch 25 fish legally. You could also hunt antlerless deer when the hunting season was permitted. We couldn't shoot moose. I remember seeing bobcats and lynx quite regularly. Maine is not going to be like it was. We can dream all we want to. I don't believe if this type of farming, which has been going on for eight years and had absolutely not one person wanting it closed, certainly has not done irreparable harm to our state and undoubtedly will not in the future. Thank you.

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

Representative GOOLEY: Mr. Speaker, Men and Women of the House. A lot has been said here. Much has been said here this morning. I am not going to take too much time. To those outside who may be listening, I would like to clarify the Majority Report, which is probably the most important part of the Majority Report, that makes the operation of a commercial shooting area a class D crime beginning October 31, 2002. I recommend voting for Indefinite Postponement on this bill. As everyone would note, I am on the Minority Report. The Minority Report does have a lot of good areas in it, but as Representative Carr has said, the Minority Report is not the total answer to this. This issue does need more discussion for another session. I don't see this particular endeavor of canned hunting as economic development. I am not promoting it as economic development, but it is a business. It is here and there really hasn't been a problem with it over the years. It has been made an issue now. I believe that it would be best, at the present time, to go with the Indefinite Postponement of the bill and all accompanying papers. I am sure this issue will be back at a later date. Thank you.

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

Representative PIEH: Mr. Speaker, Men and Women of the House. Just to clarify, sort of correct, the good Representative from Farmington. If you vote to not Indefinitely Postpone and you move forward to the Majority Report as Amended Report, the part he just read has been stuck by the amendment. Just to be perfectly clear. You will be voting on grandfathering in the existing activities, there could be five or six in Maine. We don't really know. While I am up, I would just like to comment that there have been comments made by good Representatives in this body as if there are regulations on this industry. There are none. Put them in a cage. Put them in 400 acres. Put them in 50 acres, tie them up, kill them anyway you want to. Go out with a spear and go down and hunt them if you want to call that hunting. I think it is a transgression on the good name of hunting to say that. There is nothing that currently would regulate this activity. We have an example of the one that I visited. I don't know what is happening at others. I was impressed by the way that he ran his industry, his non-traditional hunting whatever you want to call it, industry to the extent that I was willing to do some grandfathering and to the extent that I will support the amendment from the other body. The regulations and restrictions that were placed on it were done with the advice and from my experience and others experiences at this particular place, the 50 acres, the 200, the entire system being no more than 400 acres, no night hunting, tree stands or accompanied by the guides and weapons used. You will have nothing between now and when this Legislature in its wisdom decides to act. Will we wait until there is a problem and then really shut down some businesses or will we say that we are going to present a solution so that we prevent a problem so *Date Line* is not filmed in Maine. If you did not see *Date Line*, there were many examples given and pictures shown that would abhor everyone in this body, especially hunters. Your Indefinite Postponement of this bill will let that door be open. I say close it, change the rules, amend it as we go along, but put something in so that we don't have *Date Line* in Maine. *Date Line* comes up here and wants to film it, they can't because we have some regulations that say you are not going to go out at night and spear some animal. You don't think that has happened, it has. We won't have people jacking animals. We won't have shooting at night. We will have some regulation that this industry has actually come and asked for.

Amend it, fix it, as we try it. To do nothing is to leave the door wide open. I also disagree with the good Representative from Eagle Lake about under which department this should be. Perhaps it should be under both, certainly not just IF & W. W stands for wildlife and these are domesticated animals that come under Agriculture. Thank you very much. I hope you vote against the Indefinite Postponement and for the Majority as Amended Report.

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

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

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

Representative TRACY: Mr. Speaker, Men and Women of the House. On these hunting preserves, how does the individual get to hunt? Do they have to have a license, which is issued through IF & W or do they go on nilly willy? Another question is, something about night hunting. I have never heard anything about any illegal activity on the two current ones that are in the State of Maine. By the way, one of them happens to be in my home district up in the hinterlands in Starks. Could I have those questions answered? Thank you.

The SPEAKER PRO TEM: The Representative from Rome, Representative Tracy has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Bremen, Representative Pieh.

Representative PIEH: Mr. Speaker, Men and Women of the House. The practice in Maine now can be willy nilly. There is no license required and there will be no license required under either report to be able to go to these places and do a shooting. I think willy nilly was the statement. That may be practiced, but I don't know. As far as night hunting goes on these farms, it is legal. It is not happening now. I don't want it to start. Thank you.

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

Representative TRACY: Mr. Speaker, Men and Women of the House. Just a follow-up to the good Representative Pieh of Bremen, if that is not the case that they don't need licenses, I would say that is a bonus for the State of Maine because they have sold between 500 and 600 licenses, which the money goes into IF & W.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Southwest Harbor, Representative Stanwood.

Representative STANWOOD: Mr. Speaker, Men and Women of the House. I stand today having talked to the owner of this operation, the Hillside Guide Service and Game Ranch. He has indicated that he is more than willing for regulations to be passed if we deem that they are necessary. In order for that to happen in this short period of time between now and adjournment, I would support the Indefinite Postponement. A bill would be brought back next year and the entire bill could be worked and if we deemed regulations are necessary for this industry, then they could be incorporated at that time. This is a small business. This is jobs. He is doing nothing illegal. He has assured me, to my satisfaction, that these animals, if there is a poor hit by one of these hunters, that the animal is immediately

dispatched by himself or one of his people. It is as humane as it can be. We don't propose that it is traditional hunting. It was never meant to be. That should not be an issue for us. I would ask that we support the Indefinite Postponement and give this another hearing in another session of the 120th Legislature. Thank you.

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

Representative COTE: Mr. Speaker, Men and Women of the House. I am going to make this real short. Just to comment on the previous speakers, you point your finger once, you are going to get pointed back. I understand that. I don't care how many times I point my finger, I am going to keep pointing it and I don't care if it keeping coming back and biting me. I am still going to point it. As far as do I know what an acre is, yes, I do know what an acre is. My family owned acres of land many years ago. I do know what an acre is. As I stated before, it is not hunting. I am still going to continue saying it is not hunting. The animal is there. It is a guaranteed kill. It is still going to be a guaranteed kill no matter how you look at it. Once again, I urge my fellow colleagues to vote and vote against this pending motion and vote for amendment "A" so we can continue on. Thank you.

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

Representative GILLIS: Mr. Speaker, Men and Women of the House. I just want to add a couple more points that probably some people don't know. There are 75 deer farms in the State of Maine. Those deer farms, the deer they buy cost about \$2,000 a piece. They raise them for meat. They raise them for the antlers. When deer get to a point where they are no longer of use to recoup some of their money, they ship them out of state to deer farms, hunt farms, harvest farms or whatever you want to call them. The reason they do that is because we really haven't had any place here to do it. This farm, I prefer to call it a harvest farm, because some people are having trouble with hunt, provides that outlet. Some of the other things that I learned about this farm is often times you will spend five hours in a tree stand waiting for the opportunity for the kill. The success rate is 90 percent, similar to the moose hunt. Some people have mentioned about fencing in. They seem to have a problem with that. I don't understand that because we have been promoting agriculture. We would like to see some more cattle farms, cow farms or whatever. We are losing it. To think that just because we license this one farm that tomorrow morning the flood gates are going to open up and we are going to have 1,000 other farms. I think that is really being naive. It would saturate the market. This gentleman has been in business for eight years. There are only two. The other one can't even begin to compare to the quality of this one. I doubt very much that we have an overrun on these hunt farms or harvest farms or whatever you want to call them. I don't think we should limit agriculture just to cattle and cows and pigs or what not. There are seventy-five deer farms in the State of Maine and growing. Most people invest the money for five years before they start seeing any return. They need the outlet to take these animals to a harvest farm. Regardless of how you feel in your heart about animals, you need to start feeling in your heart for the people, the people who are trying to work to make a living, be sensitive to them. Thank you very much.

The SPEAKER PRO TEM: A roll call has been ordered. The pending question before the House is to Indefinitely Postpone

the bill and all Accompanying Papers. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 603

YEA - Andrews, Belanger, Berry DP, Bouffard, Bowles, Bragdon, Brooks, Bruno, Bryant, Buck, Bumps, Cameron, Campbell, Carr, Clark, Clough, Collins, Cross, Daigle, Davis, Dugay, Duncan, Duplessie, Foster, Gerry, Gillis, Glynn, Goodwin, Gooley, Hatch, Heidrich, Honey, Jodrey, Jones, Joy, Kasprzak, Kneeland, Labrecque, Lemont, Lindahl, Lovett, MacDougall, Mack, Martin, Marvin, Matthews, Mayo, McAlevey, McGlocklin, McKee, McKenney, McNeil, Mendros, Murphy E, Murphy T, Nass, Nutting, O'Brien JA, O'Neal, Peavey, Perkins, Pinkham, Plowman, Richard, Richardson E, Richardson J, Rosen, Samson, Savage C, Savage W, Saxl JW, Schneider, Sherman, Shields, Shorey, Stanley, Stanwood, Stedman, Sullivan, Tobin D, Tobin J, Tracy, Trahan, Treadwell, True, Tuttle, Usher, Waterhouse, Weston, Wheeler EM, Wheeler GJ, Winsor.

NAY - Ahearne, Bagley, Berry RL, Bolduc, Brennan, Bull, Chick, Chizmar, Colwell, Cote, Cowger, Davidson, Desmond, Dudley, Dunlap, Etnier, Fisher, Frechette, Fuller, Gagne, Gagnon, Green, Jabar, Jacobs, Kane, LaVerdiere, Lemoine, Madore, Mailhot, McDonough, Mitchell, Muse, Norbert, O'Brien LL, O'Neil, Perry, Pieh, Powers, Quint, Sanborn, Saxl MV, Shiah, Skoglund, Snowe-Mello, Tessier, Thompson, Townsend, Tripp, Twomey, Volenik, Watson, Williams, Mr. Speaker.

ABSENT - Baker, Cianchette, Povich, Rines, Sirois, Stevens.
Yes, 92; No, 53; Absent, 6; Excused, 0.

92 having voted in the affirmative and 53 voted in the negative, with 6 being absent, and accordingly the Bill and all accompanying papers were **INDEFINITELY POSTPONED** in **NON-CONCURRENCE** and sent for concurrence.

Majority Report of the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** reporting **Ought Not to Pass** on Bill "An Act to Support Maine's Only Representative to the Nation's Capital Bicentennial Celebration" (EMERGENCY)

(S.P. 1042) (L.D. 2630)

Signed:

Senator:

HARRIMAN of Cumberland

Representatives:

BERRY of Livermore

MAILHOT of Lewiston

POWERS of Rockport

KNEELAND of Easton

WINSOR of Norway

BRUNO of Raymond

NASS of Acton

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (S-605)** on same Bill.

Signed:

Senators:

MICHAUD of Penobscot

CATHCART of Penobscot

Representatives:

TOWNSEND of Portland

STEVENS of Orono

TESSIER of Fairfield

Came from the Senate with the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-605)**.

READ.

Representative TOWNSEND of Portland moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Brewer, Representative Fisher.

Representative FISHER: Mr. Speaker, Men and Women of the House. I would ask the body to please reject the Ought Not to Pass report and go on and support the Ought to Pass as Amended by Committee Amended "A" report. Let me try and answer two or three questions about this bill if I could. First of all, what is the Brewer Home Town Band? The Brewer Home Town Band is probably a misnomer. The band actually started in Brewer. It was actually started by the wife of a late member of this body. It is only headquartered in Brewer. In fact, it is a band that was made up of members from four of the surrounding counties, at least all I can find is four counties, Piscataquis, Penobscot, Waldo and Hancock Counties. It is not a band that is occupied by a bunch of young people. The ages range from 20 up into the '80s. In fact just recently a 90-year-old member had to leave the band because he could not take a trip from Dexter for the weekly meetings. It is a band that was developed to play and expand upon the music of Maine composers, R. B. Hall for one, composers that are known all over the world. Like I say, it is not a high school band, which was one of the points of confusion when this bill was discussed in front of Appropriations a couple of weeks ago.

What do they want to do? This band wants to go to Washington next fall to represent the state. It was the only band invited to represent the state at Washington DC's bicentennial celebrations. They are going to play in three concerts down there if they have the funds to go. They will be presenting the music of three or four Maine composers. This is a one-time excursion. This isn't like the annual Cherry Blossom Festival or the Macy's Parade at Thanksgiving. This is a one-time parade at Thanksgiving. This is a one-time event although I am sure that we will come back in the year 2100 and perhaps ask for help again. This is not setting a precedent. The precedent has already been set. Other musical organizations from the state have been funded by the Legislature in past years.

What do they need? They figure they are going to need somewhere around \$24,000 to go to Washington. They are working on raising as much of it as they can, but they feel that they probably will be falling short and would like the state to help them with \$12,000. I mentioned the age specifically to point out that this isn't the kind of group that this going to be able to run from door to door doing bottle drives and working on car washes. Time problems, age problems are going to keep them from doing this.

As I understand it, all states are going to be represented. If because of funding problems this group can't go, Maine could very well be the only state not represented at the nation's capitol bicentennial. I do hope you will support the Ought to Pass amendment. Thank you.

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

Representative BRUNO: Mr. Speaker, Men and Women of the House. It is hard for me to stand up here and argue against this wonderful band that wants to go to Washington DC. The fact

of the matter is, there are a lot of bands in this state that get invited to the Orange Bowl and Disney Parade and the Rose Bowl Parade who have gone out and raised money on their own. These are children that did that. These are adults who have means to pay their own way to Washington DC. It wasn't a competitive situation that they went out and got invited because they are special. They received an invitation, but there are a lot of invitations in this state. They go out and raise the money. If we do this, we should be prepared that every high school band that gets invited on a trip should have the right to come in here and ask for the money. If we do this, then we ought to do it for them too. Unfortunately, now is not the time to set that precedent. The good Representative from Brewer, my friend Dusty Fisher, is right that there have been exceptions in the past, but I don't think this is the time to keep on going with this tradition. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Acton, Representative Nass.

Representative NASS: Mr. Speaker, Men and Women of the House. Just a short reminder, these are wonderful people and this is a wonderful band. It is a wonderful celebration and they want tax money to do it. I would urge you with the motion posted. Thank you.

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

A vote of the House was taken. 86 voted in favor of the same and 30 against, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** in **NON-CONCURRENCE** and sent for concurrence.

Majority Report of the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-658)** on Bill "An Act to Provide for the Year 2000 Allocations of the State Ceiling on Private Activity Bonds" (EMERGENCY)

(S.P. 1010) (L.D. 2578)

Signed:

Senator:

MackINNON of York

Representatives:

MENDROS of Lewiston

CLOUGH of Scarborough

BOWLES of Sanford

MARVIN of Cape Elizabeth

O'NEAL of Limestone

SHOREY of Calais

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (S-659)** on same Bill.

Signed:

Senators:

LONGLEY of Waldo

KONTOS of Cumberland

Representatives:

SIROIS of Caribou

USHER of Westbrook

BOLDUC of Auburn

TRIPP of Topsham

Came from the Senate with the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (S-659).

READ.

Representative O'NEAL of Limestone moved that the House **ACCEPT** the Majority **Ought to Pass as Amended** Report.

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

Representative O'NEAL: Mr. Speaker, Men and Women of the House. Before you you have the bond cap allocation bill. This is a yearly event before our committee. This year we do have a Majority Report and a Minority Report. I would just like to share with you a few thoughts on this. Under federal law we are allowed \$150 million in tax-exempt bonds to the State of Maine, which goes for different things. My main point is to help the students of the State of Maine go to college. I would just like to give you a quick breakdown of how the bonds are normally broken down. Ten million dollars goes to the Municipal Bond Banks, \$90 million to the Maine State Housing Authority, \$25 million to the Finance Authority of Maine, \$10 to the Maine Educational Loan Authority and \$15 million in the year 2000 would be non-allocated. Both reports agree with this. In the year 2001 is where the difference is. We both agree that \$10 million would go to the Maine Municipal Bond Back, \$40 million to the Maine State Housing Authority, \$25 million to the Finance Authority of Maine. The difference being the Majority Report would put up to \$10 million towards the Maine Educational Loan Authority in the event the 1999 reallocation of \$10 million is not reallocated. The Minority Report puts nothing towards this. The disagreement is that the Minority Report feels that they can come forward at a later date and allocate the money. We feel that this has been going on since 1983 and that to change the allocation might hurt the very people that we were the most interested in, the students of the State of Maine and their parents. I hope that you will support the Majority Report. Thank you.

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

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

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

ROLL CALL NO. 604

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

Thompson, Tobin D, Tobin J, Townsend, Tracy, Trahan, Treadwell, True, Tuttle, Volenik, Waterhouse, Watson, Wheeler EM, Williams, Winsor, Mr. Speaker.

NAY - Bolduc, Bull, Frechette, Mailhot, Mitchell, Norbert, Saxl MV, Tessier, Tripp, Twomey, Usher.

ABSENT - Goodwin, Sirois, Stevens, Weston, Wheeler GJ.
Yes, 135; No, 11; Absent, 5; Excused, 0.

135 having voted in the affirmative and 11 voted in the negative, with 5 being absent, and accordingly the Majority **Ought to Pass as Amended Report was ACCEPTED.**

The Bill was **READ ONCE. Committee Amendment "A" (S-658) 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-658) in NON-CONCURRENCE** and sent for concurrence.

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

The Speaker resumed the Chair.
The House was called to order by the Speaker.

Majority Report of the Committee on **CRIMINAL JUSTICE** reporting **Ought Not to Pass** on Bill "An Act to Prohibit Persons Under 21 Years of Age from Purchasing Handguns"

(S.P. 1005) (L.D. 2573)

Signed:

Senator:

DAVIS of Piscataquis

Representatives:

SHERMAN of Hodgdon

TOBIN of Dexter

McALEVEY of Waterboro

POVICH of Ellsworth

PEAVEY of Woolwich

O'BRIEN of Augusta

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

Signed:

Senators:

MURRAY of Penobscot

O'GARA of Cumberland

Representatives:

FRECHETTE of Biddeford

QUINT of Portland

CHIZMAR of Lisbon

MUSE of South Portland

Came from the Senate with the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-611) AS AMENDED BY SENATE AMENDMENT "A" (S-653)** thereto.

READ.

Representative POVICH of Ellsworth moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

On further motion of the same Representative, **TABLED** pending his motion to **ACCEPT** the Majority **Ought Not to Pass** Report and later today assigned.

CONSENT CALENDAR

First Day

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

(S.P. 625) (L.D. 1790) Bill "An Act to Amend the Laws Governing the Designation of a Beneficiary of Maine State Retirement System Benefits" Committee on **LABOR** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-684)**

(H.P. 1601) (L.D. 2245) Bill "An Act to Adopt the Model Revised Article 9 Secured Transactions" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-1109)**

(H.P. 1862) (L.D. 2597) Bill "An Act to Improve Public Water Supply Protection" Committee on **NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-1106)**

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 were **PASSED TO BE ENGROSSED as Amended** and sent for concurrence.

ENACTORS

Emergency Measure

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

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

(C. "A" H-1045; S. "A" S-647)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 128 voted in favor of the same and 1 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act Concerning Technical Changes to the Tax Laws

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

(S. "A" S-652 to C. "A" S-641)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 118 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act Concerning Certain Contracts Affected by Electric Industry Restructuring

(H.P. 1937) (L.D. 2680)

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

thirds vote of all the members elected to the House being necessary, a total was taken. 124 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

Resolve, Regarding Legislative Review of Chapter 1: Rights of Recipients of Mental Health Services Who are Children in Need of Treatment, Section A-VII, Rights to Due Process With Regard to Grievances and Section A-IX, Confidentiality of and Access to Mental Health Records, a Major Substantive Rule of the Department of Mental Health, Mental Retardation and Substance Abuse Services

(H.P. 1910) (L.D. 2658)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 128 voted in favor of the same and 0 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

Emergency Measure

Resolve, Regarding Legislative Review of Portions of Sections 61, 62, 63, 68 and 73 of 10-49, Chapter 5, Bureau of Elder and Adult Services Policy Manual, a Major Substantive Rule of the Department of Human Services

(H.P. 1913) (L.D. 2659)

(C. "A" H-1099)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 122 voted in favor of the same and 2 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

Mandate

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

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

(H. "A" H-889 to C. "A" H-805)

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

Acts

An Act Relating to MTBE

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

(C. "A" H-1067)

An Act to Improve School Safety and Learning Environments

(S.P. 298) (L.D. 870)

(H. "A" H-1102 to C. "A" S-657)

An Act to Ensure the Provision of Long-term Care Services

(S.P. 447) (L.D. 1322)

(C. "A" S-678)

An Act to Provide Services for Children in Need of Supervision

(H.P. 1138) (L.D. 1623)

(C. "A" H-1103)

An Act to Amend the Laws Governing Municipal Elections

(S.P. 878) (L.D. 2293)

(H. "A" H-1104 to C. "A" S-552)

An Act to Encourage Energy Efficiency in Government Facilities

(H.P. 1740) (L.D. 2446)

(C. "A" H-1098)

An Act to Establish a Comprehensive Electronic Claims-filing System for the Medicaid Program

(S.P. 929) (L.D. 2379)

(C. "A" S-679)

An Act to Amend Investment-related Provisions of the Maine Insurance Code

(S.P. 974) (L.D. 2520)

(C. "A" S-663)

An Act to Extend the Use of Emotional Disability as an Indicator in the Identification of Exceptional Children

(H.P. 1858) (L.D. 2593)

An Act to Amend and Clarify the Powers and Duties of the Lake Arrowhead Community, Incorporated

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

(H. "A" H-1090)

An Act Relating to Reporting Requirements for Political Action Committees on the Flexibility of the Commission on Governmental Ethics and Election Practices to Assess Penalties

(S.P. 1070) (L.D. 2663)

(C. "A" S-666)

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)

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

Resolves

Resolve, to Establish a Commission to Study Kindergarten-to-grade-12 Educator Recruitment and Retention

(H.P. 1658) (L.D. 2327)

(C. "A" H-1097)

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

An Act to Establish a Patient's Bill of Rights

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

(C. "A" H-1061)

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

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

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

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

(H.P. 1454) (L.D. 2075)
(C. "A" H-1034)

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

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

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

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

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

Representative **TREADWELL**: Mr. Speaker, Men and Women of the House. I don't think that I would be doing my duty as a Representative if I didn't try one last time to convince all of you that this is not good legislation. It is a cost driver to the Workers' Comp Fund. The fact that we were told by two different doctors that it is very difficult to diagnose occupational disease and we discussed it at length in committee and the committee voted to send a letter to the Workers' Comp commission and another letter to the Bureau of Health Department of Human Services. I have distributed a copy of the letter. I would like to read it for the record just so that we all have all of the information that is available on this bill.

It is addressed to Doctor Philip Haines, Bureau of Health, Department of Human Services. "We are writing for the Joint Standing Committee on Labor regarding a matter of great importance. We have been discussing a bill proposing changes to Maine's occupational disease law and we have been frustrated by the lack of reliable data on occupational disease in the state. We are writing to ask for your help in improving the quality of the information we have on this issue.

As we understand it, physicians are required by Maine law to report cases of occupational disease to the Bureau of Health. However, we also understand that less than 10 percent of physicians currently comply with the law, leaving us and other policy makers without adequate information upon which to base policy decisions. We can't get more information by changing the law, so we must work to enforce the law that exists.

We are writing to ask you to undertake a serious effort to improve the response rate of physicians, so that we may obtain a more accurate picture of the occurrence of occupational disease in Maine. Please let us know if there is anything that we, as legislators, can do to improve reporting and please let us know of your efforts once they have begun.

We thank you for your efforts to improve the health of Maine citizens. Sincerely signed, Senator Neria R. Douglass and Representative Pamela Henderson Hatch."

Ladies and gentlemen, based on that letter, I don't think I could say it in any stronger terms that we do not have the information on occupational disease and passing this law at this time is not warranted. I urge you to vote no on enactment.

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

ROLL CALL NO. 605

YEA - Ahearn, Bagley, Baker, Berry RL, Bolduc, Bouffard, Brennan, Brooks, Bryant, Bull, Clark, Colwell, Cote, Cowger, Davidson, Desmond, Dudley, Dunlap, Duplessie, Etnier, Frechette, Fuller, Gagne, Gagnon, Gerry, Goodwin, Green,

Hatch, Jabar, Jacobs, Kane, LaVerdiere, Lemoine, Mailhot, Martin, Matthews, McDonough, McGlocklin, McKee, Mitchell, Muse, Norbert, O'Brien LL, O'Neal, O'Neil, Perry, Pieh, Powers, Quint, Richard, Richardson J, Rines, Samson, Saxl JW, Shiah, Skoglund, Stanley, Sullivan, Tessier, Thompson, Townsend, Tracy, Tripp, Tuttle, Twomey, Usher, Volenik, Watson, Williams, Mr. Speaker.

NAY - Andrews, Belanger, Berry DP, Bowles, Bragdon, Bruno, Buck, Bumps, Cameron, Campbell, Carr, Chizmar, 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, McAlevey, McKenney, McNeil, Mendros, Murphy E, Murphy T, Nass, Nutting, O'Brien JA, Peavey, Perkins, Pinkham, Plowman, Povich, Richardson E, Rosen, Sanborn, Savage C, Savage W, Saxl MV, Schneider, Sherman, Shields, Shorey, Snowe-Mello, Stanwood, Stedman, Tobin D, Tobin J, Trahan, Treadwell, True, Waterhouse, Weston, Wheeler EM, Winsor.

ABSENT - Chick, Sirois, Stevens, Wheeler GJ.

Yes, 70; No, 77; Absent, 4; Excused, 0.

70 having voted in the affirmative and 77 voted in the negative, with 4 being absent, and accordingly the Bill **FAILED OF PASSAGE TO BE ENACTED** and was sent for concurrence.

An Act to Protect the Health and Well-being of a Nursing Infant of Separated or Divorcing Parents

(S.P. 888) (L.D. 2307)
(C. "A" S-661)

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

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

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

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

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

Representative **PLOWMAN**: Mr. Speaker, Men and Women of the House. I am going to ask you to vote against enactment of "An Act to Protect the Health and Well-being of a Nursing Infant of Separated or Divorcing Parents." I would like to read to you a statement that was given to the Judiciary Committee from the Maine Family Law Advisory Commission regarding this. "LD 2307 would add to the list of the best interests of a child factors set forth in 19A MRSA, Section 1653, Subsection 3. The words whether the child is being breastfed. The commission believes that it is not advisable to add factors as narrow in scope as this proposed LD because it will tend to call litigants and the courts to give greater weight to those factors, which are expressed into the statutes over those which are not. Maine courts already have the authority to consider the impact of nursing on the determination of a child's best interest by virtue of subsection 1653, subsection 3 and which requires the consideration of all other factors having a reasonable bearing on the physical and psychological well being of the child. The commission believes that this catch all provision assures that the courts will consider the fact that a young child is nursing when it arrives at a determination regarding the child's best interest." It is signed by the Family Law Advisory Committee, Judge Levy, Chair,

Christian Gustophson, Vice Chair and Debbie L. Willis, Esquire, Secretary and Dr. Bruce Kerr, PHD, Jo Anne Cook, MSW and Judge Paul T. Pierson, Judge James E. Mitchell, Elizabeth J. Sheffey, Esquire and Mary Anne E. Martel, Esquire."

They are all persons very well acquainted with how family law works in this state. I would ask you to reject enactment and continue to let the judge consider this factor along with all other factors. Thank you.

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

ROLL CALL NO. 606

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

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

ABSENT - Sirois, Stevens, Wheeler GJ.

Yes, 83; No, 65; Absent, 3; Excused, 0.

83 having voted in the affirmative and 65 voted in the negative, with 3 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

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)

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

On motion of Representative MCKENNEY of Cumberland, was **SET ASIDE**.

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

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

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

ROLL CALL NO. 607

YEA - Ahearne, Andrews, Bagley, Baker, Belanger, Berry DP, Berry RL, Bolduc, Bouffard, Bowles, Bragdon, Brennan, Brooks, Bruno, Bryant, Buck, Bull, Bumps, Cameron,

Campbell, Carr, Chick, Chizmar, Cianchette, Clark, Clough, Collins, Colwell, Cote, Cowger, Cross, Daigle, Davidson, Davis, Desmond, Dudley, Dugay, Duncan, Dunlap, Duplessie, Etnier, Fisher, Foster, Frechette, Fuller, Gagne, Gagnon, Gerry, Gillis, Glynn, Goodwin, Gooley, Green, Hatch, Heidrich, Honey, Jabar, Jacobs, Jodrey, Jones, Joy, Kane, Kasprzak, Kneeland, Labrecque, LaVerdiere, Lemoine, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, Mailhot, Martin, Marvin, Matthews, Mayo, McAlevey, McDonough, McGlocklin, McKee, McKenney, McNeil, Mitchell, Murphy E, Murphy T, Muse, Nass, Norbert, Nutting, O'Brien JA, O'Brien LL, O'Neal, O'Neil, Peavey, Perkins, Perry, Pieh, Pinkham, Plowman, Povich, Powers, Quint, Richard, Richardson E, Richardson J, Rines, Rosen, Samson, Sanborn, Savage C, Savage W, Saxl JW, Saxl MV, Schneider, Sherman, Shiah, Shields, Shorey, Skoglund, Snowe-Mello, Stanley, Stanwood, Stedman, Sullivan, Tessier, Thompson, Tobin D, Tobin J, Townsend, Tracy, Trahan, Treadwell, Tripp, True, Tuttle, Twomey, Usher, Volenik, Waterhouse, Watson, Weston, Wheeler EM, Williams, Winsor, Mr. Speaker.

NAY - NONE.

ABSENT - Mendros, Sirois, Stevens, Wheeler GJ.

Yes, 147; No, 0; Absent, 4; Excused, 0.

147 having voted in the affirmative and 0 voted in the negative, with 4 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

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

Representative **CHICK**: Mr. Speaker, Men and Women of the House. Today's calendar, page 17, I was not here on item (10-12). Had I been here, I would have voted yea.

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

REPORTS OF COMMITTEE
Divided Report

Majority Report of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought Not to Pass** on Bill "An Act Regarding Forest Practices"

(I.B. 5) (L.D. 2594)

Signed:

Senators:

NUTTING of Androscoggin

KILKELLY of Lincoln

KIEFFER of Aroostook

Representatives:

PIEH of Bremen

CROSS of Dover-Foxcroft

GILLIS of Danforth

GAGNE of Buckfield

WATSON of Farmingdale

GOOLEY of Farmington

FOSTER of Gray

CARR of Lincoln

COWGER of Hallowell

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-1108)** on same Bill.

Signed:
 Representative:
 VOLENIK of Brooklin

READ.

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

Divided Report

Majority Report of the Committee on **LABOR** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-1110)** on Bill "An Act to Establish Consistent Requirements in Maine State Retirement System Plans for Minimum Creditable Service for Eligibility to Receive Retirement Benefits"
 (H.P. 1878) (L.D. 2614)

Signed:
 Senators:
 DOUGLASS of Androscoggin
 LaFOUNTAIN of York
 MILLS of Somerset

Representatives:
 HATCH of Skowhegan
 MUSE of South Portland
 GOODWIN of Pembroke
 FRECHETTE of Biddeford
 MATTHEWS of Winslow
 SAMSON of Jay
 DAVIS of Falmouth
 MacDOUGALL of North Berwick
 TREADWELL of Carmel

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (H-1111)** on same Bill.

Signed:
 Representative:
 MACK of Standish

READ.

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

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

Representative **MACK**: Mr. Speaker, Right Honorable Men and Women of the House. I urge you to vote against the pending motion. The two reports are very similar. Last year we passed a bill that, among other things, lowered the vesting period for state employees to five years. There were three groups left out of that report. One was the Judicial Retirement System and the other was legislators and the third was the participating local districts. Both reports changed vesting for the Judicial and participating local districts down to five years just like everyone else. The difference between the two reports are legislative retirement. The Majority Report moves legislative vesting down to five years. The Minority Report, which I am the sole member on, makes legislative retirement a little bit separate. Last week we had a debate on defined contribution personalized retirement plans. My report will make the legislators, you and I, the guinea pigs for defined contributions. What it would do is allow us as legislators to have personalized retirement plans so that we can invest our money within approved investment mechanisms, mutual funds and stocks or bonds, however we see fit. In the long run, we will get a better return and after the

state employees see how this plan works for us, hopefully they will want it for themselves. Before we pass the defined contribution plan on to everybody, some people may feel a little better if we test it out on ourselves first. If you are already vested in the current retirement plan, you will have the choice of the two plans and any new legislators elected in the 120th or beyond would be in the defined contribution plan. I urge you to vote against the pending motion. Mr. Speaker, when the vote is taken, I request that it be taken by the yeas and nays.

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

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

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

Representative **HATCH**: Mr. Speaker, Ladies and Gentlemen of the House. I could hear the noise in the background and people telling me to sit down. I just want to explain something. Last year we did indeed pass a bill that vested state employees and teachers in five years. That bill was originally sponsored by myself and it was the legislators. We turned it into state employees and teachers. In December, the other chair from the other body and I met with the Retirement System and they suggested that we do the vesting for all the people who belong to the system mainly because it would make the system consistent at least in there. I agreed to sponsor this bill. I ask for your support. It is a good bill. I think we spoke on the benefit plan last week pretty strongly. I would hope that you would vote with this. I know the hour is late and it is time for lunch so I will stop speaking now. Thank you.

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

ROLL CALL NO. 608

YEA - Ahearne, Andrews, Bagley, Baker, Berry DP, Berry RL, Bolduc, Bouffard, Bowles, Brennan, Brooks, Bruno, Bryant, Buck, Bull, Cameron, Campbell, Carr, Chick, Chizmar, Cianchette, Clark, Collins, Colwell, Cote, Cowger, Cross, Daigle, Davidson, Davis, Desmond, Dudley, Dugay, Duncan, Dunlap, Duplessie, Etnier, Fisher, Foster, Frechette, Fuller, Gagne, Gagnon, Gillis, Goodwin, Gooley, Green, Hatch, Heidrich, Jabar, Jacobs, Jodrey, Kane, Kneeland, Labrecque, LaVerdiere, Lemoine, Lemont, Lindahl, MacDougall, Madore, Mailhot, Martin, Marvin, Matthews, Mayo, McAlevey, McDonough, McGlocklin, McKee, McNeil, Mitchell, Murphy E, Murphy T, Muse, Nass, Norbert, Nutting, O'Brien JA, O'Brien LL, O'Neal, O'Neil, Peavey, Perry, Pieh, Plowman, Povich, Powers, Quint, Richard, Richardson E, Richardson J, Rines, Rosen, Samson, Sanborn, Savage C, Savage W, Saxl JW, Saxl MV, Schneider, Shiah, Skoglund, Stanley, Stanwood, Sullivan, Tessier, Thompson, Townsend, Tracy, Treadwell, Tripp, True, Tuttle, Twomey, Usher, Volenik, Watson, Weston, Wheeler EM, Williams, Winsor, Mr. Speaker.

NAY - Belanger, Bragdon, Bumps, Clough, Gerry, Glynn, Honey, Jones, Joy, Kasprzak, Lovett, Mack, McKenney, Mendros, Perkins, Pinkham, Sherman, Shields, Shorey, Snowe-Mello, Stedman, Tobin D, Tobin J, Trahan, Waterhouse.

ABSENT - Sirois, Stevens, Wheeler GJ.
 Yes, 123; No, 25; Absent, 3; Excused, 0.

123 having voted in the affirmative and 25 voted in the negative, with 3 being absent, and accordingly the Majority **Ought to Pass as Amended Report was ACCEPTED.**

The Bill was **READ ONCE. Committee Amendment "A" (H-1110) 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-1110)** and sent for concurrence.

ENACTORS

Emergency Measure

An Act to Prevent the Spread of Invasive Aquatic Plants
(H.P. 1843) (L.D. 2581)
(H. "B" H-1105 to C. "A" H-970)

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

Representative **WATERHOUSE** of Bridgton **REQUESTED** a roll call on **PASSAGE TO BE ENACTED.**

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

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

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

ROLL CALL NO. 609

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

NAY - NONE.

ABSENT - Sirois, Stevens, Wheeler GJ.

Yes, 148; No, 0; Absent, 3; Excused, 0.

148 having voted in the affirmative and 0 voted in the negative, with 3 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

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

The House recessed until 1:30 p.m.

(After Recess)

The House was called to order by the Speaker.

REPORTS OF COMMITTEE

Ought to Pass Pursuant to Resolve

Report of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act to Implement a Maine Meat and Poultry Inspection Program"

(S.P. 1083) (L.D. 2687)

Reporting **Ought to Pass** pursuant to Resolve 1999, chapter 68, section 2.

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. **ORDERED SENT FORTHWITH.**

Divided Report

Majority Report of the Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-686)** on Bill "An Act to Establish Fairer Pricing for Prescription Drugs"

(S.P. 1026) (L.D. 2599)

Signed:

Senators:

PARADIS of Aroostook
BERUBE of Androscoggin

Representatives:

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

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (S-687)** on same Bill.

Signed:

Senator:

MITCHELL of Penobscot

Representatives:

LOVETT of Scarborough
BRAGDON of Bangor
SNOWE-MELLO of Poland
SHIELDS of Auburn

Came from the Senate with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-686)**.

READ.

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

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

Representative **KANE**: Mr. Speaker, Men and Women of the House. Americans have been ripped off. I believe it is time to change the law so that Americans are no longer discriminated against with respect to the cost of prescription drugs. The best way I know how to do it is to prevent drug companies from selling any product in Canada or Mexico at a lower price than they sell it for in the United States. I believe it is time to change the law so that Americans are no longer discriminated against with respect to the cost of prescription drugs. The best way I know how to do it is to prevent drug companies from selling in any product in Canada or Mexico at a lower price than they sell it for in the United States. The author of these words, men and women of the House, is the US Republican Senator from the State of Washington, Slade Gorton. Unfortunately, he stole my speech, but I will do my best.

The bill before us, LD 2599, "An Act to Establish Fairer Pricing for Prescription Drugs" is designed to motivate the prescription drug industry to voluntarily engage in a negotiation process to reduce the cost of drugs to all Maine citizens, in particular, for our most vulnerable citizens, those who do not have prescription drug insurance coverage and pay the highest prices in the world. In fact, it is cheaper to purchase identical medication for your pet than for yourself. Our state has been committed to expending tax dollars to subsidize prescription drugs for our most vulnerable citizens, but there is a limit to how far we can or should do in subsidizing exorbitant prices.

You have all heard about our sick seniors being bussed up to New Brunswick to purchase their medications at half the cost, our just-above-low-income elderly, who are not covered by our low-income prescription drug program. Our seniors who cut their dosages or skip days to make their pills last longer and who will choose between medication and heating and between medication and food.

At our public hearing last month, we had over 200 senior citizens testify in tears about their plight about the death of a spouse who died because of a deterioration of health, of frail elderly people having to be admitted to expensive inpatient care.

All of this is happening in Maine, ladies and gentlemen, at a time when the prescription drug industry is reaping the greatest profits of any industry in the world, exceeding \$24 billion per year, for which American citizens pay full cost for the rest of the world. Senator Slade Gorton is right. This is a "rip-off."

Prescription drugs are the fastest growing items in health care and their high prices are the driving force behind rapidly increasing hospital cost and insurance rates. In fact, the state spends \$10 million in state employee costs that could be saved. The prescription drug experience represents the largest growing single portion of the Medicaid shortfall that we are now facing up to. This not only has a negative impact on your expensive health care needs, but also it has a negative effect on the Maine economy. If the bill passes, the cost savings to Maine state employees would equal \$10 million per year, not to mention the cost savings to other Maine employees.

It is time for us, on behalf of Maine's citizens to send a loud and unequivocal message that we will no longer tolerate this blatant exploitation and are prepared, if all else fails, to impose price controls. The Attorney General told our committee that the state is prepared to defend our position and believes that our position would be very defensible

LD 2599 is not an impulsive, knee-jerk reaction to an intolerable situation. It is a thoughtful, incremental strategy for enticing the pharmaceutical industry to the negotiation table, to engage in meaningful dialogue to find a reasonable solution that responds to the critical needs of our citizens and the financial and research/development needs of the industry.

Some of my colleagues may argue that the bill does not address the problem now. But it does. The fairer prices would go into effect October 1, 2000 only if the non-regulatory means outlined in the bill do not reduce the price of drugs and it also calls for an additional \$5 million expansion to the state program and of tobacco money, pending Congressional action or voluntary manufacturer's programs. The bill regulates prices as a last resort.

We cannot and should not delay action, hoping that one, Congress will enact an adequate medication benefit, which will be fiscally prohibitive and two, the industry track record does not promote confidence that they will do the right thing without consequences.

We cannot be held hostage to industry threats that they might refuse to sell prescription drugs in Maine. The increase in volume that would accompany reduced costs would more than offset the decreased price, according to a recent Merrill Lynch study.

For the majority of Maine citizens, there is no greater priority than making prescription drugs accessible at a reasonable price. They expect us to respond to this priority, they deserve no less. Please support the Majority Ought to Pass Report.

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

Representative **SHIELDS**: Mr. Speaker, Ladies and Gentlemen of the House. The good Representative from Saco has talked well about this bill. This bill, I think, is one of the most oppressive pieces of legislation that I have seen. It wants to control the entire free market industry. It may well violate constitutional and federal laws. It wants to do this on the flimsiest set of data that consists of unsubstantiated reports of retail prices of drugs, reports and anecdotes, which have been designed to incite you into a feeling of outrage and resentment toward the American pharmaceutical industry. How dare those pharmacies do that? No valid proof has been offered. There are anecdotes recited from second and third hand information from those people who are not well versed in pharmacy. There has been no thorough research into the pricing structure of medications either in the United States or in Canada. They relied on Congressman Tom Allen's data, which has none of this and treats a subject rather superciliously in order to prove his point. He apparently started his research with a conclusion in mind and selectively printed only that, which was going to prove his point. His report is obviously contrived. The sponsors of the bill have bought into that. I ask you in all fairness, do not make any decision without good documented evidence of what makes up price structure of medications. After having made extensive inquiry into two of our adjacent Canadian Provinces Pharmacy Medication Programs, I can guarantee you that the authors of this legislation do not understand the kinds of medications or the

pricing of medication in Canada or in the United States. They have shot from the hip without any solid data. I think the authors maybe meant well, but the measures to control the prices of medications in this bill are not warranted.

Let us put this area to further study before taking such onerous action as listed in this bill. Consider the bureaucracy that would be needed to perform what the bill calls for. This is an unnecessary expense and a burden on state government. We do not need more government. It creates a board, which would name a director and a staff to establish the manufacturer's price schedule of every prescription drug, the wholesale price of every drug, the retail price of every drug and there are thousands of medications to be processed. More than a few state employees will be needed. There will then be a survey every six months, another labor-intensive job. This board is given rulemaking power. It will be given subpoena power according to the bill. It will delve into the private business of every business that handles prescription drugs at all levels. It can administer oaths for testimony. It can make rules for disclosure of information to the public. Rulings of the board must be appealed to the Superior Court System. To the list of those legally liable for the treatment of people on public assistance, the suppliers of this program are added. It calls for an appropriation of about \$550,000, which is, I think, a misleadingly low figure. Instead, I would ask for your support for a study commission, which can determine the true facts behind pricing and medications and then gives us a chance to work this over. Then we can see what we are going to do about it. Thank you.

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

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

Representative ROWE: Mr. Speaker, Men and Women of the House. As you know, I don't come down very often to speak from the floor. I have only come down when I felt the real need to. I feel something inside that I need to speak on an issue, a bill. This is one of those occasions, especially after I just heard the comments of the Representative from Auburn, Representative Shields.

LD 2599 will bring fairer prices for prescription drugs. It is something that is different. That is because of the magnitude of the problem that we have. The access to reasonable priced prescription drugs is the largest single problem facing the seniors of this state today. It deals with people's lives, their health, their quality of life and it deals with savings. We can save, as you heard from the Representative from Saco, Representative Kane, a lot of money. It would reduce the price of prescription drugs. I would like to thank the Senator from Knox, Senator Pingree, for sponsoring this bill. During the last couple of months I have traveled around the state talking to seniors. I have been to Presque Isle, Rockland, Brunswick, Madawaska, Biddeford, Rumford, Portland and Lewiston meeting with groups of seniors talking to them about this bill. If you don't believe that folks out there support this, then you haven't been talking to them. I have. Not just the people from my district, but the people in your district. This problem is a terrific problem.

You heard the Representative from Saco, Representative Kane, talk about people who are making decisions, which

prescription do I get filled? Which one do I do not? Do I skip a day? Do I cut the pill in two? What do I do? We have heard stories that would make you cry. I know you have heard these stories too. I just heard from the Representative from Auburn, Representative Shields, that these reports are unsubstantiated and that they are all anecdotal. There is no thorough research in the US and Canada. I strongly and respectfully disagree. I know the Representative is a physician. I, myself, have spoken with several physicians on this issue who support this bill. I have spoken with several pharmacists. There are a lot of people who are very smart and who believe this is necessary.

I would ask you to look at the bill today. It has nothing to do with party affiliation. It has nothing to do with where you live. We all have constituents that can't afford prescription drugs. Because of that, they are going to end up getting sick. They are going to end up dying sooner than they otherwise would and if they get sick, they are going to end up in nursing homes or hospitals and it is going to cost them more and eventually it will cost the state more. Senior citizens and others in Maine who lack insurance for drugs pay two times as much as drug companies most favorite customers. These customers are large insurance companies, large HMOs and the federal government.

The studies that the Representative from Auburn alluded to were the studies from the Congressional Committee, the House Committee on Governmental Reform and Oversight in Maine, found that a study of 10 brand name drugs with a highest sale to seniors. The average price differential was 86 percent more. A senior without health insurance would pay more than a senior who was in one of these groups of the most favorite customers. We know that Maine pharmacies are not the problem. Indeed the retail prices are only about 3 percent above the national average wholesale prices. It is not the pharmacies in the State of Maine. It is the actual prices of the drug, the manufacturers. We know that as a group older people tend to have more long-term illnesses. We know that. Arthritis, high blood pressure, heart disease and we know that older Americans spend almost three times more of their income on health insurance than those under the age of 65. We know that three out of every four Americans, 65 and over, are taking at least one prescription drug. Seventy-five percent of Americans, 65 and over, are being prescribed prescription drugs. They are not all taking them because they can't afford them.

Seniors make up about 12 percent of our population, but they are prescribed about one-third of the drugs that are prescribed in this country. Thirty-seven percent of older Americans do not have any insurance coverage for prescription drugs. In Maine, our state has a higher than average percentage of seniors, 14 percent of our population are 65 and over. In Maine, our elderly population is twice the national average. We have almost two times the national average of seniors that live in poverty. About 22 percent of the individuals in this state, 60 and over, live at or below the federal poverty line as compared to about 11 percent in this nation.

What this is leading up to if any state should be a leader, it should be this state. We have a high percentage of seniors and we have a high percentage of seniors with low income. We are doing other things and if you look in the bill itself, I know you have the bill, on page 4, you will see all other things we are doing and indeed the price control mechanisms in this bill will not go into place if through these other mechanisms to get prices down, but we all know we have other programs in place, but, men and women of the House, these are benefit programs.

These are government benefit programs. We are subsidizing. On page 4 you see these Medicaid drug rebate programs, Medicaid elderly prescription drug programs, Maine resident low-cost prescription drug programs. These are all listed here. We know about these and we are working on them. We will continue to work. We will continue to work and do all we can until we make the price of prescription drugs affordable to people in this country and in this state.

You may have heard that many of us have been traveling around meeting with the members of other states trying to work on some purchasing alliances and looking at what we could do as a coalition. I have attended meetings with other members of this body in Vermont and in Boston and in New York. We are looking at regional strategies and purchasing alliances. We are working with the other Northeastern states and we believe that by pooling our resources, perhaps, we could have a purchasing alliance that we could work with to reduce the price of drugs. While we are doing all of that, this bill is necessary because if the prices go down, we won't need this, but if they don't, we will need it.

Our federal Congress, although there is a lot of work going on down there, there is a lot more to do. As you know, Medicare doesn't have a prescription drug benefit. There are people advocating for that, but there are no prescription drug benefit for Medicare. We all know that. We know that in this country if prescription drug manufacturers can advertise through newspapers, magazines, on TV and indeed they do. I have read that retail advertising is responsible for about 30 percent of the money spent on prescription drugs. Maybe we should prohibit retail advertising? I would vote for that. That is a federal issue. Maybe we should put a prescription drug benefit on Medicare. I would vote for that, but that is a federal issue. Those things aren't happening, men and women of the House, it is time for us to do something. I know this bill may seem radical to some of you, but I would ask you to take a look at the bill before you vote against it out of your hands. When you go home and you talk to the men and women of your district and you meet with them and you will, if they ask you why you voted against the bill, I hope you have a good reason. You can look them in the eye and you can say you voted against it because I believe the best way to reduce the price of drugs is not to vote for this bill.

I know there are a lot of people that have tried to put fright into seniors in saying that if we do this, it will reduce the access to drugs. It hasn't in other nations that have price control. I guess the issue here is, and I don't think this is rocket science, whether or not we are going to put a law in place that says we are going to try to get the prices down and if they don't, we are going to set up a board and we are going to regulate the prices. Is that interfering with the free-market system? Yes it is. Look at the product. We are talking about health. We are talking about prescription drugs. We are not talking about buying a toaster or TV. We are talking about prescription drugs that people need to stay healthy and to stay alive.

I don't know what else I can say. I just simply came down here to ask you all to think about this. Again, I don't think it is a partisan issue. In the New York Assembly, the Senator that is putting forth the bill to regulate the price of prescription drugs is a Republican. Indeed at the conference that I attended there have been many people, Republicans, Democrats and Independents there. There are Democrats that oppose this. I don't see that as being partisan. I hope it is not here today. I hope you will take a look at this. I just hope if you are going to vote against this, that

you have a good reason when you go home to tell folks that you voted against this. I have been around to a lot of your districts and I have talked to seniors and they have looked at this bill. They told me they support it. Maybe you have talked to them and they told you differently. They told me they support it. I would ask you to read the bill and to think about it before you vote against it today. I think it is something we can do for the seniors of this state and for all others. You know we have 180,000 people in this state that don't have health insurance. That is excluding the Medicaid population. We know the Medicaid population has access to prescription drugs. We know we are working to enhance the low-cost drug program. We are working on that and we should work on that, but while we are doing that, we ought to be doing this too. If all this other stuff works to drive down the price of drugs, then we will be fine. If it doesn't, we will have this.

I just ask you to think about it because I think this is one of the most important votes you are going to take this session. You can laugh and you can smile and you can shrug it off and you can vote, but I just ask you before you do that, read the bill carefully. You are going to hear a lot of people get up, I am sure, after I have given this speech and explain to you why it is a bad bill. You have to listen to that too. Take all that into consideration and look at the bill. It is not that difficult to read, especially if you take a look in the bill on page 3. Page 3 is where you really talk about the manufactures, the wholesalers, the retailers and the effect of data maximum prices. I would ask you to take a look at that. Make sure you understand the bill if you are going to vote against it, make sure you understand the bill before you do, because I think people are going to ask you why did you vote against it? I would ask all people in here to really consider supporting this today. Again, I think it is one of the most important bills we are going to see. Thank you.

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

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

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

Representative **MCALLEVEY**: Mr. Speaker, Ladies and Gentlemen of the House. I don't care for nor do I like price controls. I never have, but I dislike even more the price that our constituents, not just our elderly, but all of our constituents who are dependent upon prescription drugs have to pay. I believe in a free-market economy. Does a free-market economy mean that a manufacturer can hold hostage a segment of this society because they are the only game in town. Prescription drugs are not a luxury. They are a necessity, whether you are elderly, young or middle age. I don't mean for this to sound contrite, but this may be a bitter pill for some of us, but I would follow what our mother's said, take the medicine today. Our people of this state cannot afford the prices that they are having to pay for prescriptions. That is my number one, and I imagine, your number one constituent problem. We have it within our means to do something about this and send a clear message, not only a clear message, but to enact something that has some clear teeth to it if the industry doesn't respond. We have done some interesting things here this year and in my six years here, but this could have the most beneficial impact of any Legislature on the people of the State of Maine with what we do here today.

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

Representative BROOKS: Mr. Speaker, Ladies and Gentlemen of the House. Two previous speakers prompted me to rise today and speak in favor of this bill. My good friend from Waterboro, Representative McAlevee, when he talked about prescription drugs being a necessity. Of course, my friend from Portland, Representative Rowe, who spoke about when you go home having a reason to vote the way you do. Many of you know in here that my wife is being treated for cancer. About three weeks ago after having had a chemotherapy treatment, she was told that they had to change a prescription drug. She thought on the way home she would stop and pick it up. When she got to the counter, they told her that the drug that they had prescribed was not covered under her drug card. While she had only \$20 in her pocket, the cost of the drug was \$85. With a lump in her throat and a line forming behind her, she had to walk away from the counter. The druggist stopped her and did offer to allow her to use his Discover card to put the drug on. She called me later and talked to me about humiliating it was. What it brought to my mind then and what it makes me feel today is a sense of real despair for the people who are faced with this everyday. Had she known that it was going to cost \$85 and it was not on the drug card, she certainly could have gone prepared. I don't stand here and attempt to imply that we did not have the money to pay for an \$85 drug. All the resources of my family are going into her recovery. It must be that people sense this feeling everyday. She and I talked about it that night and how sad a day it was for us to have that sense of feeling. Prescription drugs in this state pose absolutely horrifying dilemmas.

What do I do today? Do I buy food or take a drug? What do I do? Do I fill the oil tank or take a drug? I don't know another solution to this. I have in my history here in the Legislature chaired task forces on prescription drugs. I have put in legislation on prescription drugs and I have served on the committee that reviews legislation on prescription drugs. We have done a lot for the elderly population and for the poor on prescription drugs. None of it has brought down the price for us. I think that the day has come when the State of Maine can send a signal to the people out there who are responsible for this cost, a signal that can be heard across the country that we won't tolerate this anymore. Let's pass this bill. Let's not have that kind of humiliation that greets the people when they get to the drug counter and they say it is \$85. Let's not put our people in the State of Maine through this. Thank you Mr. Speaker.

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

Representative BRAGDON: Mr. Speaker, Ladies and Gentlemen of the House. We have heard a lot of different reasons why you should vote for or against the report. I just want to give you three quick reasons why I think we should vote against the Majority Report and support the Minority Report. First I want to start out by saying one thing I find particularly appalling is how we are demonizing an industry that has dedicated billions of dollars to research and development and created very new and innovative drugs that are keeping our citizens out of nursing homes, living longer, out of hospitals and allowing them to receive many services through outpatient instead of inpatient and yet we find here today that we are demonizing this entire industry that has totally changed how health care is received by the average American. I think we

need to be very careful and recognize not only the price issue that we have before us today, but also the great contribution that the pharmaceutical industry has made to us as Americans.

The first reason I think you should vote against this bill is throughout industry price controls do not work. Time and time again governments, whether here in the United States or around the world have tried price controls saying they would manage costs, but what they have proven to do is stifle innovation and remove any incentives that businesses have to try new, innovative and often very risky things. For all the billions of dollars that you hear go into research and development in this industry as with many industries, these are very risky investments. For the one drug that actually makes it to the market, there are tens and in some cases hundreds of drugs that don't make it through the process that are investments that never reach fruition. People who invest in these kinds of research and development efforts do it for very noble reasons, to create new medications for Americans and people around the world, but they also do it for a return on profits. If you take out any incentive for a reasonable return on profits, you take out any incentives to invest in research and development and that includes the biotech industry here in the State of Maine for which the state, just a few weeks ago, we, as a Legislature, passed an additional \$10 million to support research and development efforts for that industry here in the state.

The last point on why you should vote against this bill is that it has severe constitutional problems. The Speaker alluded to the fact that if we wanted to as a state we cannot mandate that pharmaceutical companies or drug companies could not advertise in this state because that is a federal issue. I say if we can't mandate that they can't advertise, why do we believe we have any authority to regulate interstate commerce on what they charge for prices here in the state? They are the exact same reasons why we can't regulate certain aspects of the federal government and what they control. For this reason, we cannot put price controls on a particular industry and mandate how they set prices when those businesses aren't even in the State of Maine and sell inside and outside the State of Maine.

The Attorney General of the State of Vermont who reviewed similar legislation gave the opinion to that Legislature that this would be found unconstitutional under the Interstate Commerce Clause and recommended that they not pass it. This legislation, as you have heard, expects that there will be significant legal challenges that will go on for years and many people believe on both sides of the issue that ultimately it will be found unconstitutional. I think to pass this bill is a cruel hoax to our seniors that we will provide legitimate prescription drug relief to them when just about everybody realizes this will be tied up in court for years and ultimately will be found unconstitutional. I urge you to support the Minority Report, which expands our Low-Cost Drugs for the Elderly Program, provides additional benefits for all generic drugs for people who are part of that program. These are the same people who are private paying for their prescriptions now and also an act of catastrophic coverage provision so that people like we heard about who are spending thousands and thousands of dollars will be covered in their prescription drugs regardless of the diseases for which they are buying those medications. For that reason, I urge you to vote against the Majority Report and support the Minority Report. Thank you.

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

Representative **DUNLAP**: Mr. Speaker, Men and Women of the House. I think that the arguments by my good friend from Bangor, Representative Bragdon, have some merit. After all, there is no clear evidence that price controls are an effective means of controlling prices, but then again is it clearly evident that tax breaks are a clear stimulant to the economy, but we keep looking at that solution over and over and over again. As to the matter of constitutionality, I, for one, would like to leave the matter of judicial review of the Constitution in the courts where it belongs. My concern is the citizens of my district, some of whom I have seen go without food, not only because they can't afford their medications or they can't afford heat or any of the basic necessities of life. It has happened in this state where a married couple on the same medication, I know of the instance, and it was not in my district in the southern part of the state, heart medication, but it is very, very expensive, onerously so. The wife refrained from taking her medication so that they could afford the medication for the husband. This was trying to be worked out in a legislative way and before a solution could be found, the woman passed away. I am really less interested in explaining to my constituents why I am going to advocate for the pharmaceutical industry than I am explaining to them what I am doing to solve their most basic problems, which is really one of survival. I would urge you to support the Majority Report. I am not interest, either, by the way, in sending a message. I am interested in doing something to solve the problem.

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

Representative **MURPHY**: Mr. Speaker, Men and Women of the House. To my good friend, your constituents are going to have to hold on a long, long time. We were asked by another good friend, what are you going to tell the folks back home? One, we have before us an issue that does nothing for the next year and a half. Nothing happens at all, period. That is just the short-time problem, because when the litigation kicks in, are they going to hang on until 2010 while that moves through the courts? I fear the only ones that are going to be benefited by this are the trial lawyers. In my opinion, I want to do something and I want to do something now. It does do something. I creates a million dollars state bureaucracy. A million dollars state bureaucracy and even includes a kiddy for lawsuits, but not enough to cover the litigation because of violation of federal law.

I handed out the forms on the Low-Cost Drug Program. You have seen remodified sheets that have come back onto this floor. I have got to tell you with the first distribution of those sheets, I sure hope those bureaucrats aren't filling the petitions because they got the medicine wrong in a couple of cases and they didn't have the drug spelled right. I hope they are not filling the prescriptions. I think you also need to take a reason because you need to take a look at the Canadian Health Care System that we keep hearing immolated. One word describes it, disaster. You come to Maine for your testing. You come to Maine for your treatment. Their prices are lower because that is the only thing they can accomplish with the cash. They can't test you. They can't treat you. Go to Lewiston or Auburn and the hundreds and maybe thousands that have come down, sick people, from Quebec to be treated here in Maine, because they can't be treated in their own province because their system is a disaster. The only thing they can do is subsidize the drugs.

We are also caught and I think our citizens are caught in a time of transitions. We heard earlier the role the drugs are playing in terms of not only prolonging life, but curing disease

and keeping people out of nursing homes and keeping them out of the hospital. Our payment or our reimbursement systems haven't made that transition. We tend to reimburse when the person is in the hospital or in the nursing home and it hasn't recognized yet the value in our health care system that these drugs are playing.

If you look through recent American history and Republican presidents have done it as well as Democratic presidents, when you do price controls, you are buying political cover. You are creating a sham. We have a dramatic problem in this state and to turn to a citizen and say, first of all, nothing is going to happen for a year and a half and in two we are going to have price controls, is solely buying political cover. It doesn't work. I will give you an example. I think the Maine people are pretty smart. Let's go back two months ago, heating oil, \$1.90 a gallon. Did I hear any member of this body calling for price controls that the mandatory price of oil or heating oil in Maine would be \$1 a gallon? You knew within a week Maine people in the depth of winter were going to be frozen to death because not one gallon of oil would have come to Maine. You understood that then and your constituents understood it. You could have gone and knocked on the door and said that you did price controls. I demanded that they could not sell oil for more than a dollar a gallon. I helped you with your problem, except no one would have come to door because they would have been frozen. They would have been dead.

The sixth major reason is one of our great unknown economic stories is the great biotech industries who are doing that research that has been attacked. Maine based research companies, what kind of message are you going to send to them in terms of this measure? Back in January a lot of people signed on as cosponsors on this bill because they heard there was a giant tidal wave moving through New England. I read the papers everyday. I haven't seen this proposal, which was going to pass in Vermont, Massachusetts, New York, I am waiting to see the enactment. Actually one house it has only gotten past the Senate and it hasn't gotten past the House and I don't think it is going to get past the Governor, a Democratic Governor. I am waiting for this tidal wave that all of a sudden just didn't arrive and I am wondering if someone could tell us when this giant New England tidal wave is going to take place. As a matter of fact, I tried to find a copy, but I think the Democratic Speaker of the Massachusetts Legislature has circulated a letter to leaders throughout New England talking about the damage to the biotech industry and how price setting doesn't work and urging his colleagues not to do that damage to the industries within their state and also putting their citizens at risk.

What are we going to do? Are we going to pass political cover and duck and say I took care of you when you know it is not the truth? Are we going to pursue pooling, New England pooling? Are we going to pass an expanded Low-Cost Drug Card Program? I think we have come to closure on that. We haven't come to closure on a budget, but I think in looking at the expansion of the Drug Program, I think we are in agreement. That has that catastrophic provision. We have heard in debate today that we helped the people that are at senior or disabled level, but I think there is going to be bipartisan support that has a formula that if you are higher or lower income or middle income and you see that damage being done to your family budget because of the combination of the drugs or the particular drug you have to have, then it rifles aide to you for that catastrophic

cost that you face. That is something we can do. You can take that back to you constituents.

The other thing we can do is more Mainers need to be covered by health insurance. That is part of the problem. Too many Mainers are without health insurance. At the same time, this Legislature is talking about mandates and trial lawyers driving up the cost and reducing the percentage of Mainers who are covered that can't get prescription coverage. There are positive things you can do with your vote that aren't going to leave Mainers at risk and leave them without prescription coverage. I ask you when those bills come along to give serious thought because we are taking backwards steps at that point. I do see things that we can come together in a bipartisan way, but as I talked to my constituents back home, I see no change in the next year and a half and I see a much longer trial time period and the only people I see benefiting from this are legislators who can take expedient political coverage and the trial lawyers down the road.

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

Representative **MATTHEWS**: Mr. Speaker, Men and Women of the House. When you mention price controls and trial lawyers and I guess the alignment of the constellations and whatever else, you try to cloud that issue from what it really is. I very rarely get up on bills before the Human Services Committee, but today I intended to. Last night I intended to. I have thought about this all evening. I went to fill a prescription for my mom yesterday at a drug store that will remain nameless and you will know why in a minute. It was \$160 for a 30 day prescription of heart medication. This is only one that my mom has to take. Last spring many of you in this chamber knew of the troubles that my family went through with my mom who had a series of heart attacks. Thank God they were not major, but she has serious heart trouble. She is on maintenance. It is extremely expensive every month. I know many, many, many Mainers throughout this state go through a similar situation. Yes, she has her family. She has a pension. She has some things to help her through, but ladies and gentlemen, magnify my mom across this state.

When you talk about the large pharmaceutical companies and price controls and everything that says the sky is going to fall, let me just break it down for you. Not just the consumer, not just the person who is on drug maintenance, they need the medication to survive. Let's also take the pharmaceutical company because I want to share with you a statement made to me by an individual from a pharmaceutical company, the local drug store. The pharmacist at the local drug store, and I am not going to tell you where, said to me, "You know something, Zach, I hope you dog gone do something about this problem, because I am the one that sees the patient right here in front of me day in and day out. They can't make it. They are having a hard time. It is not something you can do without. You can't sweep it under the rug. You can't say I may take it today or I may take it tomorrow. You have got to take it."

It is called primary care and I have heard a gentleman who is a physician talk about medical care. My father, who was a doctor, talked about primary care and helping individuals so they can stay at home and so they can do better so they can improve their quality of life that each and every one of us as a legislator takes an oath to uphold and improve the quality of life for Maine people. That is what we are doing by passing the Majority Report today. The sky is not going to fall. Dog gone it, we are

going to hit them right in the stomach right where it hurts, the big pharmaceutical company. I served with the good gentleman from Kennebunk, a great legislator and a good friend. He and I and other members of this body have tried to give these pharmaceutical companies time to come down from the lofty heavens to where people are suffering. They didn't do it. They haven't done it. Today, this Legislature, bipartisan Republicans and Democrats, are going to say enough is enough. We are going to help people in their homes that need the help and to heck with the bologna. No more games are going to be played. We are going to do our jobs today. We are going to do the right thing. I thank the good gentleman, the chair of the committee, he has done the right thing. I am strongly in favor of this bill. I am so honored to vote for it and it is probably the most important thing I will do all session. Thank you Mr. Speaker.

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

Representative **LOVETT**: Mr. Speaker, Ladies and Gentlemen of the House. I felt the same way as the speaker who just spoke to you. I cosigned this bill also. My heart went out to the people that I heard at that hearing. One gentleman stood out in my mind. It was a gentleman who was suffering from Lou Gehrig's disease. He was seeking relief from the high cost of prescription drugs, he needed it. He looked at her and he wanted to know why the original legislative initiative would not take affect until at least two years. Ladies and gentlemen of the House, this made me stop and think. This is what we are hearing, the high prices, and we need help now. This bothered me a great deal. I wanted to do something now.

I am pleased to work towards an adoption of a plan proposed by several of my fellow legislators, which would offer them financial relief this year. This is so important because my concern is with those people who need financial relief today. We have proposed a plan that would amend the existing program to provide for an annual cap on out-of-pocket drug expenses. The primary effect of this cap would be to provide protection for individuals who use name-brand drugs under the supplemental Part B Program. This is a relief for today. The initial cap would be established as a maximum of \$1,000 each year. Under this expansion, the program would cover 80 percent of expenses to exceed the cap. This is the plan that would take affect now.

We have also asked for a Blue Ribbon Commission on prescription drug access to be created to study ways to bring prescription drugs down. This commission would study the pricing and the distribution of prescription drugs. The role of Medicare and insurance and ways to offer maximum benefits to the elderly and to the disabled. Maine citizens need assistance in purchasing their prescription drugs. We have asked our Governor to make the appointments by summer in the hope that this Blue Ribbon Commission could begin work this year. The commission is to submit its report to the Health and Human Services Committee by April 2001.

I have a question that I would like to present to you as you ponder as to which program you are going to support. I want to ask you what will happen to the rebate money after this bill passes, the rebate money that goes to our state as well as to our pharmacies? What about drug companies that have already refused to participate in the Delaware program? Four major drug companies refused to participate in rebates.

In 1994 when Maine was the only state to pass discriminatory pricing, manufacturers stopped giving discounts to pharmacies and that is what the gentleman from Winslow was talking about.

Ladies and gentlemen, I hope you all are concerned about our elderly. I hope you will join with me in voting against this proposal and give these senior citizens the right to have something done now and not 18 months from now. Thank you.

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

Representative QUINT: Mr. Speaker, Men and Women of the House. I agree with my good friend from Scarborough, we should do something now. I have always said as we have had this discussion that we should do both things. As you all know, if you have been following the budget and the tobacco settlement piece, all of what is being referred to, the expansion of the Low-Cost Drug Program, is going in place and happening at the same time as this piece of legislation. Don't be confused to think that if you vote for this, the other won't happen. I would say to you that they are both going to happen. We spent a lot of time talking about the Low-Cost Drug Program and we are expanding it. We are recommending that the catastrophic piece be put into the Low-Cost Drug Program because that is the money that is currently being put into the budget. I think that is a great idea. I also think that it makes good sense because as I think the good Representative from Old Town said, I think this should be decided in the courts. As we are having that discussion, we will also be able to expand the Low-Cost Drug Program.

One of the other things the good Representative from Scarborough suggested is that we put together a Blue Ribbon Study Commission. If you look at the bill you will see that all of those things that they want the Blue Ribbon Commission to do are, in fact, to be done by the board that is to be set up. Some of those appointments are by the Governor and some of those appointments are from the Speaker of the House and some are from the President of the Senate. As you will also notice as you read through the bill, the bill talks about all of that data collection that the good Representative from Scarborough suggested that we do and to put that information together to make a recommendation. I think it is also important to know that the last step of this bill is price controls. Our hope is that because the drug industry may, in fact, take us more seriously if we pass this legislation that it will bring them to the table in a meaningful way and allow us to, in some way, reduce the cost of prescription drugs to the citizens of the State of Maine.

I want to make clear that it is not our intention to demonize the pharmaceutical industry. We don't have an issue with them. In fact, they do provide a lot of very good new drugs in the State of Maine. However, some of the things that I object to most importantly are the outrageous prices.

In closing, I think if you look back at the State of Mississippi when they were first looking at doing something about tobacco. Mississippi was the only leader in the country because that debate was also talking about demonizing an industry that has been in our states for years. It would take too much time. It will get tied up in the courts. We can never defeat the tobacco industry because it is not the right thing to do. Well, as we all know, it did take some time to, in fact, have that negotiated by the courts because as you all know as each state tried to do that, each time by itself, either the tobacco lobby or the lobbyists working for the tobacco industry were not able to pass those types of legislation. Based on that, ladies and gentlemen of the House, I would encourage you to vote for the pending motion.

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

Representative COLWELL: Mr. Speaker, Men and Women of the House. I rise as a proud cosponsor of this legislation. I know all my colleagues on this side of the aisle are on it and many on the other. In answer to the good Representative from Kennebunk's question about where the great tidal wave is that was sweeping across New England? I would suggest that as the sun rises in the East and moves to the West, so too will that great wave start today in the East in the great State of Maine and sweep across this nation.

I want to add my voice to that ever growing chorus of Maine voices that are asking, pleading and demanding that we do something about the out of control prices that our citizens pay for prescription drugs. Those before me haven't given detailed descriptions of the problem and tremendous work was done on the committee. This bill offers a very simple solution. A simple solution for the State of Maine, and I hope our nation, is to join every other major nation on the planet and every other health care system on the planet in shouting out loud and clear that the price our citizens pay for lifesaving medications is much too important to be set by unadulterated capitalism. The decision to purchase insulin, heart medicine or chemotherapy drugs is just not the same choice as deciding to go to Disney World or Maui. In fact, the only real choice for many is to take their medicines or die. If the prices are so incredibly high, how can they choose? They can't.

You will hear from the other side that the pharmaceutical industry in America places an incredible percentage of their income back into research. That is true. What you will not hear is that the American taxpayers, including Maine citizens, fund 50 percent of the research for the entire planet and 50 percent is provided by our consumers paying the highest cost for prescription drugs on the planet. You will have those on the other side painting a bleak picture that if this legislation is passed, the drug companies will simply pull out of Maine. Well, they have not pulled out of Canada. They have not pulled out of Great Britain. They have not pulled out of France, Mexico, Japan and every other major nation in the world that does exactly what this bill will do. It will regulate a reasonable profit on drugs. If they did pull out, I guess I would suggest that the State of Maine should purchase a fleet of buses, name them the Fair Price Express and keep them running non-stop to Canada so our citizens could pay the same fair prices that every other nation in the world pays. We would still save money. Thank you.

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

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

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

Representative MENDROS: Mr. Speaker, Men and Women of the House. In listening to this, I am hearing a lot about to help our senior citizens. I know when I go home I talk to them and look them in the eyes. They are not impressed with the rhetoric. They are impressed with reality. I have a question for the Majority Report and the Minority Report. For the Majority Report, what do I tell them when they are expecting something solid, something that will help them with the costs of their drugs and all we are going to get is litigation for two years? Let me know what I can say to that constituent who expects this is going to save them, this great bill that we are debating and they have to wait two years for some kind of action? As for the Minority Report, I ask, we talk about free-market systems. Since when is it part of

the free-market system to allow a drug company a patent for all of these years where they can charge anything they want for these drugs? We subsidize it and we just let them charge any price they want. Both these are tugging at me. I would really like an answer based on reality, not political rhetoric. Thank you.

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

Representative **QUINT**: Mr. Speaker, Men and Women of the House. I would be happy to answer your question about the Majority Report. Assuming that the budget passes, which I am hoping it will at some point, you can tell your constituents that we put \$5 million more into the Low-Cost Drug Program and, hopefully it will pass, we are recommending that all generic drugs are paid for under the expanded Low-Cost Drug Program within the poverty guidelines and also to have the catastrophic cap. All of those are new.

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

Representative **DAIGLE**: Mr. Speaker, Ladies and Gentlemen of the House. I would like to respond to the second part of the question to the Representative from Lewiston, Representative Mendros's question about patents. It is true that the federal government is contributing to research and development money for the development of many of these drugs that contribute research and development money to a lot. In many cases when they do that, there are conditions attached to where the information and development of that research is then available to all. It is certainly the case with electronics. I am not sure the exact case to which it is for pharmaceuticals. If it is not to the extent of the Representatives liking, we can contact the Congressional Delegates to attach to it. When taxpayer money pays for research the results of that research, in all cases that I am aware of, considered knowledge within the public domain.

May I continue? This entire debate is over what has been called a simple solution. That solution results in a contortion of the market forces that control our pharmaceutical industry. I don't think very many people in this body are familiar with these market forces. Typically they consist of five steps. The research that I was talking about a second ago, the development of about just what you are going to make with this elementary research and, of course, comes manufacturing, marketing and finally distribution. The price controls considered as part of this legislation affects one of those five steps, the marketing. You want to tell people how much it is going to cost. Why is it so expensive to get to this point? For one thing, we insist upon the degree of research and development here in this country because we do not want to have anything that isn't perfect. A major reason, for example, why pharmaceuticals for veterinary purposes are so much less expensive than humans. We insist that they be tested differently for humans. You have to pay for that. Why is manufacturing so expensive? In this state there are many reasons for that that I won't go into. We have unrestrained litigation for these kinds of things. Certainly ours is a very litigious society and that must factor into some of these costs.

What price controls will do is stifle innovation. Innovation is one of the three basic parts of the drug industry. I consider those to be the availability of drugs, the price we pay for them and the fact that they are new and better. That is one of the major things that we have to be proud of in this country is how

rapidly we are bringing out new chemicals and new pharmaceutical. I have to look no further than my own father who would not be alive today if it weren't for pharmaceuticals clot dissolving drugs that were developed no less than three or four years ago. It allowed him to recover from his stroke and to live a meaningful life. His physicians told me those drugs were not available five years ago. I would probably not be standing in front of you today. Last weekend I was in the hospital for minor inconvenience, I like to think. I was discharged only because of drugs that were available only since March of 1999. Otherwise, I would have had to remain there for several days. They were very expensive drugs. I was told that a daily treatment was costing my insurance carrier somewhere in the nature of \$150. It was far less expensive than me staying there. That innovation is the part we have the most to be proud of.

What concerns me about this bill, the Majority Report of this bill, is that you are trying to address the price component and I firmly believe you will interfere with the availability component because why would you distribute something you cannot make money off of. I heard earlier that the larger volume will make up for the cost. Not in any market that I have ever been involved with, not at this level. You will interfere with the innovation. I also believe that too because you do not invest money in a field that doesn't make money. That is the way our system works.

If you are going to do something that doesn't harm anything else in this triad of drug control, the solution then has to be an insurance solution. Only that is a way that we can influence this problem and not know we have done harm in the other two legs of this stool. I urge you to vote against the Majority Report and for the Minority Report. It gives an immediate insurance-based solution to provide relief to our citizens today and does nothing to interfere with all that is good about our prescription program. Thank you.

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

Representative **THOMPSON**: Mr. Speaker, Men and Women of the House. It is interesting, recently I was gathering all my information for my tax return and had my doctors do printouts and I had my pharmacist do a printout and my dentist and all that to itemize all that and look at how much you paid in premiums and check all of that information out. In my family we received this past year, I don't remember the exact number, but in excess of \$6,000 in prescription drugs. I see these handouts going through and that the competing handouts are on what the cost of drugs are. I get a little chuckle as I see them. They are bragging about that the seniors get their discount cards and they get such a good deal because the state pays for it. It is okay to have the pharmaceutical companies rip off the state because we are paying for it. Since when has that been such a good idea? My insurance company pays for mine and that is passed onto the people of the State of Maine because I happen to be on the state insurance plan because I am here. My family's plan I pay for. The cost of the drugs for just regular prescriptions for my family so exceeded the other costs of the health care system that it was totally absurd. I take cholesterol medication. In fact, Zocore, the one that was listed here on one of the handouts. I am not on an elderly drug card. Luckily I have a few more years to go before that.

We are all paying for it, every one of us at any step of this ladder are getting ripped off and we are going to fall back on our rhetoric of what we are going to do to this and what we are going to do to that, instead of talking about what we are going to do for

the people. The elderly in my district are scared, literally scared that they are going to die because of this problem. I am going to talk about market factors. No. I am going to tell you that these people need some help. We have tried to increase the assistance to the elderly and had to fight our way through it every year up here. We have tried to insure more people and we have to fight like thieves every year. Don't tell us we should help more people with insurance when we have to fight people up here to get more people insurance. Don't tell me that paying for diabetes testing stuff is what is making our health insurance so high. One of the major increases in our health costs are the drugs that we are paying for. They are charging the people across the border less.

You can turn around and say that the Canadians have to wait six months to see a doctor. I have stood on a committee now for six years with Judge Benoit and he keeps saying that those are apples and these are oranges. You know, often he has a good point. The fact that the Canadians don't do it all right isn't the issue here. The fact that the Canadians are paying substantially less for a substantial number of prescription drugs is the issue. If the Canadian System is so bad, how come they are getting such a better deal than we are on the drugs anyway? If they are so bad, how bad are we? We let the big insurance companies make their deals. We let the state negotiate some prices on some deals and we leave everybody else on their own. What are we doing? If we pass this bill, we are going to be tied up in litigation. Who cares. If we pass this bill and it is the right thing to do, we should be proud to defend it in court.

I would love to be on this legal team and get the pharmaceutical companies in court and get sit down and get them to sit down in a deposition and answer some questions, the questions that they never will answer for us. How many people in this Legislature have tried to get an answer out of the pharmaceutical companies and they send you videotapes? They send you audiotapes on state issues. They send you glossy handouts, but they never answer your questions. We have to take care of Maine citizens. This is a way to do it. You can give me 100 more arguments, but I am going to be able to look that lady in the eye when I see here at the post office and tell her I tried to do something about it. I am going to be able to tell that woman who doesn't qualify for a low-cost drug card that is spending probably 30 or 40 percent of her disposable income on medications, that I tried to do something about it. I hope this body will join with me in passing this bill and let us go forward to help these people. Thank you Mr. Speaker.

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

Representative **SAVAGE**: Mr. Speaker, Men and Women of the House. I don't know about you, but after an hour or an hour and a half, I am as confused over this as I have been anything that we have debated. I am looking at something that came across my desk where Ronald Carroll, Senior Physician with the Maine Center for Cancer Medicine was quoted. He said that he worries about the time necessary to comply with the law, conflicts with federal law and about a possible bottleneck for people trying to gain access to new drug therapies while perhaps needing to refer patients away from Maine for therapies not available here. Last night I had a conversation with a fellow from Rockland who is suffering from cancer. We were making comparisons because my husband has also been under treatment for cancer. Mr. Gagnon said to me that there is a pill that they are working on and is being used New York that they

are finding very successful. He is wondering if that will come to Maine? Are we going to tie things up in court as the good Representative from Naples, Representative Thompson, said and be proud of it while this young man down in Rockland is waiting to try to get that therapy that might save his life? I just don't know how I am going to vote in the end, but I hope you all think of these people who are out there waiting for some of these therapies to come to the State of Maine. Thank you.

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

Representative **SNOWE-MELLO**: Mr. Speaker, Ladies and Gentlemen of the House. I have sat in my chair and I have listened to everyone and this is really a very difficult time for all of us. Every single person in this House is concerned about this issue. We are all concerned for access to pharmaceuticals. It is critical that we all want to help. The problem is we disagree about the best approach. Really, sincerely, in my opinion, LD 2599 will not do anything to help Maine senior citizens now and that is the word, now. Expanding delivery will help now. Congressman Tom Allen was quoted in saying, "The trend of politics is away from regulations and concedes that he cannot embrace price controls." I think that is in the Majority Report and that is what we really fear is that price control and what it is going to do.

Other states have taken the approach that will help seniors now. For instance, New Hampshire has developed an education program to increase enrollment in current programs. Massachusetts expanded their current senior drug programs. These are all approaches that work. I honestly don't think we really want to emulate Canada. They have shortages and they have delays. A constituent of mine talked to me last summer and said to me, please don't try to emulate Canada. I came to Maine to set up a business because of the awful kind of care that we got with the Canadian Government Health Plan. Getting drugs was absolutely ridiculous. It was slow and not only was it slow, but the variety of pharmaceuticals was not at hand.

It concerns me very much about the Majority Report and the amount of money that we are going to put into attorney fees. Wouldn't that money be much better spent on our senior citizens and the Minority Report and put that back into money to go out and help senior citizens and their drug cards? I just heard from another Representative that his constituents were scared that they were going to die. I don't blame them, but being on a drug does not guarantee that you are going to live. It is going to help you live longer. Yes, it will definitely do that.

My father had heart blockages and he was inoperable. He was 78 years old and they would not operate on him. My father, through diet and through taking a massive amount of drugs three times a day and exercise and eating well, lived seven years longer than what he was supposed to live. Taking those drugs did not guarantee that he was going to live a day longer. We need to help our people now. I really truly believe the Majority Report is going to do that. It really concerns me with price control and it is a reality. I really take offense that people think we are playing games. We are not playing games here. Price controls can really do big damage. We have economists all over the world that say this. As a matter of fact, I am going to quote you that experience with controls and guidelines during the Nixon Administration was totally negative. The severe recession, which ensued, can be directly linked to the controls and the distortions, which spawned. Price controls can be dangerous. We need to have the research and the

development. It is costly. It is time consuming and it has high risk. Yes, drugs are expensive, but what do we have for that? We have wonderful new lifesaving drugs. The average cost of bringing a new drug to market is \$500 million. It takes 12 to 15 years. On average, only 5 out of every 5,000 medicines are tested in clinical trials and out of those only one is approved by use by patients.

Please, I urge you to vote against the Majority Report and proceed on to vote for the Minority Report. Thank you.

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

Representative **KANE**: Mr. Speaker, Men and Women of the House. Let us equate pharmaceutical R & D with cost, it is important to point out that Western Europe pays more \$14.4 billion for research and development of new drugs and yet pays 25 to 50 percent less in the cost of drugs. The commitment to R & D is not directly related to the cost of drugs in other states, particularly Western Europe. Representative Savage a minute ago questioned the possible conflict with federal law. It is important to note that there is currently a law established more than 60 years ago to address price discrimination in the United States that Senator Gorton refers to as a possible basis for establishing price controls. It really ties up the whole issue. What will this proposal mean? His proposal or the proposal before you today. "Once drug companies have the incentive to charge non-discriminatory drug prices overseas and other countries pay a fair share of drug research and development costs, people in Washington State," his home state "and across the country will pay lower prices for prescription drugs. Let me speak briefly about what I am not trying to do. I am not telling drug companies what price they have to charge for their product. I am simply saying that manufacturers can no longer discriminate against American consumers by charging Canadian and Mexican pharmacies lower prices than they charge Americans for precisely the same product. It is not my intent to harm the research going on the US Drug Companies. They should be able to recoup their research and development costs by both unsuccessful and successful new drugs. My constituents in Washington and other Americans should not be forced to pay all of the costs for the rest of the world." Thank you Mr. Speaker.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Oakland, Representative Nutting.

Representative **NUTTING**: Mr. Speaker, Men and Women of the House. I know you all would be disappointed if I didn't stand up and say something about what I have spent the last 30 years of my life doing. I know you would be even more disappointed if I take a long time doing it, so I am not going to. We have really hashed over the issues pretty well. In my original notes of things to say, I had tried to break it down to four issues. They are the reasons why so many people are upset with the pharmaceutical companies. They are four reasons why there are so many sponsors and cosponsors on this bill. I am just going to go through them and then pick the one that I don't think we have talked about much. Number one, the increase in prescription prices is greater than for other commodities, excluding maybe fuel oil in the last few months. In general, prescription prices are rising at a rate faster than other commodities. Number two, many of the patented drugs or brand-name drugs, as they are called, have very high prices. I wouldn't stand here and deny that. Some of them are just wicked. Number three, is the fact that everyone in this state cannot afford to buy all of the drugs, which are available. That is true. That is the one I am going to

come back to in a minute. Number four, is the fact that manufacturers charge different prices for different payers. I think we have seen that that is true. The Medicaid Program pays one rate. The Canadian Government pays one rate. Actually, the Canadian Government pays several rates. The Province of Quebec pays one rate and the rest of Canada pays a different rate. If, in fact, going to a pharmacy in Canada was the answer, then there would be no pharmacy in Madawaska, Maine. There would be no pharmacy in Calais, Maine because everybody would go across the border. That is not true. The Canadian issue I wouldn't say is a red herring, but it the Canadian issue is not the answer.

Let me go back to number three, the fact that everyone here can't afford to buy every drug on the market. You heard from at least two previous speakers that prescription drugs are certainly not luxuries. They are not like a trip to Disney World or a cruise in the Bahamas. They are really necessities. They are necessities, the same as food and water are necessities and fuel and shelter are necessities. Let's look at other necessities. Take, for example, food and water. Can we as a government do something so that everyone in the State of Maine can afford to drink Poland Spring Water or that everyone can eat lobster? I don't think so. Can we do something here in Augusta that will allow everyone in this state to have access to the most expensive cholesterol drug? I don't think we can. I think the best that we can do is to get as many people as we can into the system. We all need heat and shelter, but we don't see bills introduced to fix the maximum price that you can charge for a beachfront home heated with electric heat because there are some things that some people in society will never be able to afford and there is nothing, unfortunately, that we can do here to make that go away.

I think without making all the other points, I would just quote from an article that was in the *Maine Times* last week that we all received. The *Maine Times* is not known as a conservative paper, but perhaps in this case they were. It says simply, "This is a very difficult problem for people who constantly want to shrink the ability of the federal government to deal with problems. This problem can only be dealt with by the federal government. No other entity is big enough to have an impact." Congressman Tom Allen says, "The whole trend in politics is away from regulation, electricity, telephones. You don't need PUC type regulations where you get into how much they can charge."

In my view, you can do it though countervailing market power. I think Congressman Allen has said it better than I could. I would urge you to defeat the Majority Ought to Pass Report. Thank you.

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

Representative **GAGNON**: Mr. Speaker, Men and Women of the House. I hadn't intended to speak on this issue either, but I did sit through some of the hearings that the Health and Human Services Committee had over in the Civic Center. I really have to take my hat off to those people and to my seatmate for sitting through those types of bills and listening to folks talk about how they have to make choices between paying the rent and paying the heating bill and taking medication. I really don't think that I could do that day after day. I know they see many bills like that. Certainly this is one of the biggest issues that I have heard about in my district. I have a number of elderly housing complexes within my district. This is a relatively easy vote for me today. I

think we are going to be taking a stand in providing some leadership for the rest of the nation on this issue. I am doing it not because of all of those things that we talked about, the globalization, blue ribbon commissions and boards and everything else, but it is very simplistic for me. It is a few people that mean a lot to me in my home district. It is Mrs. Poulin who lives in Four Sides Apartments. It is Mrs. Charette who lives in Seton Village along with Mrs. MacDougall. It is Mr. and Mrs. Muse. They are an interesting couple. They both have a lot of medical problems and are paying a lot for medications. Mr. Muse tells me how he only takes half his medication for his diabetes because his wife won't know the difference because her diabetes has affected her eyesight now. He says it like he is getting away with something with his wife. Mr. and Mrs. Taylor who live in Durban Street Apartments, we call them Mr. and Mrs. Couture. These are the people who I am voting for and the folks who come everyday to the Muskie Center in Waterville, part of Senior Spectrum, and those folks who truly are suffering. They are making choices between meals and medication. Thank you Mr. Speaker.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Southwest Harbor, Representative Stanwood.

Representative STANWOOD: Mr. Speaker, Men and Women of the House. You might want to take the time and if you have the opportunity to call your local pharmacist and talk to them about these two proposals, which I just did. They fear that the State of Maine has such little impact on the drug industry that some of these drugs may not be distributed in this state, number one. Number two, the people I talked to, one was a Rite Aid pharmacist and the other was an independent pharmacist. We only have two pharmacies on the island. They feel that if we go with the Blue Ribbon Commission, which is the Minority Report, that we may have more clout if we can get a coalition of other states to join with us in trying to impact the decisions on pricing from these large manufacturers. They are very aware of some of the medical problems of the elderly in particular, but we have helped a lot last year and if we pass the Minority Report, we are going to include more of those people in the Low-Cost Drug Program, which will be a great help to many of our constituents. There is nobody in this House, I am sure, that is wanting to hurt anybody needing prescription drugs, least of all me, as I see this and hear this as an ambulance attendant regularly. I ask, have you taken your medicines today? I hear them say no that they really can't afford it or I took it yesterday and I am skipping today. We are dragging them off to the hospital and we know how expensive that is. We do need to fix a very serious problem, but I don't think the Majority Report is going to do it as fast and expediently at least as the Minority Report will. Thank you ladies and gentlemen.

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

Representative MURPHY: Mr. Speaker, Men and Women of the House. I enjoyed listening and debating with the good Representative from Naples, Representative Thompson. He is a very powerful debater. He had made reference to being able to go back to his district and to the post office to be able to look one of his constituents in the eye in terms of bringing help to that constituent. I am afraid with the Majority Report, if you visited your post office lately, they always have a picture of the postmaster on the wall. I am afraid that even before there is a remote chance of help under that majority bill, at least another

two to three postmasters in Naples are going to have their picture up on that wall.

We are looking at a bureaucracy. That is what you are voting for. If we look back to the 1980s and we look at the role that regulatory boards placed or impacted in terms of driving up the cost of electricity, creating barriers to job creation. I don't have much faith in a regulatory board. This new bureaucracy that is in the Majority Report, what are they going to regulate? Two hundred thousand different drug products. Let me repeat that. Two hundred thousand different drug products. If you have a pharmacy, you receive your wholesale drugs from only one source in the State of Maine and that is in Westbrook. It is a half a billion-dollar Maine business with 120 employees. That is our main connection for wholesale. That is where the drugs that come to your pharmacy comes from. That company wants to expand. It is a plant or a building that is only a year old. That is 120 Maine employees and growing. They have said that if that bill passes, the Majority Report, then they may very well leave. That is more than the loss of 120 employees. It means when the local pharmacy goes to replenish their stock, they are going to go to a business outside of the State of Maine. That is what begins to concern me.

We heard reference made to buses going north. Can you give a guarantee that if the Majority Report goes into affect, that those wholesale houses located outside of the State of Maine will fill those orders for Maine pharmacies? I think with the Majority Report you got the buses going in the wrong direction because I think the buses are going to be going south, out of state, possibly to buy drugs no longer available at your local pharmacy. What will happen to the pharmacies?

The question was asked earlier, what would you pay for drugs? My kid brother died in the 1990s and we tried every single cocktail for AIDS that was available at that time. It probably prolonged his life by two weeks. Since then, the research and the trials, and I wish this was the year 2000, because of that research and those trials, he could live a normal life expectancy and would not go through that misery. My father, because of the drugs in the mid-1990s, got to see his grandchildren who lived too far away on the East Coast. I really think we have an opportunity in the session as Republicans and Democrats to begin to join together regionally to do the clout of a region with regional pooling with the Legislatures and the Chief Executives of those states.

I think probably one of the greatest success stories of this Maine Legislature and most of us don't even realize it is the Low-Cost Drug Program. That is why I marked up those sheets and sent them back out to you. When you see the prices for the Low-Cost Drug Program, what senior's pay, and what we could do within the next week with the catastrophic program, you would begin to see we really did good work. We can build upon that and we can do that now. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Manchester, Representative Fuller.

Representative FULLER: Mr. Speaker, Ladies and Gentlemen of the House. I apologize for my voice, but I will do the best I can. I have been around the health care system for a good many years, as you know. I just feel we cannot continue to let the prescription drug companies charge outrageous prices. I have been fighting this battle for a long time. One of the excuses for the high price of drugs that was given to me by a pharmaceutical representative many years ago is the price of the drug is okay because that is what it would cost to go into the

hospital and therefore we can charge that much. Never mind what it costs to actually develop the drug or produce the drug. The argument being because we are saving these other health care costs, we can charge these outrageous prices. I found that argument actually outrageous. The largest impact on the Medicaid shortfall has been the increase in prescription drug prices and a whole lot of that increase and a whole lot of that increase is due to the increase is due to the advertising and marketing that is being done by the pharmaceutical companies. Besides if you look at the things you have received, they spend 28 percent of their resources on marketing and administration, but only 11.2 percent on research. Not only is the cost of drugs driving up the cost of the Medicaid Program, but it is driving up health insurance costs for everyone, not only for drugs, but for all health care. As noted earlier, because drugs are so much a part of hospital care, nursing home care and a variety of other services that are being provided in their health care system. We need to fix the underlying problem of the price of drugs. We could serve so many more people under the Low-Cost Drug Program if the price of drugs itself was not so high. We could expand the program and provide more drugs and make them more available for the same amount of money if we could bring the price of the drugs down. In the short term, we are expanding the Low-Cost Drug Program to deal with the issue of elderly folks who need access to drugs now. This bill, the Majority Report, does provide that there is time for the pharmaceutical companies to take some other kind of action to bring down the price of drugs. I had the honor of chairing the Commission on both the Purchasing of Drugs in which we recommended purchasing alliances. We recommended educating physicians and a number of other things to help bring down the price of drugs. All of those things can take place in the meantime. Purchasing alliances would be, we believe, an effective way of bringing down the cost of drugs. It expects the pharmaceutical companies to do something now to address the problems.

My first real serious anger about the pharmaceutical companies happened when I was the Medicaid Director and it was more than 10 years ago. To my distinguished colleague from Kennebunk, it was relative to AZT, the drug to treat AIDS that was coming out during the time I was the Medicaid Director. The price was absolutely outrageous. In fact, the research for the AZT drug was funded by your tax dollars and mine and yet they were charging \$10,000 and \$12,000 a year for people to receive that drug. I just think that was awful for them to do that. I would urge that you support the Majority Report and help our elderly folks have better access to drugs. Thank you.

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

Representative TWOMEY: Mr. Speaker, Men and Women of the House. The hour grows late and I don't know the attention span of the rest of the men and women of the House. I am not going to go into everything we have just heard. I just want to go on the record. It was my seniors from Biddeford that got on that bus to go to Canada to get their prescription drugs. It is my seniors who are fed up with having to get on a bus and having to go to Canada, just like your seniors. I have heard the stories and you have heard the stories. It is time to act now. Thank God for Congressman Tom Allen. Thank God that he has taken on the pharmaceutical companies and he is not afraid. I have never received so much propaganda on a bill. When I get that kind of propaganda, I say, yes, I am on the right side. Thank you Mr. Speaker.

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

Representative MAYO: Mr. Speaker, Ladies and Gentlemen of the House. In the past three months, there have been three issues of concern to the people in my district, be they young or be they old. These three issues all revolve around health issues or health care. We dealt with one issue last week. Today we are dealing with the second and I suspect, rightly or wrongly, that we will at least discuss the third issue before we leave the 119th Legislature. I am concerned, as are the people in my district, with the high cost of drugs. I, too, am concerned with the issue of price controls. As I have wrestled with this particular issue over the past three months, I have decided to accept price controls, if, in fact, we get to that point. The sky, I don't believe, is going to fall with the passage of this legislation.

As Representative Fuller said a few minutes ago, nothing in LD 2599 concludes this state from joining with other states in the North East or in New England to do what can be done with more people involved in bringing down the current high cost of drugs.

I was one of the cosponsors on this particular piece of legislation. Six weeks ago prior to some of the meetings that were held around the state and I attended two of those and I have decided today that I will continue to lend my support to this particular piece of legislation. I urge the support of the people in this House this afternoon to support LD 2599. Thank you.

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

Representative MARTIN: Mr. Speaker, Members of the House. I do not wish at this point to enter the debate because enough has been said. However, I do want to make some comments about those have attempted to downgrade the Canadian System. There aren't many around this body who actually live next to the border or have access to that system. For those of us who live there, there are many people, for example, who use those facilities, who work in the woods, who are part of those who work for the paper companies and the landowners on the western border and use the Quebec facilities. There are those who live in northern Maine who have access, in particular, to Edmonton Hospital in New Brunswick. Most of the people, as a matter a fact, who live in Madawaska and in Grand Isle use Edmonton Hospital, for example, for where the child might be born. They then get the best of both worlds, because they become dual citizens as a result of it. Part of that is they get the medical services that are provided in that system. I want to assure you that quality of care is as good, if not better, than what is found here. The difference, of course, is that they do not go into the high maintenance type of cost. They do allocate certain monies for certain things. In effect, they play a little bit with what the State of Oregon does, because they have decided that there are certain things that are just too expensive. Yes, it is true that some of them come to Lewiston and other facilities in this state for cancer and those kinds of treatment. It is simply because there isn't enough of it available in that system. Yes it is true that if they have the money, then they have access to it.

Those that stay there in Canada get adequate care and you can talk to any physicians that do. There are those people in Madawaska and in the surrounding area who do use the facilities to get their prescription drugs across the border because that is where the physicians are. In that system, you also need to be treated there and seen by physicians in order to get the doctor to sign off so the pharmacy will fill the prescription. It is not quite the way that some have laid it out today. I want to make sure

that through all of this that you not forget the fact that there is and there are a lot of benefits to the Canadian System because every citizen gets treated, regardless of wealth, regardless of money and they have a physician and they have a system that they can go to. They have quality care. It is not what it is we have in this country where about a third of our citizens don't have medical coverage and they have to basically be at the mercy of the rest of us. Luckily we, in Maine, have a non-profit system in our hospital structures and we are not like states like Texas and New York where, in fact, if you go to hospital the first thing they ask you is for your card. If you don't have one, you go to the municipal hospitals. If you don't think you get the kind of quality care that you would like to get, just try it someday and see how long you wait for an emergency room in New York City if you happen to be a poor, uninsured citizen.

I think through all of this discussion and there has been a lot of it, I am not going to enter the debate, but keep in mind that we are the only industrialized nation in the world that does not have universal health care.

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

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

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

Representative **MCNEIL**: Mr. Speaker, Men and Women of the House. Under the Majority Report, am I correct in saying that this bill doesn't kick in until 2001 and if it doesn't kick in until then and certain things should happen, that the drug companies either conform to better pricing or the federal government does something, could this bill be repealed?

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

Representative **ROWE**: Mr. Speaker, Men and Women of the House. In response to the Representative from Rockland, Representative McNeil, the Representative is right. In October 1, 2002, I believe is about 17 months from now. I think we have discussed the purpose of that. It is to give alternative measures a chance to bring the prices down. If they don't come down, then on that date, the price regulations would go into effect. If they are below that price, then this repeal would not repeal. It may be that some future Legislature would repeal the bill, but I don't think it would repeal under the language within the bill anywhere. The fact is under the clear language of the bill, the price controls would not be necessary if the prices at that time, if the board determines after public hearing that prescription drug prices are less or equal to the maximum price that is set pursuant to this section. I think it is pretty clear what those are and how they are determined. I hope that is an answer to the good Representative from Rockland. Thank you Mr. Speaker.

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

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

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

Representative **MCNEIL**: Mr. Speaker, Men and Women of the House. Any lawsuits that would come under this bill where we have saved money aside, would any of those lawsuits start

before January 2001? Would they be starting immediately to prove that we have a constitutional right to do this?

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

Representative **ROWE**: Mr. Speaker, Men and Women of the House. In response to the Representative from Rockland, Representative McNeil's question, I am not sure I understood the question. I can't say when a lawsuit would start or wouldn't start. I can say this, if the court could order injunctive relief to a plaintiff to stop the state from applying this. If that happened, perhaps this would be put on hold. I don't know. I have heard earlier people referring to this as a sham, a cruel hoax and people have asked why don't we do it know? Why are we waiting until October 1? If you think there is going to be a lawsuit and if that is why you are not voting for this, then it might be a good idea that there is 17 months before it goes into affect. That may provide time for a lawsuit to be filed for the litigation to occur and for a result to occur. For all of you that I have heard today that this is a cruel hoax, a sham, that time is there for a reason to allow other mechanisms to bring the prices down. Again, if this bill were to be enacted into law, sure someone could sue and they could question this bill in a lot of different ways and perhaps they would. The time would be there to deal with that. The litigation might go on beyond that. There may be injunctions. I can't say. I will tell you, I don't think public servants will be stopped from doing what they felt was the right thing to do because they feared a lawsuit might be filed. It is certainly not stopping me.

While I am up, Mr. Speaker, one last thing, I wasn't going to stand again, but I do take exception to words that were spoken earlier about legislators supporting this bill and trying to buy expedient political cover. I take exception to those words. They do apply a certain political motive beyond passing this bill. My motive is simple and I believe others who support this bill is and that is to make prescription drugs more affordable for Maine people. That is it, pure and simple.

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

Representative **MCNEIL**: Mr. Speaker, Ladies and Gentlemen of the House. I would like to be in agreement with the Representative from Portland, Speaker Rowe. I, too, take exception to being accused of using this as political cover. I have many constituents in my district that are having a difficult time paying for their medication. My brother, who is severely epileptic, takes between \$500 and \$800 worth of medication every month. He was very fortunate. My father thought to keep him on a good insurance plane. We afford that medication, but that same medication is not afforded by every constituent in my district. I don't feel like I am doing this for political cover. I feel that I am using this to show my concern for my constituents. Thank you Mr. Speaker.

Representative **BRUNO** of Raymond asked leave of the House to be excused from voting on L.D. 2599 pursuant to House Rule 401.12.

The Chair granted the request.

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

ROLL CALL NO. 610

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

NAY - Berry DP, Bowles, Bragdon, Buck, Bumps, Cameron, Campbell, Cianchette, Clough, Cross, Daigle, Davis, Foster, Glynn, Gooley, Heidrich, Jodrey, Jones, Joy, Kasprzak, Kneeland, Lindahl, Lovett, MacDougall, Mack, Marvin, McKenney, Murphy T, Nass, Nutting, O'Brien JA, Peavey, Perkins, Plowman, Richardson E, Rosen, Schneider, Shields, Snowe-Mello, Stanwood, Stedman, Tobin J, Trahan, Treadwell, Waterhouse, Weston, Winsor.

ABSENT - Sirois.

Yes, 102; No, 47; Absent, 1; Excused, 1.

102 having voted in the affirmative and 47 voted in the negative, with 1 being absent and 1 excused, and accordingly the Majority Ought to Pass as Amended Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (S-686)** 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-686)** in concurrence.

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

The Speaker resumed the Chair.

The House was called to order by the Speaker.

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

SENATE DIVIDED REPORT - Majority (7) **Ought Not to Pass** - Minority (6) **Ought to Pass as Amended by Committee Amendment "A" (S-611)** - Committee on **CRIMINAL JUSTICE** on Bill "An Act to Prohibit Persons Under 21 Years of Age from Purchasing Handguns"

(S.P. 1005) (L.D. 2573)

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

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

Representative **POVICH**: Mr. Speaker, Men and Women of the House. LD 2573 is the last of the gun bills. We have three of them and you have heard two of them. It is "An Act to Prohibit Persons Under 21 Years of Age from Purchasing Handguns." Originally, this bill made it a Class C felony to sell handguns in Maine to any one under 21 years of age. In the other body it was changed, a lot. In its current incarnation, the Amendment (S 611), changes the title to "An Act to Limit Minor's Access to Handguns." It would now be a Class D misdemeanor. This is the Minority Report of the committee to reflect current federal law regarding the transfer, means sold, of handguns to minors. By way of explanation, current federal law prohibits an individual from transferring a handgun or ammunition for a handgun to a person under 18 years of age. Current federal law prohibits a federally licensed firearms dealer, importer, manufacturer or collector from transferring a handgun or ammunition for a handgun to a person under 21 years of age. This gets confusing. I can never figure it out. I hear it and then it goes out of my mind. Current Maine law, 17-A MRSA §554-A, prohibits the transfer of a firearm, includes handguns, rifles, etc., to a person under 16 years of age.

In Maine, we have a fine tradition and ability in gun ownership. You have heard in the previous two gun bills that Maine is one of the safest states in the country. This past weekend I returned to my district and reacquainted myself with my store. A high school friend of mine came in and we started talking about the gun bills. We mused how times have changed. He is a hunter. I am not. He is comfortable and competent with firearms; I have not handled a firearm in many years. He reflected that when we were in high school, during hunting season kids, would bring their hunting rifles to school, put them in their lockers and wait for the 3 pm bell and then get an hour of hunting right after school probably right behind the school. Imagine that. How times have changed? I am not advocating to go back to that, by the way.

So what is wrong with this bill? It is not needed. Nobody from ATF or the federal attorney's office could tell us when a firearm was improperly transferred or sold to a minor. It doesn't happen. Why would a federally licensed firearms dealer jeopardize their precious license and such a way? Gun laws have been traditionally reposed in the federal statutes. The DA's are content to continue with this fine tradition. It is not their desire to have to spend their sparse resources and assets to do the Fed's job. They are doing this quite nicely. They tell us that if there is a complaint, they simply place a call to the feds and get the ball rolling. We could talk about hunting. In Maine law, our kids are allowed to go hunting at a young age. It is an essential part of our Maine heritage. Our young people do handle firearms competently. This law would interfere with this tradition.

Other speakers may expand upon this, but for now I conclude that LD 2573 is trying to accommodate a non-existent problem. Ask yourself please, do you want to use up the state judiciary and corrections beds to house federal prisoners? If you pass this bill, you will. I would rather allow the feds to use their courts and their prisons to do the job. I get a kick out sending our bad guys to do their time in Massachusetts and Connecticut. The punishments are usually quite harsh. You don't want to mess with the feds. You know the old expression don't make a federal case of it. Please support the pending motion of Ought Not to Pass. Mr. Speaker, I request the yeas and nays when we vote on this motion.

Representative POVICH of Ellsworth **REQUESTED** a roll call on his motion to **ACCEPT** the Majority Ought Not to Pass Report.

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

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

Representative **MUSE**: Mr. Speaker, Men and Women of the House. Perhaps the previous speaker wasn't paying close enough attention when the agent from the Alcohol, Tobacco and Firearms told us that they supported this bill. The problem in the State of Maine is that we only have seven ATF officers assigned to the State of Maine. That creates a serious problem. For the entire state there are only seven officers to enforce this law. This is not a slippery slope. It is not taking guns away. This is a real no brainer. This piece of legislation has flown through the other body. All that we will be doing with this bill is mirroring the federal statute, which states somebody under the age of 18 cannot purchase a handgun, not a rifle, a handgun. That is all. By passing this what we are doing is rather than having just seven ATF officers being able to enforce the law, it will then become state law so our state, county and municipal police officers can then enforce this law. It is very simple. I would strongly urge us to vote against the pending motion and move on to accept the Minority Report. Thank you Mr. Speaker.

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

Representative **MCALEVEY**: Mr. Speaker, Ladies and Gentlemen of the House. The good Representative from South Portland and I agree on one thing today. It is a no brainer. I will not go into what we went into in the previous debates, but for all those reasons, if you voted against those other bills, you should vote the same way here. If I recall the testimony, we had not one piece of evidence to show that anybody had ever been charged, in recent memory, of selling a handgun to a juvenile. It is not happening. Yes, we only have seven ATF agents and they are mostly busy verifying federal firearms dealers. You have to have a federal license to sell firearms, other than a private sale. These people are in compliance. They are under control. These business people have a lot of money into their business. They have a lot of insurance. They are not going to violate the law for a few dollars because it carries some very stiff federal penalties. On the other side, we have the issue of private sales. That is still against the law, but we had no evidence to show that this was going on in the State of Maine, none whatsoever. Thank you.

Representative **TOBIN** of Dexter moved that the Bill and all accompanying papers be **INDEFINITELY POSTPONED**.

The **SPEAKER**: The Chair recognizes the Representative from Dexter, Representative Tobin.

Representative **TOBIN**: Mr. Speaker, Men and Women of the House. This bill simply would not allow a young person between the ages of 16 and 18, because present Maine law is age 16, to buy a firearm. You have already heard that it isn't a problem in the State of Maine. More importantly than that, I think is the argument of consistency and trust. You can hunt in this state at the age of 10. I will never forget when I took my oldest son out for the first time and all I had was a 12 gauge single shotgun and we loaded it up with buckshot and we put him on the stonewall and lo and behold there was a nice doe. It didn't come down through the woods and he fired and blew a poplar tree in half about 20 feet in front of him. There was no question about the danger involved. I was within a hundred yards of him

and I watched the whole thing. Later on on Thanksgiving Day almost from that same spot, he fired at a beautiful black bear and didn't have any luck in hitting that either. Since then he has gone on to become a proficient hunter. The point is we trust our young people in this state at the age of 10. Between the ages of 10 and 16 hopefully they will gain enough experience with their dad, their uncle and their grand father about hunting in the Maine woods. At the age of 16 in the State of Maine, this getting to where I am talking about consistency, we allow that young man or that young lady to hunt alone. All alone with no adult supervision.

This winter I was coming around the corner and I had my grandson on my snowmobile and up the trail in the other direction comes a young child who couldn't even see over the top of the windshield and if he wasn't going 40 or 50 miles an hour, he wasn't even moving. We allow them to run snowmobiles at an early age. We allow them to run high horsepower boats and motors. We allow them to get their driver's license at age 16. This is what I am getting at, consistency and trust. This is why I am on the side of Ought Not to Pass. I believe that we can trust our young people in the State of Maine to handle firearms. I will never forget I had a neighbor and his name was Scott. We had chicken houses in our area at that time. A chicken farmer by the name of Sam Fellows, he had three floors of chickens. Scott shoveled chicken and shavings, he fed those chickens three floor with five gallons of chicken feed in order to buy a revolver at the local store. It was down on the corner. You could buy anything in that store, anything from fresh roasted cashews to barbed wire. You probably all have one of those stores in your vicinity. There was a little Ruger revolver. He worked for nine months, saved his dollars, put them in a coffee can and when he turned 16 he went down and he bought that revolver.

Ladies and gentlemen, it is a question of trust and consistency. Please vote in favor in favor of Indefinite Postponement. I would like to request a roll call, Mr. Speaker.

The same Representative **REQUESTED** a roll call on his 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 Penobscot, Representative Perkins.

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

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

Representative **PERKINS**: To any proponent of this bill please specify what problem this is trying to solve? What is the problem that this bill would alleviate?

The **SPEAKER**: The Representative from Penobscot, Representative Perkins has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from South Portland, Representative Muse.

Representative **MUSE**: Mr. Speaker, Men and Women of the House. In response to the question, the problem that this addresses is the fact that we only have seven law enforcement officers in the entire State of Maine to enforce an existing federal law.

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

Representative **TRACY**: Mr. Speaker, Ladies and Gentlemen of the House. I won't belabor the issue here, but I

would like to read something I have in front of me that says there was no evidence that a problem was presented at the hearing or work sessions on this bill by the proponents. Maine's US Attorney Jay McClouskie said, "We have no indication of violation of the federal law." He reported no prosecutions in Maine under that law. He told Paul Carrier of the *Portland Press Herald* that we are not going to find a lot of information that indicates that there is an active situation where guns are being sold to minors. We haven't been getting a lot of information that that sort of gun dealing is going on. With no evidence of a problem, we hope that legislators won't send young Maine hunters the signal that they can't be trusted with firearms. Ladies and gentlemen of the House, I would like to know if there is no problem, then why we are creating a problem? Thank you.

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

Representative **MCALVEY**: Mr. Speaker, Ladies and Gentlemen of the House. We only have six ATF agents in the State of Maine, but we have 3,500 sworn and certified law enforcement officers in the State of Maine through our municipalities and the State Police and various other law enforcement entities. Like other issues if they come across an instance of a federal crime, especially dealing with firearms, they just turn it over to the ATF. We didn't hear that the ATF was burdened with any of these cases. In fact, they didn't have any. There are only five FBI agents in the state. Do we want to create a special bank robbery unit? The bottom line is, where is the data that this is a problem? I respect the opposition on this issue, but they believe that there is a potential problem and anybody who possesses a firearm is a problem. This doesn't get to that issue. This is pure and simple gun control, handgun control. That is all it is.

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

Representative **MCKEE**: Mr. Speaker, Men and Women of the House. First a comment and then a question I would like to pose through the chair. I was very pleased that the chair of the committee referred to this as a bill about guns. I was displeased to hear the last speaker talk about this bill as a bill about gun control. Those really were the words that were used from the very beginning. There were three bills about gun control. I spoke to the head of SAM and I said when are we going to be able to talk about guns and guns and not talk about gun control? I come from a hunting family and there are guns in my home. Certainly I share with the good Representative Tobin his story as well. I have three sons and they enjoy hunting and they are also very good marksmen as is their mother. We can talk about guns on one hand in our great State of Maine regarding hunting, but we also have to talk about guns in the hands of a juvenile. There is a question of guns and not gun control.

My question to the chair is this. I was at the hearing. I was there trying to get a chaplain back at the Windham State Prison and having to sit through this hearing. I heard something that disturbed me while I sat there. It was this. It came from, I believe, the Police Chief's Association. Please correct me if I am wrong. The comment was made, why call the federal agents, they won't come. Seven federal agents were not enough for a state this large. My question is, without a law on the Maine books, is the Maine law enforcement officer obliged to continue to try to get to that person if someone is breaking the federal law and if the Maine law enforcement officer does not respond or

does not act? I am a little bit confused and I would like to pose that question through the chair.

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 Ellsworth, Representative Povich.

Representative **POVICH**: Mr. Speaker, Men and Women of the House. To the good Representative from Wayne, Representative McKee, I don't recall that comment. I polled the DAs Association regarding cooperation from the feds and the federal attorney. I got the sense that there is cooperation and the calls are returned in a quick and speedy manner. Current Maine law is 17A, MRSA 554A and prohibits the transfer of a firearm includes handguns, firearms, rifles, etc., to a person under 16 years of age. A person charged with this crime may raise the affirmative defense that the actor reasonably believed that the person was at least 16 and that the transfer was approved by the minor's parents. Current Maine law does mirror federal law and current Maine law enforcement organizations can enforce state law. It is my sense that they just don't need to because the feds do a better job of it. It tends to get a bigger bang for their buck. It is a greater penalty to be convicted under federal law. The feds don't like to use their courts up. If they have to use their court time, then they are going to make sure they get a good sentence under the federal sentencing guidelines. I hope that answers the Representative from Wayne's question.

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

Representative **JABAR**: Mr. Speaker, Ladies and Gentlemen of the House. I hate to use introduction by saying that I really wasn't planning on speaking on this, but as I listen to the debate here I am little confused. It seems to me that the people who are arguing for the bill should be arguing against it and those who are arguing against it should be arguing for it. Let me tell you why. It is against the law right now in the State of Maine under the federal law. By adding a state law, what are you doing? All you are doing is getting the state involved and a local district attorney involved. As the Representative from Ellsworth just indicated, if you prosecuted under the federal system it is going to be a lot tougher. The sentencing guidelines are a lot stiffer. It seems to me that if you don't want strict gun control and you don't want the harsh penalties that come with violation of this law, you should be in support of your local district attorney handling the case for you. You are going to get a lighter sentence in the state court than you are in the federal court. That is why it seems to me if you want to get tougher on gun control, you want to leave it the way it is. Let the feds take care of it because you will get a stiffer sentence. If you want your local prosecutor involved with the opportunity for a more lenient sentence, then leave it in the state courts and pass the state law. If you think about it, if you want tough gun control, leave it the way it is. If you want to loosen it up and make it easier for those dealers to get a better deal and not to get hit as hard, then pass the law before you. I think we have it backwards. Thank you ladies and gentlemen.

The SPEAKER: The Chair recognizes the Representative from Gray, Representative Foster.

Representative **FOSTER**: Mr. Speaker, Ladies and Gentlemen of the House. From what I understand and what I hear and what I read, there isn't a problem to begin with. It would appear to me that whether you had 70 agents or 700 or

nothing, it wouldn't make much difference. Certainly if there is nothing there for somebody to go to, but I think more seriously than that and we just debated last week the age at which a person should be able to drive a car. Of all the lethal weapons available to a teenager or anybody else for that matter, probably an automobile is the most serious one and the one that does the most damage to other people, including themselves or the person who drives the car. I think if we are not going to be hypocrites and we want to be consistent in the laws that we pass, we certainly should be considering putting teenagers in an automobile. Thank you.

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

ROLL CALL NO. 611

YEA - Ahearne, Andrews, Belanger, Berry DP, Bolduc, Bouffard, Bowles, Bragdon, Brooks, Bruno, Bryant, Buck, Bumps, Cameron, Campbell, Carr, Chick, Cianchette, Clark, Clough, Collins, Colwell, Cote, Cross, Daigle, Dugay, Duncan, Dunlap, Duplessie, Fisher, Foster, Gagne, Gillis, Glynn, Goodwin, Gooley, Green, Hatch, Heidrich, Honey, Jacobs, Jodrey, Jones, Joy, Kasprzak, Kneeland, Labrecque, LaVerdiere, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, Mailhot, Martin, Marvin, Matthews, Mayo, McAlevey, McDonough, McGlocklin, McKenney, McNeil, Mendros, Murphy E, Murphy T, Nass, Nutting, O'Brien JA, O'Neal, Peavey, Perkins, Pinkham, Plowman, Povich, Richardson E, Rines, Rosen, Samson, Sanborn, Savage C, Savage W, Schneider, Sherman, Shields, Shorey, Snowe-Mello, Stanley, Stanwood, Stedman, Stevens, Tobin D, Tobin J, Tracy, Trahan, Treadwell, True, Tuttle, Usher, Waterhouse, Watson, Weston, Wheeler EM, Wheeler GJ, Winsor.

NAY - Bagley, Baker, Berry RL, Brennan, Bull, Chizmar, Cowger, Davidson, Davis, Desmond, Dudley, Etnier, Frechette, Fuller, Gagnon, Gerry, Jabar, Kane, Lemoine, McKee, Mitchell, Muse, Norbert, O'Brien LL, O'Neil, Pih, Powers, Quint, Richard, Richardson J, Saxl JW, Saxl MV, Shiah, Skoglund, Sullivan, Tessier, Thompson, Townsend, Tripp, Twomey, Volenik, Williams, Mr. Speaker.

ABSENT - Perry, Sirois.

Yes, 106; No, 43; Absent, 2; Excused, 0.

106 having voted in the affirmative and 43 voted in the negative, with 2 being absent, and accordingly the Bill and all accompanying papers were **INDEFINITELY POSTPONED** in **NON-CONCURRENCE** and sent for concurrence.

SENATE PAPERS

Non-Concurrent Matter

Resolve, to Create a Commission to Study and Establish Moral Policies on Investments and Purchasing by the State

(H.P. 1755) (L.D. 2461)

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-870) in the House on March 23, 2000.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-870) AS AMENDED BY SENATE AMENDMENT "C" (S-690)** thereto in **NON-CONCURRENCE**.

On motion of Representative CLOUGH of Scarborough, the House voted to **RECEDE**.

Senate Amendment "C" (S-690) to Committee Amendment "A" (H-870) was **READ** by the Clerk and **ADOPTED**.

Representative CLOUGH of Scarborough **PRESENTED House Amendment "A" (H-954) to Committee Amendment "A" (H-870)**, which was **READ** by the Clerk.

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

Representative CLOUGH: Mr. Speaker, Men and Women of the House. This amendment addresses inequities in the makeup of the study commission and broadens the scope of the commission to include representatives from both major political parties as well as business and labor. It adds two members, one representing labor unions and one representing manufacturing and industry. The amendment removes the Treasurer of State and a representative from the Maine State Retirement System as members and replaces the representative from the Maine State Retirement System with two representatives from retail businesses. The amendment also strikes and replaces the appropriation section to allow for two additional members of the commission. I would ask that you support the pending motion to adopt House Amendment (H-954).

House Amendment "A" (H-954) to Committee Amendment "A" (H-870) was **ADOPTED**.

Committee Amendment "A" (H-870) as Amended by House Amendment "A" (H-954) and Senate Amendment "C" (S-690) thereto was **ADOPTED**.

The Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-870) as Amended by House Amendment "A" (H-954) and Senate Amendment "C" (S-690)** thereto in **NON-CONCURRENCE** and sent for concurrence.

Non-Concurrent Matter

Bill "An Act to Authorize Portland College to Grant Degrees" (EMERGENCY)

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

Majority (9) **OUGHT TO PASS AS AMENDED** Report of the Committee on **EDUCATION AND CULTURAL AFFAIRS READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1078)** in the House on April 8, 2000.

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

On motion of Representative BRENNAN of Portland, the House voted to **ADHERE**.

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-660)** on Bill "An Act to Implement the Land Use Recommendations of the Task Force on State Office Building Location, Other State Growth-related Capital Investments and Patterns of Development"

(S.P. 1027) (L.D. 2600)

Signed:
Senators:

TREAT of Kennebec
NUTTING of Androscoggin

Representatives:

MARTIN of Eagle Lake
COWGER of Hallowell
McKEE of Wayne
ETNIER of Harpswell
CLARK of Millinocket
DUPLESSIE of Westbrook
DAIGLE of Arundel
TOBIN of Windham

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

Signed:

Senator:

LIBBY of York

Representatives:

JOY of Crystal
CAMERON of Rumford

Came from the Senate with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-660).**

READ.

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

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

Representative JOY: Mr. Speaker, Ladies and Gentlemen of the House. This is another one of those bills that came through the Natural Resources Committee where there was some disagreement and unfortunately there are only three of us on the side of disagreement. I think probably most of you can recall the quote that I read you the other day dealing with rural cleansing.

When this bill came to us as it was amended, in Section 14 of the bill it very definitely pointed out exactly what the intent of this bill was. You will notice it has been changed a little bit and the language has been changed, but just because the language is now changed doesn't mean that the intent of the people who presented this has changed. Down here in Section 14 it originally dealt with preventing development, any development of rural lands. Ladies and gentlemen, as I have indicated before, you get 25 miles and in many cases not that far off I-95 and you run into rural lands. In fact here if you go five miles either east or west or north, you run into rural land.

I don't know just exactly why people feel that it is right to place so many controls upon what people can do and what they cannot do with their lives. This bill, as it came to us, has been tweaked. It has been changed many times. Apparently it came out with something that was palatable to the remainder of the committee. Ladies and gentlemen, as long as I have been battling these issues with regard to urban and rural Maine, I keep seeing these bills come down the pike. We had one that is designed to get those people my age and a little bit older off the road and senior transportation. We had one that came down that says you can only have so many exits onto the road if you own x number of feet of land. We definitely have to deal with this thing called sprawl. Ladies and gentlemen, it is not something that should be dealt with here in this body. Those communities that have a problem with it, should be dealing with that.

My seatmate on the committee, the good Representative from Windham, Representative Tobin, had to do a lot of tweaking

on this bill because it would have destroyed the Town of Windham's development plan. He managed to get it around so that it was palatable to him. Ladies and gentlemen, if you live in rural Maine and that is anywhere from Augusta east and west five miles all the way down to Portland and 25 miles off the turnpike down there, then you had best start being concerned with what they are trying to do to you as far as your life in rural Maine.

I urge you to defeat the pending motion and go on and defeat this bill. Thank you.

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

Representative MARTIN: Mr. Speaker, Members of the House. I also come from rural Maine, as does the Representative from Crystal, Representative Joy. As a matter of fact, I am even more rural than he is. Needless to say when the original bill came in as a result of the commission work, I was not in favor of it either. What you have in front of you is not the bill, but the amendment from the committee, which comes out 9 to 3. This bill does help rural Maine.

Let me illustrate what we have done. We have better than 150 towns in Maine that have yet to adopt a comprehensive plan to decide what they want to do with their own community. A number of years ago we had, as a state, decided that we would put some money in to help municipalities do that. When we had the shortfall, then that ceased and so did the help to municipalities to help them to do what it is they want to do. This bill puts money in so that municipalities who want to access that money, so that they can write their own comprehensive plan as they so desire, exactly the point that the Representative from Crystal, Representative Joy points out, they would be making that decision. They would be writing their plan and there would be money to help them to get someone to help them with it. That is one portion of that bill, which I feel very strongly about. They need help in the small rural Maine towns.

The second part of this bill to try to help those communities that want help to identify what they consider to be their downtown. The Representative from Crystal is absolutely correct that we had a question, in particular, with Windham. Any of you who have been through Windham in the last 30 years, you have to wonder if there is anything left that isn't downtown on some of the areas of the Town of Windham? Basically those are some of the problems that evolved over time. What we are trying to do is to help municipalities, not to superimpose what it is at the state level that we would like those towns to be. This is just the reverse. What this really is is to help municipalities, not basically for the state to impose its will.

I know that some people say that this is really what we are doing. It is not. What we are trying to do is to make sure that those who want to do something about what it is that sprawl is, that they have some ability to get some assistance, some money. Many of them don't have that ability. That is what it is. If you look at the allocation, there is no question that \$9,894,000 is not going to be available in this legislative session. That may well be something that disappears, but there are things in here that, in fact, are in the Governor's budget now and that money is already included in the budget.

I think it is critical to the state that we work in that direction. We have already passed a bill that came out of the Transportation Committee. I think Taxation has also done part of that that came out of the task force. I must admit that if I had been a member of the task force, some of the things that are in

here probably would not be written quite the same way. As a member, at least I would have been a descending member. I want to assure everyone that this is not the task force bill that originally came to the Legislature. This really is a committee bill that we worked very hard in trying to do something about the problem with sprawl. I would urge you to adopt the Majority Ought to Pass Report.

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

Representative **DAIGLE**: Mr. Speaker, Ladies and Gentlemen of the House. When somebody stands up and says it was not the bill originally before us, many people will take that as a statement of fact. Many people like to hear at least one more person say it. I would like to join my good friend from Eagle Lake, Representative Martin that we did change that substantially from the work product of the study commission that had met during the summer and fall. The essence of this bill that I support is that for the first time a comprehensive plan really is going to mean something. Many of your communities may initially be aghast at this because when their comprehensive plans were developed, being that they were often hypothetical, there were no consequences or perhaps they weren't really that well done. Now with the direction of state investment predicated upon what is in the comprehensive plan, I expect there will be many towns in Maine that will want to relook at that and do it differently. That local control is a key component of this and it is something that we support entirely. It is throughout the bill. If you don't like your comprehensive plan, change it. Now that it means something in the way that state money will be spent in your community, you have got to get up and get your people together and have another meeting and change your comprehensive plan.

That is the essence of it. There are some other minor modifications. I know one of those controversial ones in there were related to impact fees. In particular, we have added school construction. An important point to remember about this is this is not allowing communities to charge you based upon a per person cost. This is capital investment only. The only justification your community may have for including a school impact fee to new construction would only be if you had to actually invest in an expansion to your facility because of the development, not the cost per pupil. That was a common misunderstanding that I just wanted to clarify in case that is the concern anybody in this body has now. I support the amendment and I encourage you to vote with the majority. Thank you.

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

Representative **ETNIER**: Mr. Speaker, Men and Women of the House. I can't pass up this opportunity having served on the task force that created this bill as well as two others that went to two other different committees and having had the pleasure of serving on the Natural Resources Committee that worked on this bill. For the record, I just want to say that this bill is not the same as the bill that came to us on the Natural Resources Committee. It is not the same as the task force report. It is probably not as good as what we did in the task force, but I am still going to vote for it anyhow.

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

Representative **TOBIN**: Mr. Speaker, Ladies and Gentlemen of the House. Thank goodness this bill isn't the same as the task

force report. This bill offers planning grants for comprehensive plans in the amount of \$2,050,000. It also gives technical support to the regional bodies of a million dollars. It gives \$700,000 for pilot projects. When this bill first came before us, they said the towns couldn't have any school construction unless it was in a growth area or if the towns agreed to change the zoning to allow a house on every 26,000 square feet of land. Any of you who have done any planning know that in heavy soils or clay soils, 26,000 square feet of land is not enough to sustain septic systems. Another problem that this bill had is it said growth areas and the description of growth areas. They said it was residential, commercial and industrial, which inferred that all three of them had to be allowed in the same area. This would pose a problem for my community because in Windham we have decided to separate residential areas, commercial areas and light industrial areas. I think and hope that we have covered everything in this that needs to be covered. It certainly takes care of the problems in my hometown and I hope it takes care of my good friend from Crystal, Representative Joy's problems as well. The Town of Windham went from 3,500 people to over 16,000. We are now in the process of writing another comprehensive plan. This will be the fourth comprehensive plan we have written in the Town of Windham and it will be the third one I that I have been a member of. Comprehensive plans are not the answer to the problem of sprawl. I say this a little tongue in cheek, but maybe if we want to solve the sprawl problem in southern Maine, we should be concentrating on economic development in northern and eastern Maine. Thank you Mr. Speaker.

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

Representative **CAMERON**: Mr. Speaker, Ladies and Gentlemen of the House. Most of the issues in this bill have been raised already. It is interesting how the same people on a committee can see an issue from two different standpoints. Impact fees, for example, if I loved this other bill, I couldn't support it. Impact fees, to me, are a horrible idea. As I understand it and I am sure if I make a mistake, I will be corrected. As I understand it, those of us that live in rural areas, most of us live in school districts. If you allow impact fees to be implemented, I don't have a fee how they can be impacted fairly based on the location of a school in one town, the work that is causing it in that town, how you can apply impact fees in another town? I don't see anything in this bill that provides that opportunity. If you have four or five towns in an area and in the unlikely event those of us in rural areas have a housing development and the housing development ends up in a town that the school is not located in, how can that town where the school is located in apply impact fees in the other town where the housing is being built? It makes no sense to me. Impact fees, in my mind, cannot be applied fairly. They are unfair anyway. If you have a housing development and you assume every family in there is going to have three or four children, which is going to cause the school expenses to go up, so, therefore, you apply impact fees, then why is it fair if all of those people that move in there don't have any children and they still get charged impact fees. It causes unfair expenses for a developer in one town versus another. One has impact fees and one doesn't have impact fees. I did not see justification in the committee hearings of where they have been used and used fairly. I don't see how they can be used fairly in rural Maine.

One of the justifications you heard for the bill is there were \$2 plus million in there to allow towns to develop new comprehensive plans. You heard Representative Martin admit that there is no way this money is going to be funded. There is almost \$10 million in this bill. It isn't going to happen, ladies and gentlemen. It is just simply not going to happen. I don't see the point in passing something out of here so we can feel good, I won't feel good, but some of you might, that we know can't be funded. It is true this bill is nowhere near as horrible as it was when it came to us from the viewpoint of those of us who live in rural Maine. Sprawl or smart growth as they want us to call it because it doesn't cause as much problem. It is not such a bad image. We would love to have the problem to deal with. I cannot sit here and any of you that are in rural caucus, I can't imagine can sit here and do anything that could potentially discourage any kind of development in rural Maine.

Representative Tobin was right. He said it with tongue and cheek, but if you send us your development, you won't have a sprawl problem. My community is half the size it was when I grew up there. I know mine isn't the only one suffering that fate. I cannot in good conscience vote for this bill knowing full well, as the Representative from Crystal said, the folks that put this thing in still want to see it happen. This is the first bite of the elephant and they will be back for more and more and more until there is no rural Maine. Thank you.

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

Representative **MARTIN**: Mr. Speaker, Members of the House. Very quickly I want to respond to the Representative from Rumford. First, in reference to what has happened to the municipality of Rumford since so many of my relatives live there or used to. What they have done is gone out of Rumford and they have gone to the sprawl area of the communities around Rumford because they wanted to go to rural Maine, if you can believe that Rumford isn't rural Maine. Second, in reference to the money, that is in the Governor's budget now. There is money there at the present time. Third, in terms of impact fees, we didn't impose impact fees in this bill. There are municipalities in this state that already require impact fees. We didn't do anything. That is local control. We didn't tell any municipalities they had to have it. As a matter of fact, as I remember and someone can correct me if I am wrong, there are about 15 or 16 communities right now in Maine that already use impact fees. Most of them are from southern Maine and lo and behold I found that one was in my legislative district, which I didn't know when I looked at that particular list. That is a local issue and not one that is being imposed by this bill at all.

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

Representative **GAGNON**: Mr. Speaker, Men and Women of the House. I must be one of those evil people that everyone was talking about. I was the co-chair of the commission. I was the House Chair. The original commission came out of a little bill that I had submitted last session that addressed an issue that I had been seeing where I was starting to observe across the state, particularly state office buildings, that were being located in cornfields as new buildings had the courthouses or health and human offices or unemployment offices or whatever they may be had to be rebuilt or new ones had to be built. They were going outside the traditional areas where they had been located, whether it be a big city or whether it be one of the smaller service centers like Milo, for example, which is a service center. They

were locating outside on the outskirts of town and possibly into an open field and the pressure that is being placed on our farming community. I am very pleased to see that that little bill turned into a task force, at some point, and then the task force met. We had a number of meetings throughout the summer. We actually had subgroups. There were many people involved. The Governor had a sub-cabinet group that met on this issue and there was another group that spent a great deal of time on this. There was a lot of citizen input. I am pleased with the report that came out of committee. I am not disappointed. I am glad to see people talking about this issue. Please don't think that passage of this bill or defeating of this bill is going to resolve the issue or what some of the problems are that face rural Maine and the more rural areas of the state. They won't. These are problems that have developed over many, many years, over many decades. We are just sort of hitting the tip of the iceberg with some of these issues.

What did come out of the task force were three separate bills, one directed to Transportation. One directed to Taxation, which I spent most of my time and will continue to do that and this one that went to Natural Resources. None of those bills came out of committee exactly the way they went in, even though there was a good representation of the variety of committees on the task force, certainly there were others who had more to lend to the issue. I am just pleased to see that we are starting to talk about these issues. One of the things that I have to point out throughout the meetings that we had on the task force was that there was a great deal of harmony. For once, I was not hearing about the two Maines. There were actually people who were seeing what the concerns were and what the problems were in some of the rural areas of the state and how the rural character of some of the areas in the state were being developed, turning into strip malls and what used to be farmlands and turning into a number of other housing developments that feed some central town and that central town losing their tax base and losing population. It is almost like two ships passing in the night with the same problems, but they were unable to see what the common solutions were. It was very good to see these groups during the various meetings that we had discuss this problem and come to some resolution. These products certainly were not perfect, these three reports that came forward and I suspect that even these three bills were not perfect. They are not going to solve the problem for us as well. It is good for everyone talking about it and that this issue has now come forth. I would encourage the folks in this body to vote for the pending motion. Thank you Mr. Speaker.

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

Representative **MACK**: Mr. Speaker, Right Honorable Men and Women of the House. I urge you to vote against the pending motion. There are a couple of things I have heard debated here. The first are impact fees. My Town of Standish had put in an impact fee a couple of years ago, but after public outcry had repealed it. In Standish we realized that impact fees are a negative. First of all, there is a higher cost to any young family moving into the town. The family has to move to pay for that cost, a young family with a lot of expenses. Young children growing up, an impact fee is the last thing they need. Also, when you build a house there is an enormous gain to the state. Think of all the revenue the state gains from a new house. The state gains sales tax on all the materials. The state gains income tax

on all the labor put into it and the profit from the developer. An impact fee is a very negative thing, if a local town has it.

Also, there is talk about sprawl and smart growth. Some people think that they can centrally plan where growth should be. The more we do to try to control sprawl, the more we are actually encouraging sprawl and people to push out into the rural areas. A lot of things that have been done in greater Portland and I know this personally, I am a developer when I am not here, are larger lot sizes, frontage requirements and everything that gets done to try to control sprawl means that each house in on a bigger piece of land and the houses get pushed further and further and further away from the central cities. Portland and Westbrook fill up and then Windham, Standish and Gorham have houses and now the sprawl, as you call it, is going into Baldwin, Sebago and Hiram and further out into the more rural areas. The more we try to do to combat sprawl, the worse it gets. Everything we do means the houses are further apart. If we don't want sprawl, we would be encouraging things like denser houses so houses could be closer together so the houses don't have to sprawl as far out into the countryside.

Also, things like comprehensive plans, which if towns don't have, they in some cases get penalized for, tend to take away property rights. If you have a bigger lot size or more frontage required for a house, then the young families trying to buy a house normally would have the decision, do I want more land or a bigger yard or do I want to put money into the house? If we force them to buy a bigger lot, we are telling them that you have to have more land and less house. They may want another child or may want more room for storage and we are telling them they have to buy a minimum amount of land. Even if they so choose, they can't have a smaller piece of land.

Next, there is the issue of property rights. I am sure there might not be much sympathy for a developer like myself here. There are many cases I have seen in my district where there is an elderly couple. They have been planning their entire life. They have a big piece of land. When they retire they want to sell off a few pieces of that big chunk of land, maybe a couple lots for their children and grandchildren and maybe sell a few housing lots and have a couple houses built on their land. That money they expect to get from those pieces of land are what they are going to retire on. When we come in or a local town comes in and tells them that you have to have so much frontage, you have to build so much of a type of road or you need so much of a lot size, we are telling these families that they can't retire like they had planned off their own land. They are then poor. They have to either sell their entire land and go somewhere else or they come to us begging for low-cost drugs or other programs because they can't afford the money like they had planned to from their own land.

Again, this is a bad bill and I urge you to vote against it. It takes away property rights. It will actually encourage sprawl, not discourage it. It will lose money for the State of Maine if more things such as impact fees are passed around the state. Thank you.

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

Representative TOBIN: Mr. Speaker, Ladies and Gentlemen of the House. My good friend the Representative from Standish, Representative Mack, has just given a great debate, speech, in favor of this bill. The impact fees that we have put on or added to are just for schools. The other impact fees have been there for years. If Representative Mack had read the Smart Growth

Booklet, he would know that it urges smaller, much smaller lots than what we have now. As a matter of fact, that was the biggest thing that I had against it because my home district has no sewerage. We have to rely on septic systems and the lots they will want in smart growth were too small to take care of the septic systems. Number three, he says about developers, actually developers have been pushing smart growth and smaller lots because it is cheaper to develop the land that way. Thank you Representative Mack.

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

Representative BUCK: Mr. Speaker, Ladies and Gentlemen of the House. I have one question that I am curious about in reading the bill and that is we have been told that the municipalities can indeed write their own comprehensive plan. The general question I will ask any one who cares to answer is, what kind of strings are tied to that? I mention that because in my own hometown more than 10 years ago we endorsed the concept of a comprehensive plan. In fact, we were so enthusiastic about it that we hired a full-time planner to implement the process. We went by the state guidelines from the State Planning Office and they told us to increase our lot sizes out from the center of our town so that you would discourage building from the outer edges of your community. Generally speaking they asked us to increase the sizes of our lots. We did that. They said that would be good planning. I guess it has been good planning because the price of a house in Yarmouth has increased significantly during that 10-year period and also our taxes have increased as well. Now that very same office, the State Planning Office, is telling us that we made a mistake. We don't want you to zone that way. We think it is wrong to have large house lots because infrastructure costs, obviously, will be greater if you have to run those sewer lines across a 1,000-foot house lot instead of a 200-foot house lot. It is something that commonsense 10 years ago told us anyway. My question is this, if they were wrong 10 years ago, why are they right today?

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

Representative JOY: Mr. Speaker, Ladies and Gentlemen of the House. I have listened to the debate since I spoke the last time and I would like to point out a few things to the members of the House. When we heard this bill over at the St. Paul's Center, all of the proponents were from southern Maine. The only person who spoke close to being in opposition to this bill was myself. I, in deference to my chair, spoke neither for nor against. The Home Builders and Remodelers Association of Maine are very much opposed to this particular bill. With regard to the fact that there were three bills, one in Transportation, one in Taxation and one in Natural Resources. I referred to this as a shotgun approach. You keep trying and you are going to hit one of them. Unfortunately, we have hit the first two already and it looks like we are on the way to hitting this one. Ladies and gentlemen, this is bad business.

The testimony that was given by these people from southern Maine, on more than one occasion, the speaker identified themselves as knowing what is best for rural Maine. I question whether or not the people from southern Maine really know what is best for rural Maine. We have heard a lot about developing your own development plans. It tells in here on a report from the Maine State Housing Authority that under their New Neighbors Program it is designed to encourage owner occupied three to

four unit buildings in low-income areas in the downtown area. Owner occupied, that means that in order to be eligible for these types of programs that the owner has to live in the downtown area whether he wants to or not in order to qualify under this low-income housing program. Under model ordinances, it states in here that the Executive Department, State Planning Office shall work with municipalities and regional planning commissions to develop model land use ordinances that accommodate so-called smart growth design standards and provide for flexibility in zoning regulations to allow for traditional compact development, notice the word compact, in designated growth areas.

Ladies and gentlemen, the good Representative from Yarmouth, Representative Buck, referred to the previous effort with development plans and as I recall when the towns came up with the development plan, they had to submit them to the state. The state had to endorse them or accept them. That meant that they were not specifically a locally developed plan, but they were one that had to meet state requirements.

Ladies and gentlemen, if you think that this is allowing individual communities a right to decide their own fate, then I have a bridge in Arizona that I will sell to anybody in this House. Ladies and gentlemen, this is not a bill, which is designed to allow communities to settle their own fate. The language is there. They have couched it so that it is going to. Ladies and gentlemen, if you pass this, you have been hit with every pellet from the shotgun. Thank you.

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

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

The SPEAKER: The Representative may pose her question.

Representative **KASPRZAK**: Mr. Speaker, Men and Women of the House. I have a question to the Representative from Crystal, would that be the same State Planning Office that recently published a booklet called *Markets for Traditional Neighborhoods*, which labels us and divides us into certain groups that should live in these neighborhoods? We are divided into introspective, thorough, young turks, Ozzie and Harriets and small town civics. Thank you.

The SPEAKER: The Representative from Newport, Representative Kasprzak has posed a question through the Chair to the Representative from Crystal, Representative Joy. The Chair recognizes that Representative.

Representative **JOY**: Mr. Speaker, Ladies and Gentlemen of the House. The answer is yes.

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

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

The SPEAKER: The Representative may pose her question.

Representative **KASPRZAK**: Mr. Speaker, Men and Women of the House. I still have one question that I didn't understand last year and I don't understand this year, what is the enormous overwhelming problem that this bill and the accompanying bills that we have already acted on seeks to correct? What is the problem?

To anyone who might answer. Thank you.

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

Representative **BUCK**: Mr. Speaker, Ladies and Gentlemen of the House. I would like to respond to a few questions that Representative Kasprzak asked. If we look at the State of Maine, 3.3 percent of our land area is developed and 44.6 percent of our population lives in that urban area. That is hardly a sprawl condition. In an article in the *Sprawling of America*, an index has been developed that compares the sprawl for all of the states of the union. An index of one would be the national average. Today, the median sprawling deck is a sprawling 2.75. In Maine it is a negative 2.47. I don't want to bore you with numbers, but what that means is compared to the rest of the nation, the State of Maine is not sprawling, if you will, in fact, the amount of sprawl has actually been decreasing. The State Planning Office is promoting this concept with a booklet entitled *Markets for Traditional Neighborhoods*. It makes a solid case for not embellishing that proposal. In the second sentence of the introduction it says, "The municipal land use ordinances discourage or ban the building of traditional neighborhoods and villages." Remember, this is the same State Planning Office, which promoted these types of ordinances over the years. With that fact in mind, how can we trust their judgment on this issue?

Reading this document one is amazed by the sophomoric approach in convincing the public of the need to address sprawl. Their attempt to convince the general public on the non-issue is developed by a not so clear use of dividing the housing population of Maine into five categories and labeling them silly derogatory titles such as Ozzie and Harriet, those who are young homeowners or suburban thorough, those who are described as middle and upper income families. Only a state agency could get away with this foolishness. If I was your typical cold hearted Republican, rather than a compassionate conservative, I would be running for the Attorney General and demanding that they examine the document for practicing anti-diversity by demeaning people of different lifestyles. Although you have to dig through all this yuppie hype in this marvelous piece of fiction, you finally discover in all five categories of Maine households, the lack of privacy is a major reason why people want to move to rural areas. Noise is the second reason for moving out of the urban areas and finally in all categories of households they cited as houses being too close to one another as a reason for moving to the country. Based on this report, one has to ask, how do these folks think they are going to convince these households to stay in the city or move to an urban area when the three major reasons for leaving are lack of privacy, noise and houses too close are all problems of city living that no amount of land use ordinances can correct.

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

Representative **DAIGLE**: Mr. Speaker, Ladies and Gentlemen of the House. The question has been raised, what does this bill do? We have been talking a lot about what it doesn't. We have been talking a lot about things that have been proposed in the past that were not successful because they were bad ideas. This particular bill is achieving only a narrow subset of all the ideas that you have heard in the past and, in fact, many of the ideas that were recommended in the study commission. I urge you to look at the amendment and particularly to scan through the summary on the back of the amendment and see exactly what this does. What it intended to do is to identify if there is a priority that we wish to have imposed upon the spending of the state capital investment dollars to be consistent with the communities comprehensive plan. We want

communities to think about what they want to happen in their towns. We want to put our money in the areas that they have thought about. It is not telling you what solution to reach. It is just saying that you have got to reach that if you want to be standing in line and be given a preference for state money. It doesn't even mean you won't get it, if you don't have it. It is talking about the words a preference for areas that are considered locally designed high growth areas. We will see less green field development and more brown field redevelopment. Even the concept of downtowns has been carefully defined to not necessarily mean downtown. It means what you want to call downtown. For example, there are many communities where their traditional business section has been too close to a body of water, which floods. The town realizes it is not a good idea to put more money into an area that every 50 years or so will likely be underwater. In that comprehensive plan, you would decide what would be a better place. That is what you would call your downtown. It is that flexible. That flexibility is the only reason why this bill survived the committee in the form that it is today and why it still maintains my support. Thank you.

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

Representative **CAMPBELL**: Mr. Speaker, Men and Women of the House. As you may have noticed, I don't speak much or I haven't spoken much on issues this session. I couldn't stay in my seat. I have been in construction for 30 years. It just appears to me that this is another opportunity for government to come and provide solutions for us. In the '70s Farmers Home Administration gave us all 1 percent loans and moved the poor out into the country. They didn't realize that the jobs were in the city and they couldn't go from the country back to the jobs to be employed. In the '80 the comprehensive plans all told us that we needed 200-foot frontage for every lot, 2 acre minimum. In the '90s we had school construction mandated to us to move from the city centers out into the outlying communities so we can bus all our children out there and build mausoleums upwards to \$34 million. In the '80s we also couldn't have mixed use on lots because the state told us that we not only couldn't have mixed us, but we couldn't develop back lots, because we didn't have enough frontage to allow it to be a house site. Now we are about to get AMTRAK to bring all those commuters into southern Maine. Not only are they going to come to Portland, but we are talking about expanding it to Brunswick and Lewiston/Auburn. There is an interesting difference between work done in southern Maine and northern Maine. In southern Maine we clear a lot and we call it development. In northern Maine we clear the lot and manage the woods and we call it clear-cutting. It is time that those who have sprawl, generally those in southern Maine, send a little of it our way. We would like to have a little bit of that sprawl. We could use some of that economic development. It is time to stop solving the burden of southern Maine by mandating on northern Maine. Thank you.

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

Representative **MARTIN**: Mr. Speaker, Members of the House. I really have never heard as many complaints about local control in all my life. All the things that have been talked about are things that are being decided at the local level, not at the state level. Size of lots, that wasn't decided by the state.

That was decided at the local level by municipalities. The state didn't decide that. We didn't decide that unless you happened to be along the shoreline, other than that, that is entirely a local issue. The question of impact fees, that is a local issue, not a state issue. That is being decided at the local level. I am amazed by my conservative friends who now want to have state control and mandate size of lots and have no impact fees and have all those things that they don't like. To the Representative from Crystal, Representative Joy, I must point out the plans are sent to the state, not for approval, but to determine whether or not state laws are being violated. There is a difference. They are sent for review and not for approval. We had to do it in my hometown when we did our comprehensive plan and I was part of that process so I know what we went through. The problems we had in my hometown when we dealt with the comprehensive plan was local people saying the state ought to decide these things. That is too difficult politically in my hometown. Someone may not like what we are doing. They wanted the state to mandate certain things and it would make them easier for them and it reminded me of principals and teachers who want dress codes imposed by the school board so they don't have to worry about telling their kids that they are making the decisions for them. They just want the school board to decide what kind of cloths they wear. That was the kind of logic that comes to me. I just think that there was a lot more being written or discussed here into this bill than is in this bill. All of the ills of some of the past.

The Representative from Holden has left his seat, but let me describe sprawl in rural Maine. It happens in his hometown and mine. Sprawl works this way. It is a building along the main highway every 200 feet. All of a sudden the speed limit goes from 55 to 45 to 35 to 25 and changes about every five miles. A distance you used to be able to travel in probably an hour takes you an hour and a half to get there because there are so many speed changes through this process. What has happened is that there was no plan expansion. Just follow 202 from Portland or Route 11 from Eagle Lake to Fort Kent or Route 1 from Fort Kent to Madawaska and you will know what sprawl is in a different fashion, not urban sprawl, but rural sprawl. Sprawl is everywhere so don't really kid yourself. I am really pleased to know that there are so many of my conservative friends who want state control.

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

Representative **JOY**: Mr. Speaker, Ladies and Gentlemen of the House. I apologize for rising a third time. Mr. Speaker, I request when the vote is taken, it be taken by the yeas and nays.

I think the good Representative from Eagle Lake kind of confuses filling in between the farms with houses and sprawl in rural Maine. In our area the farms are no longer there. They have been forced out of existence so consequently they have had to fill in the areas in between with houses. I do know what he means about the changes in the speed limit.

The good Representative from Arundel indicated that there was a dollar preference for those towns who came up with a development plan that was accepted. I think the word accepted was not necessarily mine, but I know of community after community who sent their development plans and comprehensive plans to the state and they got them back and

said that they weren't adequate. They didn't meet that state guidelines. I think that that is something that you have to really take a look at. If anybody thinks that the state is only going to come up with guidelines and not mandate down the road what these development plans are going to look like, then I'm sorry, I can't agree with you. I don't accept that.

The good Representative from Waterville, Representative Gagnon, indicated that it was necessary to maintain the rural characteristics of these villages. I would just submit that rural characteristics don't always pay the bills. By keeping these towns as so-called rural towns, what you are going to do is you are going to keep a few residents in those little towns that will be quaint places for the people who come up to the park that they want to build in northern Maine to see them and they can take pictures of them while they are on vacation. Ladies and gentlemen, this is a bad bill. Even with all of the tweaking that the committee did, it does not get away from the intent of the original bill, which was to shut down any and all development in rural Maine. Thank you.

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

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

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

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

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

Representative **WATERHOUSE**: Mr. Speaker, Men and Women of the House. To anybody who can answer and maybe specifically the good Representative from Eagle Lake, he was talking about local control and how the towns and municipalities can now establish lot size and various other things. Could he please explain to me or somebody else explain to me how not passing this bill would change that local control? Where is it now that the towns can't do certain things that this bill would allow them to do?

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

Representative **TOBIN**: Mr. Speaker, Ladies and Gentlemen of the House. Any ordinance passed by a town has to be consistent and go along with the comprehensive plan. If a community wants to change its zoning ordinances, they would probably have to go back and rewrite their comprehensive plan. I hope that answers the question.

May I continue Mr. Speaker? My good friend, the Representative from Yarmouth, Representative Buck, asked some questions and at first I ignored it and I thought maybe I ought to go back and just touch on it. He asked what strings were attached to these comprehensive plans? Seeing since we are in the fourth comprehensive planning session in Windham now, we are probably the experts in the state. I was chairman of the last comprehensive planning committee and the one before that. It took us a year and a half to two years to write our comprehensive plan. We have written it the way the people of Windham wanted us to write it. After the plan was written, I resigned and went back onto the town council. After that, it took over a year to get this through the State Planning Office. There

are problems after you write your local plan getting it through the State Planning Office. It has to be consistent with state goals. We finally told the State Planning Office that this is our plan. If you don't like it, give us your plan and we will just take it back to Windham and adopt it. The State Planning Office is not my friend. They are probably amazed that I am even speaking in favor of this bill. Ladies and gentlemen, this bill probably will help us in southern Maine. It may not do much for you people in northern Maine, but with AMTRAK coming to Portland the sprawl expected to get worse, this probably is our last and best hope.

One of the other things brought up is the reason for moving. For the life of me, I couldn't figure out why everyone in the State of Maine seemed to want to move to the Town of Windham. I asked the people that moved in. Number one, and this isn't any survey nationwide, this is Tobin's survey in Windham, was jobs. The Portland market, the last I knew, was 1.9 percent unemployment. They want to work in Portland, but they certainly don't want to live in Portland. They want to live out in the rural area. Believe it or not, the Town of Windham is still better than 80 percent rural. We still have dairy farms. We still have truck gardening. The second reason for moving to Windham or any of the surrounding areas around Portland was safety for the family, a safe place to bring up their children. The third reason was education. God knows we have got problems with education in Windham, but I think this Legislature is taking care of that for us this year.

Local planning is an option. It is not a mandate. The state doesn't say you have to have a comprehensive plan, but as I said before, if you want to have land use ordinances, you have to a comprehensive plan to attach them to. The people in my community, we send out surveys every time we do one of these planning sessions and we asked, what is the main thing you like about the Town of Windham? Believe it or not in every survey that we have ever sent out, the answer always comes back, the rural character of the town and that is the most important thing for us to maintain. It is different strokes for different folks, folks. Southern Maine needs your help and I ask for your support of this bill. Thank you.

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

Representative **COWGER**: Mr. Speaker, Colleagues of the House. There isn't a whole lot I can add here from my fellow committee members on the Natural Resources Committee. There are a couple of things. I just want to reiterate, as you have heard here before, but this bill is not a plethora of new regulations on the economy. This bill is purely incentive based. It provides encouragement to locate state office buildings in downtown areas. Downtown areas, which have been identified by the local community. It encourages the use of smaller lots and smaller parcels in the downtown areas of communities. It is incentive based. It is not more regulation. I encourage your support of that. One other item that we haven't heard much about are dying downtowns. I think a lot of you represent communities that have a downtown area, which is not on the upswing, but rather on the downswing. Just go two miles down river here to my town of Hallowell and you might have an excellent meal at a restaurant down there. The next time you do that, look around, you will see a lot of empty storefronts. We have a community full of diversity and vibrancy, a dedicated business community, yet, we have vacant spaces all around. If there is any way that we can encourage state offices to locate in that vicinity and encourage businesses to come into our

community through incentives, I think we need to do that. Central Maine needs your help as well. I encourage you to vote for this bill.

Finally, the good Representative from Crystal and I saw the same issue of incentives for keeping rural land undeveloped from different viewpoints. I live on 130 acres that I am trying to keep open and undeveloped and available for public access for hunting, walking and snowmobiling. It is very difficult to keep land in this part of the state open and not to succumb pressure to develop that land. Part of this bill would require a study of incentives to keep land undeveloped. If there are some incentives out there that can come toward the holders of large pieces of land to keep those lands open to the public and undeveloped, I would like to see what those incentives might be. We can consider those separately in the future. I urge you to support the majority of the Natural Resources Committee on this bill.

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

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

The SPEAKER: The Representative may pose his question.

Representative **WATERHOUSE**: Mr. Speaker, Men and Women of the House. Just a point of clarification, I was talking to my seatmate who has since left the House, the good Representative from Eagle Lake and he informed me that the ordinances of towns that municipalities passed there is some question now whether they have to conform to the comprehensive plan. The bill says that the ordinance does have to conform to the comprehensive plan. Could somebody explain to me how that is more local control?

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

Representative **KASPRZAK**: Mr. Speaker, Men and Women of the House. I guess in one way or another I have had my question answered. The question is that people in the State of Maine are now moving and building to places that they so choose and this bill seeks to prevent that by paying them to live and build in certain places. Sprawl, apparently, is a bad thing according to some. One person's sprawl is another person's economic development and freedom.

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

Representative **CAMERON**: Mr. Speaker, Ladies and Gentlemen of the House. The good Representative from Eagle Lake commented about rural sprawl being an issue of many houses being built along the road and causing the speed limit to be lowered. I happen to have the good fortune to serve on the Transportation Committee where I saw a second one of these three bills. I made the motion for the bill to pass to address that issue. I understand the issue. We talked a lot about the bill. We did address the concerns that people expressed. We did address that issue. I understand that it has been an issue.

I am fascinated to hear the discussion from people in the few urban parts of Maine that we have about preserving rural farmland. I submit to you, ladies and gentlemen, if we want to preserve rural farmland, we need to do something about a system that discourages farming. NAFTA, for example, has literally destroyed the apple business in Maine. It is gone as of

this year. The potato farmers in northern Maine are struggling with Canadian imports. You heard last summer about the horrible drought in Maine and all the animals in Maine were not going to have feed enough. Guess what? Here it is a year later in April and I have 2,000 bales of hay in my barn that I can't sell because there has been so much hay brought in from Canada. Every straw of the many thousands and thousands and thousands of bails of hay that we used last summer on the pipeline came from Canada. One of our friends across the border got a Bridgewater, Maine, post office box and every check went to a Maine address, but every dollar went to Canada.

This is closing the door after the horse has gone. I submit to you that there would not be any schools built in a cornfield if the gentleman or lady that owned that cornfield was able to survive, that land would never have been available for sale. These houses would not be being built down in Turner in the middle of apple orchards if those apple farmers had been able to survive in the environment that the government of the State of Maine and the federal government has created. We are importing apples from China to sell here in the State of Maine while our apple growers are starving. That is the problem and this is not the solution. We continue to add more regulations and more regulations and more regulations and more costs to people who are asset rich and cash poor. They can't pay their taxes. They may own 500 acres of land that has been in their family for 100 or 150 years, but they don't have any cash without selling a house lot or selling off some of the land occasionally. This is not the solution to that problem.

Please vote against this bill.

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

Representative **COWGER**: Mr. Speaker, Colleagues of the House. In response to the good Representative from Rumford, I would like to read Section 14 of the amendment to the bill. Section 14 is a report on productive farming, fishing and forestry. "This bill requires that the Land and Water Resources Council submit a report to the committees on Taxation, Natural Resources and Agriculture, Conservation and Forestry by January 2001 with an evaluation of and recommendations on the use of incentives to keep land in productive farming, fishing and forestry use." Again, I think the Representative from Rumford has raised a very important issue. I believe that this bill is the answer to that issue.

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

Representative **ETNIER**: Mr. Speaker, Men and Women of the House. I would also like to address the good Representative from Rumford, Representative Cameron, he spoke earlier regarding impact fees. That has come up a lot, as has NAFTA, AMTRAK, Ozzie and Harriet and things that aren't actually in this bill. Impact fees, to make this perfectly clear, this bill is not about impact fees, per say. They are already in existing law. They have been around for a while. They are up to the municipality if they so choose. The law says and I will quote, "For the purpose of the infrastructures, facilities include, but are not limited to." That is how the law reads now in relation to impact fees. What the committee chose to do was add to that list that had six infrastructure facilities on it. We added a seventh of school facilities. That was already quite possible, as you can tell from the language, it says not limited to. Municipalities have done so in the past. We just wanted to clarify that it was something that was possible. That is why the homebuilders opposed the bills

now. That is the one section they were obverse to was the addition of school facilities, even though it has already been done.

I also want to point out that the Committee Amendment says that that an additional task force is created by this. It shall consider differentiated levels of impact fees based on the cost of infrastructure improvements in different areas and designed to provide incentives for growth to incur within locally designated growth areas and the impact of impact fees on the affordability of homes, the effect of impact fees on land and real estate values and impact fees related to regional impacts of development such as the cost of regional school facilities.

We specifically heard the concerns of Representative Cameron and others in the work sessions on this bill. We specifically incorporated those concerns in the language of this bill. Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative **WATERHOUSE**: Mr. Speaker, Men and Women of the House. I apologize for asking the question again. I didn't seem to get an answer on the local control issue. The good Representative from Eagle Lake said that because of town ordinances or municipal ordinances, there is a question now whether they had to conform to a comprehensive plan. This bill says that they have to conform. Could he or somebody explain to me how that is more local control?

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

Representative **TOBIN**: Mr. Speaker, Men and Women of the House. This pays you back for me being quiet all these months, in my other life, besides being the chairman of the comprehensive planning committee, I was also chairman of the ordinance review committee in the Town of Windham. Our town attorney advised us that in order to pass a land use ordinance, it had to be consistent with the comprehensive plan and this was back in the '80s. It isn't anything new, it has always been there. Thank you.

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

Representative **BUCK**: Mr. Speaker, Ladies and Gentlemen of the House. I have two rhetorical questions that I do not want answered. If the report that is the basis of this proposed bill states that the people of Maine desire to move into rural areas because of lack of privacy, noise and housing being too close, how does this bill address that issue? My second question is, and it is narrower in focus, a portion of this bill encourages government agencies to move to a downtown area and it has been a while since I have taken a marketing class, but I don't understand how having a government agency in a downtown area is going to revitalize the business district at all?

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

ROLL CALL NO. 612

YE - Ahearne, Andrews, Bagley, Baker, Berry RL, Bouffard, Bragdon, Brennan, Brooks, Bruno, Bryant, Bull, Bumps, Chizmar, Cianchette, Clark, Colwell, Cote, Cowger, Daigle, Davidson, Desmond, Dudley, Duplessie, Etnier, Fisher, Frechette, Fuller, Gagne, Gagnon, Green, Hatch, Jabar, Jacobs, Kane, Labrecque, LaVerdiere, Lemoine, Madore, Mailhot, Martin, Matthews, Mayo, McDonough, McGlocklin, McKee, Mitchell, Muse, Norbert, O'Brien JA, O'Brien LL, O'Neal, O'Neil, Pieh, Povich, Powers, Quint, Richard, Richardson J, Rines, Samson, Sanborn, Savage W, Saxl JW, Saxl MV, Sherman, Shiah, Skoglund, Stevens, Sullivan, Tessier, Thompson, Tobin D, Townsend, Tracy, Tripp, Tuttle, Twomey, Usher, Volenik, Watson, Wheeler GJ, Williams, Mr. Speaker.

NAY - Belanger, Berry DP, Bowles, Buck, Cameron, Carr, Chick, Clough, Collins, Cross, Davis, Dugay, Duncan, Foster, Gerry, Gillis, Glynn, Goodwin, Gooley, Heidrich, Honey, Jodrey, Jones, Joy, Kasprzak, Kneeland, Lemont, Lindahl, Lovett, MacDougall, Mack, Marvin, McAlevey, McKenney, McNeil, Mendros, Murphy E, Murphy T, Nass, Nutting, Peavey, Perkins, Pinkham, Richardson E, Rosen, Savage C, Schneider, Shields, Shorey, Snowe-Mello, Stanley, Stanwood, Stedman, Tobin J, Trahan, Treadwell, True, Waterhouse, Weston, Wheeler EM, Winsor.

ABSENT - Bolduc, Campbell, Dunlap, Perry, Plowman, Sirois.

Yes, 84; No, 61; Absent, 6; Excused, 0.

84 having voted in the affirmative and 61 voted in the negative, with 6 being absent, and accordingly the Majority Ought to Pass as Amended Report was **ACCEPTED**.

The Bill was **READ ONCE**. Committee Amendment "A" (S-660) 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-660)** in concurrence.

On motion of Representative SAXL of Portland, the House **RECONSIDERED** its action whereby An Act to Amend the Maine Workers' Compensation Act of 1992 as it Pertains to Occupational Health

(H.P. 1454) (L.D. 2075)
(C. "A" H-1034)

FAILED of **PASSAGE TO BE ENACTED**.

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

The House recessed until 7:15 p.m.

(After Recess)

The House was called to order by the Speaker.

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

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 Implement the Recommendations of the Task Force to Review Solid Waste Management Policy

(S.P. 1000) (L.D. 2565)

TABLED - April 4, 2000 (Till Later Today) by Representative COWGER of Hallowell.

PENDING - **ADOPTION OF COMMITTEE AMENDMENT "A" (S-628).**

Representative MARTIN of Eagle Lake **PRESENTED House Amendment "A" (H-1113) to Committee Amendment "A" (S-628)**, which was **READ** by the Clerk.

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

Representative MARTIN: Mr. Speaker, Members of the House. Basically this amendment, if you read the summary, it will basically outline it. What it does is to tell the State Planning Office that they don't need to report to the Legislature within the four years. My concern is that if they were to decide that there is only one waste facility in Maine, that the state could be forced upon their notice to start planning for the Carpenter Ridge and I don't want that to happen without legislative action.

House Amendment "A" (H-1113) to Committee Amendment "A" (S-628) was **ADOPTED**.

Committee Amendment "A" (S-628) as Amended by House Amendment "A" (H-1113) thereto was **ADOPTED**.

The Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-628) as Amended by House Amendment "A" (H-1113) thereto in NON-CONCURRENCE**.

On motion of Representative DAVIS of Falmouth, the House **RECONSIDERED** its action whereby the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-628) as Amended by House Amendment "A" (H-1113) thereto**.

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

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

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

Representative DAVIS: Mr. Speaker, Men and Women of the House. Does this amendment change the definition of nuclear waste? Does it downgrade it?

The SPEAKER PRO TEM: The Representative from Falmouth, Representative Davis 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. I will respond in the negative. That bill and that amendment will be held at a public hearing tomorrow morning at 10:00. That is when that bill and amendment will be presented. It is unrelated to this bill. There is a separate bill completely dealing with that issue. Subsequently, the Bill was **PASSED TO**

BE ENGROSSED as Amended by Committee Amendment "A" (S-628) as Amended by House Amendment "A" (H-1113) thereto in NON-CONCURRENCE and sent for concurrence. ORDERED SENT FORTHWITH.

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

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **LABOR** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-685)** on Bill "An Act Regarding the Retirement Plan for Rangers in the Law Enforcement Bargaining Unit at Baxter State Park"

(S.P. 386) (L.D. 1165)

Signed:

Senator:

DOUGLASS of Androscoggin

Representatives:

HATCH of Skowhegan

MUSE of South Portland

FRECHETTE of Biddeford

MATTHEWS of Winslow

SAMSON of Jay

DAVIS of Falmouth

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

Signed:

Senators:

MILLS of Somerset

LaFOUNTAIN of York

Representatives:

GOODWIN of Pembroke

MacDOUGALL of North Berwick

MACK of Standish

TREADWELL of Carmel

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

READ.

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

The Bill was **READ ONCE. Committee Amendment "A" (S-685) 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-685) in NON-CONCURRENCE and sent for concurrence. ORDERED SENT FORTHWITH.**

SENATE PAPERS

Non-Concurrent Matter

Bill "An Act to Clarify the Authority of Maine Game Wardens to Stop Motor Vehicles"

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

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-800) AS AMENDED BY HOUSE AMENDMENT "C" (H-852) thereto in the House on March 9, 2000.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-800) AS AMENDED BY SENATE AMENDMENT "A" (S-592)** thereto in **NON-CONCURRENCE**.

On motion of Representative SHIAH of Bowdoinham, **TABLED** pending **FURTHER CONSIDERATION** and later today assigned.

Non-Concurrent Matter

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)

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1004) in the House on April 8, 2000.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1004) AS AMENDED BY SENATE AMENDMENT "A" (S-669)** thereto in **NON-CONCURRENCE**.

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

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

ORDERS

On motion of Representative **VOLENIK** of Brooklin, the following Joint Order: (H.P. 1944)

ORDERED, the Senate concurring, that the Joint Standing Committee on Banking and Insurance report out, to the House, in the Second Regular Session of the 119th Legislature, an emergency bill to:

1. Require the Superintendent of Insurance to develop and submit, before January 15, 2001, recommendations for legislation to establish a state plan or other legislative options for guaranteeing access to and availability of health care coverage for all residents of the State affected by recent changes in the market, including the withdrawal of Tufts Health Plan, the financial problems of Harvard Pilgrim Health Care and the proposed sale and conversion of Blue Cross Blue Shield of Maine; and

2. Authorize the Joint Standing Committee on Banking and Insurance to report out legislation to the First Regular Session of the 120th Legislature based on the recommendations of the Superintendent of Insurance.

READ.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Brooklin, Representative Volenik.

Representative **VOLENIK**: Mr. Speaker, Men and Women of the House. This Joint Order in no way conflicts with other proposals that you may hear later that either delay or stop the Blue Cross and Blue Shield/Anthem buyout. I support those other efforts. This proposal does not affect the sale of Blue Cross and Blue Shield to Anthem in any way. This order just simply protects the people from harm from any sale now or later. This is an emergency session and we have often been dealing with what could be considered trivia while 180,000 Mainers have no health insurance and inadequate access to health care.

Another 400,000 may be about to have their health care benefits reduced or eliminated or their premiums increased by the sale of Blue Cross and Blue Shield to Anthem. Anthem is a huge profit-making machine with assets of \$2.5 billion and annual profits of \$200 million. It has money to spend for a mere \$100 million, six month's profit for Anthem. It can purchase the Blue Cross and Blue Shield goldmine, a guaranteed \$511 million per year in premiums. Through clever consolidation of enrollees using legal loopholes to drop the rural populations, the sick, the politically helpless, Anthem will be able to slim down into a Maine branch of profit taking incorporated. Cutting its numbers of enrollees to include only the most profitable, to develop an enviable bottom line for its executives and shareholders of perhaps \$50 million annually to quickly repay its investment while milking a captive population with few options.

The other day in a meeting with the Bureau of Insurance and others, I asked whether Anthem would guarantee to continue coverage in rural areas of Maine, like my district and many of your districts. The answer was that Anthem might keep rural coverage for up to two years, but that they haven't even guaranteed that. I guess that is understandable. Anthem needs the flexibility to maximize profits for its out-of-state shareholders in any way it can, ways that may include reduction in service, hefty premium hikes or pulling out of Maine altogether once they have drained every dollar possible.

This Joint Order protects the people of Maine from present or future actions by irresponsible health insurance companies or HMOs. It simply requires that the Banking and Insurance Committee will report out legislation that will call on the Bureau of Insurance to recommend legislation by January 15, 2001 that proposes a state plan for other legislative options guaranteeing access to and availability of health care coverage for all residents of the state affected by changes in the health care market. They can look at all options and make recommendations to us. If we pass this, we can guarantee that no matter how the market changes, who buys out whom, we will protect the health care of the people of Maine. If we fail to pass this, the public will know whom to blame when their health care falls apart. Us, you and I, the Legislature. The public is asking for our help to protect their access to health care. If we fail to answer their call, we are all guilty. Please join me in passing this Joint Order to help protect the health care of all of our constituents, our neighbors, our friends and indeed ourselves. Thank you.

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

The same Representative **REQUESTED** a roll call on his 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 PRO TEM**: The Chair recognizes the Representative from Bath, Representative Mayo.

Representative **MAYO**: Mr. Speaker, Men and Women of the House. I understand fully what Representative from Brooklin is attempting to do this evening. However, I think there are other remedies to what he perceives as a problem. As he, members of the Banking and Insurance and others, who wished to attend this afternoon a meeting of the Banking and Insurance Committee, those that were unaware of the situation learned that it is possible for interveners and others to appeal if they so desire, the eventual decision of the Superintendent of Insurance. That

appeal would go forward to the Superior Court. I think there are remedies, personally, for this. The reason I have made the motion that I did this evening is that in 1997 the then members of the Banking and Insurance Committee, after spending a year looking at what could happen down the road as far as Blue Cross and Blue Shield was concerned, made a recommendation to this body, which was approved to establish the framework under which we have operating now for a number of months. That scenario has not, at this point this evening on the 11th day of April, played itself out. I think that we ought to let the process go forward and that we ought to keep this Legislature out of the middle of a proceeding currently taking place.

Yesterday the Attorney General of this state requested that the decision making process not start for at least an additional two weeks. That may or may not take effect. Hopefully it will. If that is the case, that will allow further input from those who wish it. I think it is very unwise for this Legislature, at this point, to interject itself into the proceedings taking place and I would hope that this Joint Order would receive Indefinite Postponement. Thank you.

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

Representative SAXL: Mr. Speaker, Men and Women of the House. Short and sweet, I urge each of you to take a closer look at this Joint Order. I believe there has been misunderstanding from the body, as a whole. As I read this Joint Order, this doesn't interrupt at all or deal at all with the ongoing proposed conversion of Blue Cross and Blue Shield to Anthem Insurance. I urge that you read this. What it does do is it says that there has been a great deal of change within the existing marketplace. It acknowledges that about 110,000 folks in the State of Maine have lost their insurance that were insured by Tufts and Harvard Pilgrim. What it does say is that 360,000 people in the State of Maine who enjoy getting their health insurance from Blue Cross and Blue Shield are going through a conversion process in their health care whether it goes back to Blue Cross and Blue Shield or it goes over to Anthem or there is a third way. That will have an impact on the marketplace. What I think it says more is it reflects upon the debate we had earlier today, which is that there is something wrong in health care in the State of Maine and it is not only low-income people who are being hurt. It is not only the uninsured who are being hurt. It is not only the our kids who are here in front of us today who are facing challenges. It is small businesses who are being impacted by 13 to 17 percent inflation annually. It is the large businesses in the State of Maine who are trying to balance between the laws of ARISA and HIPA and the alphabet soup of federal law. Every single one of us who tries to get access to prescription drugs or need access to primary care physicians or needs appropriate health care. Please read the order again. What I think this is is a compliment to what the Governor's efforts are to look at health care this session. While the Governor is looking at some of the health care conditions and exercising and diets and smoking and public health issues like that, I think this is asking for a look at simply access to health insurance in the State of Maine and our needs to make sure that every Maine person has access to appropriate health care services in the State of Maine. Do me a favor. Vote for it. Vote against it. You may not support health care or access to coverage of health care or you may not be concerned about small business and getting access to health care for their employees or you may think the existing marketplace is just great for consumers in the State of Maine, but if you don't feel

that way and you do have a measure of concern and you think it is appropriate for the Superintendent of Insurance to consider the challenges that are facing the existing health care market in the State of Maine. Take another look at this Joint Order. I think you will find it doesn't interrupt at all any sales. I wouldn't support anything that did that today. What I would say is that this looks at something completely different. It looks at the entire health care market. It is merely, basically, an administrative study to try and help the Legislature understand the health care issue in the State of Maine. Thank you.

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

Representative HATCH: Mr. Speaker, Ladies and Gentlemen of the House. I hope you will join me in defeating the Indefinite Postponement. I wasn't going to talk on this, but I think it is an important issue for all of us as we are dealing with all the health care issues that we have. It brings to mind some time ago in 1993 when I came into the House. We were dealing with an Unemployment System that was totally out of whack. For five years we kept sending business and labor out and they kept coming back with a quick fix. A couple years ago we decided that was enough. We asked the department to come forth with a bill and to really study the system and see what could be done. They did that. This is the same type of an idea. It is no different. The whole health care system in this state stinks. Excuse my language. It won't hurt anything to have the department look at all the options and tell us exactly what they think. Maybe it will be good for them too to go all over the whole system with a fine toothcomb. I ask you to join me and to vote against the Indefinite Postponement. Thank you.

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

Representative DAIGLE: Mr. Speaker, Ladies and Gentlemen of the House. I urge you to vote in favor of the current motion to Indefinitely Postpone this Joint Order. For justification, I ask you to look at just what was said a moment ago about what this order is intended to do and ask what was recommended by my good friend from Portland, Representative Saxl. Read what it says. It is very important what it doesn't say. It says specifically to guaranteeing access to an availability of health care coverage. I would feel a lot better about this if this said, to study ways to improve access and availability. I would feel better if it said to identify impediments to access and availability. It is not asking to do any of those things. It is asking for this branch of government to report out suggested legislation that guarantees access. That is not studying the issue. That is saying this is the outcome I want you to accomplish. Give me words to back it up. That has been one of the biggest problems so far with the entire health care debate. It is a predetermined outcome. Let's go find some words to justify what I made my mind up to that we already wanted to do. This is far from neutral. I point to the statements made in support of this order in the first place. Milking, draining dollars, irresponsible and that awful out-of-state stockholder. We have a lot of out-of-state stockholders in this state and I know I own some stock from a company located somewhere else so I guess in that community then I am an out-of-state stockholder. This is terribly demonizing to a business that wants to come to Maine, spend some money and, God forbid, make a profit. This is a predetermined outcome. This is not a study. This is a witch hunt. I cannot stand silently and hear another business demonized for committing the sin and

perhaps the foolishness of wanting to come to the State of Maine. Thank you.

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

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

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

Representative KANE: Mr. Speaker, Men and Women of the House. I would appreciate it if somebody could explain the purpose of this resolution in comparison with the objectives of the Blue Ribbon Commission established by the Governor? Are they exactly the same thing, accomplishing the same objectives or whether they are different and have different purposes?

The SPEAKER PRO TEM: The Representative from Saco, Representative Kane has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Brooklin, Representative Volenik.

Representative VOLENIK: Mr. Speaker, Men and Women of the House. I can't speak for the Governor's Blue Ribbon Commission. I don't know what it is going to accomplish or if it is going to accomplish anything. This Joint Order is simply going to guarantee access to health care for those who lose it because of any changes to Blue Cross and Blue Shield, Harvard Pilgrim, Tufts or any other HMO or health insurance company that operates in the State of Maine. If there are no changes, if, in fact, we see an improvement in coverage in the State of Maine, then, obviously, we probably will not get a report from the Bureau of Insurance that calls on us to do anything. Hopefully that will occur. We can all hope that we are actually moving upwards rather than downwards, but if you see it as I tend to, that we are moving downwards, then this gives us an opportunity to look at what could be possible. It is not calling for any particular plan. It is not saying as I would personally have it say, let's have guaranteed health care. It is not saying that we will simply make sure that everyone has access to an expensive policy or any policy. It is saying all of those options are on the table simply to guarantee that access will not decline. Thank you.

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

Representative BROOKS: Mr. Speaker, Ladies and Gentlemen of the House. I had full intentions of speaking on this bill as you probably anticipated. I am, frankly, scared to death about health care in the State of Maine and where it is going to be going in the near future. Members of my family were covered by Tufts and now we are not. I don't know exactly what is going to happen with the financial conditions of Harvard Pilgrim. I have in front of me, that I just got this afternoon, 600 questions that have been asked by the superintendent of Insurance in the Blue Cross and Blue Shield/Anthem discussions and hearings. By the way, I don't have any of the answers yet. I just have 600 of the questions, which I find very interesting, but I am really going to find it interesting to see the answers. The answers are going to spell, for me at least, what is the future of health care going to be like? That is what I see this bill is doing. When this is all over and said and done and the superintendent of Insurance has released his findings on whether or not Blue Cross and Blue Shield can become profit making and ultimately purchased by Anthem and, if, in fact, that does happen, where does that leave the State of Maine? Like a previous speaker, my friend from Skowhegan, Representative Hatch, I think if it is somewhat reminiscent of the workers' comp era. I think it is also somewhat

reminiscent of a couple of years ago with a hospital called JBI. I think we need to be prepared. In this particular order and in other legislation or Joint Resolutions that you might see, my concern is that this Legislature continue to maintain a posture of oversight. I know that we cannot interfere with what the Executive Branch does. That has been pointed out to me recently in efforts that I have made on other pieces of legislation, but we can continue to do our jobs and that is what this Joint Order calls for. It is for the Banking and Insurance Committee to report out legislation that will help us to ease into next year when we find out what the face of health care in the State of Maine looks like. If those insurance companies that have left or are in financial difficulties are still gone and Blue Cross and Blue Shield is sold to a company from out-of-state, what do we do? How do we prepare ourselves? How do we ensure appropriate coverage for 360,000 people in the State of Maine who are covered by Blue Cross and Blue Shield? I assure you that is not going to be the last time you are going to hear that. I am going to vote against Indefinite Postponement because I don't want to be standing down at the border holding people off, companies that are coming in from out-of-state. I want to be home in my district telling people that they can feel comfortable. The Legislature is doing its job to ensure that health care is in the right place. I think that is exactly what this bill is calling for. Thank you Mr. Speaker.

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

Representative GLYNN: Mr. Speaker, Ladies and Gentlemen of the House. I rise in support of the motion to Indefinitely Postpone. I would like to begin by saying that I am a member of the Banking and Insurance Committee and earlier today the Banking and Insurance Committee held a meeting while we were in session and discussed this proposal and also had the benefit of the Commissioner of Insurance there to answer our questions. As testified by the commissioner, individual and small group policies, we have guaranteed access here in the State of Maine. We have guaranteed renewal. Ladies and gentlemen, we are already a guaranteed issue state. With that being said, the problem is not access to health insurance. There is lots of access to health insurance. The problem is not if you have a pre-existing condition. If you have a pre-existing condition and you need to change HMOs, another HMO cannot deny you insurance coverage. It is not about access and it is not about renewal. This order is headed in the wrong direction. The problem is, as the problem has been for the last several years, price. We have between 150,000 and 180,000 uninsured people in the State of Maine because they can't afford health insurance. That has absolutely nothing to do with guaranteed access, guaranteed renewal or the fact that you are changing HMOs. That is not the problem. The problem is people can't afford insurance because the price is going up.

We have a Blue Ribbon Commission that has been established by the Governor's Office to take a look at some of these issues and the correlation between our insurance problem, which costs with workers' comp isn't exactly a one to one parallel. Workers' comp is required. Health insurance is something that is not required by the State of Maine. There is a big difference in that. I, for one, am going to work very hard and continue to work very hard to fight to lower the cost of health insurance and make it more affordable for people. Things that the Legislature can do are not contained in this order. Things that the Legislature can do is look at catastrophic health care

coverage. A very short period of time ago we had a motion before us dealing with offering catastrophic health care coverage, which are low-cost health care products for the people that are mandate free policies. We could enact less mandates. That is something that is not contained in this order. If we are looking at lowering the cost of health insurance, suing HMOs for big money settlements, it is not going to lower the cost of health care. These are things that will make insurance more affordable and more available to people that live in the State of Maine. This order doesn't address the problem and that is why I oppose it and I believe that the product that would be coming out of Banking and Insurance would probably not be something that the good Representative from Brooklin is looking for because, in fact, the State of Maine is a guaranteed issue state. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Pittsfield, Representative Jones.

Representative JONES: Mr. Speaker, Men and Women of the House. As another member of the Banking and Insurance Committee, I too, would urge you to support the pending motion to Indefinitely Postpone this issue. I attended several meetings on the matter of this sale of Blue Cross and Blue Shield to Anthem. I would just remind you of a few of the basics. Blue Cross, for probably a year or maybe more, they were advertised for sale all over the country. They didn't get any takers until finally Anthem came along and offered them \$120 million. There are a lot of folks that felt at the time and continue to feel that this is not enough. They ought to get \$500 million. It was set in the agreement right up until the day that the deal is closed, which is the first of July. Anytime up to that date if someone comes along and offers more than \$120 million, they must recognize that offer and pursue it. To date, and I inquired again this afternoon, nobody is lining up to offer a higher bid. I urge you again to support the pending motion. Thank you very much.

Representative SULLIVAN of Biddeford asked leave of the House to be excused from voting on H.P. 1944 pursuant to House Rule 401.12.

The Chair granted the request.

The SPEAKER PRO TEM: A roll call has been ordered. The pending question before the House is Indefinite Postponement of the Joint Order and all Accompanying Papers. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 613

YEA - Andrews, Belanger, Berry DP, Bouffard, Bowles, Bragdon, Bruno, Buck, Bumps, Cameron, Carr, Chick, 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, McAlevey, McKenney, McNeil, Mendros, Murphy E, Murphy T, Nass, Nutting, O'Brien JA, Peavey, Perkins, Pinkham, Richardson E, Rosen, Savage C, Schneider, Sherman, Shields, Shorey, Snowe-Mello, Stanwood, Stedman, Tobin D, Tobin J, Trahan, Treadwell, True, Usher, Waterhouse, Weston, Wheeler EM, Winsor.

NAY - Ahearn, Bagley, Baker, Berry RL, Bolduc, Brennan, Brooks, Bryant, Bull, Chizmar, Clark, Colwell, Cote, Cowger, Davidson, Desmond, Dudley, Dugay, Duplessie, Etnier, Fisher, Frechette, Fuller, Gagne, Gagnon, Gerry, Goodwin, Green, Hatch, Jabar, Jacobs, LaVerdiere, Lemoine, Mailhot, Martin, McDonough, McGlocklin, McKee, Mitchell, Muse, Norbert, O'Brien LL, O'Neal, O'Neil, Pieh, Povich, Powers, Richard, Richardson J, Rines, Samson, Sanborn, Savage W, Saxl JW, Saxl MV, Shiah, Skoglund, Stanley, Stevens, Tessier,

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

ABSENT - Campbell, Cianchette, Dunlap, Kane, Matthews, Perry, Plowman, Quint, Sirois.

Yes, 70; No, 71; Absent, 9; Excused, 1.

70 having voted in the affirmative and 71 voted in the negative, with 9 being absent and 1 excused, and accordingly the motion to **INDEFINITELY POSTPONE** the Joint Order and all accompanying papers **FAILED**.

Subsequently, the Joint Order was **PASSED** and sent for concurrence.

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

ENACTORS

Acts

An Act to Provide Equal Treatment for State Employees under Certain Federal Employment Laws

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

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

SENATE PAPERS

Non-Concurrent Matter

Bill "An Act to Support Maine's Only Representative to the Nation's Capital Bicentennial Celebration" (EMERGENCY)

(S.P. 1042) (L.D. 2630)

Majority (8) **OUGHT NOT TO PASS** Report of the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS READ** and **ACCEPTED** in the House on April 11, 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 **APPROPRIATIONS AND FINANCIAL AFFAIRS READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-605)** and **ASKED FOR A COMMITTEE OF CONFERENCE** in **NON-CONCURRENCE**.

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

The SPEAKER PRO TEM: The Chair recognizes the Representative from Acton, Representative Nass.

Representative NASS: Mr. Speaker, Men and Women of the House. This morning you heard a short debate on the issues in this bill. As I said this morning, these are very nice people and a very nice band and I am sure it is going to be a very nice celebration. In my opinion, we should not use tax money to do this. It would only invite every high school band, junior high school band and everybody that wants to go to Washington is going to be up here asking us for money to go. I would urge that you vote against the current motion. Thank you.

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

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

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

Representative **CLARK**: Mr. Speaker, Ladies and Gentlemen of the House. To the Representative from Brewer, how many funds has this band already raised?

The **SPEAKER PRO TEM**: The Representative from Millinocket, Representative Clark has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Brewer, Representative Fisher.

Representative **FISHER**: Mr. Speaker, Men and Women of the House. Several thousand. I can't tell you how much, but several thousand. They are well on the way.

The Chair ordered a division on the motion to **INSIST** and join in a **COMMITTEE OF CONFERENCE**.

Representative **FISHER** of Brewer **REQUESTED** a roll call on his 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 PRO TEM**: 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. 614

YEA - Ahearne, Bagley, Baker, Brennan, Brooks, Bryant, Chick, Chizmar, Clark, Colwell, Cote, Cowger, Desmond, Dudley, Dugay, Duplessie, Fisher, Fuller, Gagne, Gagnon, Gerry, Goodwin, Green, Hatch, Jabar, Kane, LaVerdiere, Lemont, Martin, Mayo, McAlevey, McDonough, McGlocklin, McKee, Mitchell, Muse, Norbert, O'Brien LL, O'Neal, Perkins, Pieh, Povich, Quint, Richard, Richardson J, Rines, Rosen, Sanborn, Savage W, Saxl JW, Saxl MV, Sherman, Shiah, Shorey, Skoglund, Stanley, Stevens, Sullivan, Tessier, Thompson, Tobin J, Tracy, Tripp, Tuttle, Twomey, Usher, Volenik, Watson, Wheeler EM, Wheeler GJ, Williams.

NAY - Andrews, Belanger, Berry DP, Berry RL, Bolduc, Bouffard, Bowles, Bragdon, Bruno, Buck, Bull, Bumps, Cameron, Carr, Cianchette, Clough, Collins, Cross, Daigle, Davidson, Davis, Duncan, Etnier, Foster, Frechette, Gillis, Glynn, Gooley, Heidrich, Honey, Jacobs, Jodrey, Jones, Joy, Kasprzak, Kneeland, Labrecque, Lemoine, Lindahl, Lovett, MacDougall, Mack, Madore, Mailhot, Marvin, McKenney, McNeil, Mendros, Murphy E, Murphy T, Nass, Nutting, O'Brien JA, O'Neil, Peavey, Pinkham, Powers, Richardson E, Samson, Savage C, Schneider, Shields, Snowe-Mello, Stanwood, Stedman, Tobin D, Trahan, Waterhouse, Weston, Winsor.

ABSENT - Campbell, Dunlap, Matthews, Perry, Plowman, Sirois, Townsend, Treadwell, Mr. Speaker.

Yes, 72; No, 70; Absent, 9; Excused, 0.

72 having voted in the affirmative and 70 voted in the negative, with 9 being absent, and accordingly the House voted to **INSIST** and join in a **COMMITTEE OF CONFERENCE** in concurrence.

ENACTORS

Emergency Measure

An Act to Implement the Recommendations of the Commission to Propose an Alternative Process for Forensic Examinations for Sexual Assault Victims

(H.P. 1927) (L.D. 2673)
(S. "A" S-674)

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

Representative **POVICH** of Ellsworth **REQUESTED** a roll call on **PASSAGE TO BE ENACTED**.

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

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

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

ROLL CALL NO. 615

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

NAY - NONE.

ABSENT - Campbell, Dunlap, Gagnon, Matthews, Perry, Plowman, Sirois, Townsend, Mr. Speaker.

Yes, 142; No, 0; Absent, 9; Excused, 0.

142 having voted in the affirmative and 0 voted in the negative, with 9 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker Pro Tem and sent to the Senate. **ORDERED SENT FORTHWITH**.

Acts

An Act to Amend the Laws Governing the Designation of a Beneficiary of Maine State Retirement System Benefits

(S.P. 625) (L.D. 1790)
(C. "A" S-684)

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

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

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

PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

Bill "An Act to Allow the St. Agatha Sanitary District to be Dissolved and Combined with the Town of St. Agatha" (EMERGENCY)

(H.P. 1945) (L.D. 2689)

Presented by Representative MARTIN of Eagle Lake.

Cosponsored by Senator PARADIS of Aroostook and Representative: AHEARNE of Madawaska.

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Committee on UTILITIES AND ENERGY suggested.

The Bill was REFERRED to the Committee on NATURAL RESOURCES and ordered printed.

On motion of Representative MARTIN of Eagle Lake, the House RECONSIDERED its action whereby the Bill was REFERRED to the Committee on NATURAL RESOURCES.

The same Representative moved that the Bill be REFERRED to the Committee on UTILITIES AND ENERGY.

The same Representative WITHDREW his motion to REFER the Bill to the Committee on UTILITIES AND ENERGY.

Under suspension of the rules, the Bill was given its FIRST READING WITHOUT REFERENCE to a committee.

Under further 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.

SENATE PAPERS

Bill "An Act to Establish Clean-up Standards for Decommissioning Nuclear Facilities"

(S.P. 1084) (L.D. 2688)

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

REFERRED to the Committee on NATURAL RESOURCES in concurrence.

The Speaker resumed the Chair.

The House was called to order by the Speaker.

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on BUSINESS AND ECONOMIC DEVELOPMENT reporting Ought to Pass Pursuant to Public Law 1999, Chapter 443, Section 15 on Bill "An Act to Improve Oversight and Accountability of Student Loan Programs Funded with an Allocation of the State Ceiling on Private Activity Tax-exempt Bonds"

(S.P. 1079) (L.D. 2684)

Signed:

Senators:

LONGLEY of Waldo
KONTOS of Cumberland

Representatives:

MENDROS of Lewiston
O'NEAL of Limestone
SIROIS of Caribou
USHER of Westbrook
BOLDUC of Auburn
TRIPP of Topsham

Minority Report of the same Committee reporting Ought to Pass as Amended by Committee Amendment "A" (S-683) Pursuant to Public Law 1999, Chapter 443, Section 15 on same Bill.

Signed:

Senator:

MackINNON of York

Representatives:

CLOUGH of Scarborough

BOWLES of Sanford

MARVIN of Cape Elizabeth

SHOREY of Calais

Came from the Senate with the Majority OUGHT TO PASS PURSUANT TO PUBLIC LAW 1999, CHAPTER 443, SECTION 15 Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED.

READ.

On motion of Representative O'NEAL of Limestone, 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.

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

Representative MARVIN: Mr. Speaker, Ladies and Gentlemen of the House. We have heard an enormous amount of rhetoric and information and misinformation about this issue for the past two years. It has been a very long two years out of Business and Economic Development learning all about student loans in the State of Maine and Maine Education Services and how all kinds of things happen there. There have been many days that I think I know more about what goes on at MES than I do what goes on at my work at home. I guess the bottom line of this story is we ended up with two reports. That was very disappointing to everyone on our committee. I think maybe we worked 30 or 40 days on this one issue alone. The issue that we all agreed on was accountability. One the question of accountability, we all yes, we need to have more accountability in the student loan market. That is what it came down to. Thinking of ways that we could MES be more accountable to us. We agreed on a series of ways to do that. The difference is we came up with two reports. In my opinion, the Majority Report just went too far. What it amounted to was that we were going to take over the board of a public nonprofit corporation. I just couldn't be comfortable with that. I really do find it hard to believe that the other members of this body would think it appropriate for the Governor to be appointing the majority of the board member in a private nonprofit.

My point is really simple here. Unfortunately this issue has become a political football. Our committee worked very, very hard to try to avoid that and to try to have a report that we all could sign onto. I remember one Friday we had a report that nine of us signed onto and I was feeling very hopeful over the weekend that we were going to get a unanimous committee report and then by Monday eight of us were going in the other direction. To say the least, the process has been more than a little frustrating.

I think what all of us can agree on is we need more accountability. I think we need to keep in mind that MES has provided the lowest cost student loan money in the country for many, many years. We have never had one single student or

one single parent come to us and complain about what happened with their treatment with MES. I think it is time that we stop all this witch hunt and let MES go back to doing what they do best, which is giving out low-cost student loans and help the students of this state continue to be able to access this money.

I had something handed out to your desk, which is kind of long and involved. I know we are not allowed to use props, but I would urge you to take a look at that. There is a question of constitutionality with this issue and having the Governor decide the majority of the members of the board just doesn't fly. I would urge you to vote against the pending motion and when the vote is taken, I request the yeas and nays.

Representative MARVIN of Cape Elizabeth **REQUESTED** a roll call on **PASSED TO BE ENGROSSED**.

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

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

Representative SHIELDS: Mr. Speaker, Ladies and Gentlemen of the House. I have a number of constituents who are in the financial loan business. I would like to pose a question through the chair. They want to know, does this bill or any amendment of it, allow them to loan out money on a level playing field with existing institutions? For anyone who may wish to answer it.

The SPEAKER: The Representative from Auburn, Representative Shields has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Limestone, Representative O'Neal.

Representative O'NEAL: Mr. Speaker, Ladies and Gentlemen of the House. I will try to answer your question. According to our information that we have received from the bond council and from the work that we have done, we believe that this will bring a level playing field. As the good Representative from Cape Elizabeth, Representative Marvin has mentioned, this does bring accountability. If you would take a look at the sheet that we both put out, it says Majority Report on it. It is three pages long. It shows what we have done. This has been a process of two years.

I first want to take the opportunity to thank the committee, the Business and Economic Development Committee, for the work that they have accomplished on this particular piece of legislation. We have worked a total of 60 hours and that is actual hours on this issue. Part of the work involved a commission to study this process over the summer and it was called the Featherman Report. That report came back and we have brought many of the issues that were discussed in that report forward and put it into the bill. As I mentioned, the handout is three and a half pages long. There is only one issue that we couldn't agree upon. I am very saddened by that, but that is the way it is. As we worked through this and just up until a couple of days ago, we have four major points of disagreement. In speaking with the Speaker and leadership, they suggested that we try to find some consensus and try to compromise. I spoke to Commissioner Longley, who I publicly thank right now. She said that she would help us and out of the four points, we came up with agreement on three out of the four. At that point, I told her that as part of the agreement to do this that whatever came out of this, which side came forth with the four points that I would vote with and I have. That is why I am with the Majority Report.

I believe that this has been something that is a long time coming. The accountability piece is something that we, as a body, have let fall through the cracks. The accountability piece is in place. My challenge to the body is that those who are coming back will have to follow through with the work that we have done. This is something that we all took to task because our main goal through all of this was for the students of the State of Maine and their parents. Again, I thank the committee and I hope that you will vote with the Majority Report.

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

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

The SPEAKER: The Representative may pose his question.

Representative TRUE: Mr. Speaker, Ladies and Gentlemen of the House. My question is in looking at the document that was given to us as additional information from Representative Marvin, it would seem to me that somewhere we are bypassing the very Constitution of the State of Maine. Is that so if we approved the Majority Report?

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 Limestone, Representative O'Neal.

Representative O'NEAL: Mr. Speaker, Men and Women of the House. To address the good gentleman's question, we are acting under state law 11407. In that act our bond council suggested that if we deal proactively into the future, that our move to put four public members on the board is legal because we are dealing with state funds because of the educational bond issue. That is as close as I can explain it to you. I hope others will get up and chime in.

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

Representative MENDROS: Mr. Speaker, Ladies and Gentlemen of the House. I will try to answer the last two questions and tell you as much about this as well as possible without making you want to slit your wrists in getting into all the gory details that we have dealt with for the past year.

The entity we are dealing with is the Maine Education Loan Marketing Corporation, MELMC. They are the secondary market. They buy student loans from banks with tax-exempt bonds and offer a better rate. As a nonprofit, they can do as they wish. We can't make rules on them. However, we can make rules that if they want to be the secondary market, which is what the Representative from Limestone was alluding to. If they want to be a secondary market, we have the ability as a state to set rules and they have to play by them. Those rules, there are quite a few in the Committee Report, but as was noted earlier, it boiled down to of the seven member board, the Governor is going to appoint four members or three members, which boils down to, is the Executive going to appoint a majority or a minority. That is what this boils down to.

To answer an earlier question to the good Representative from Auburn, Representative Shields, will this create an even playing field? We would like to think it will. To feel more comfortable and that it really will create an even playing field, we need, I believe, a majority of members of the secondary market to be appointed by the Executive. In doing so we will know the objective of the secondary market will be to provide low-cost loans to anyone who wants those loans. Any bank who buys a

loan through a student, can then sell that loan to the secondary market thus offering a better deal to students.

The problem that brought all this about was the indirect loans being made by what was supposed to be the secondary market finding a way to become the primary market and competing with all the banks and having an unfair competitive advantage. It is my belief and the belief of the majority of the committee that the best way to solve that was to separate the three entities into three different boards and have the one that actually gets the advantage of tax-exempt bonds. They didn't get any bond caps this year, true, but they had \$85 million, I believe, in bond caps that had been accumulated that they send out to bond and they got it all in. They have this huge amount of money from previous bond caps that they now have available. In the future with the proper board, I believe they will start getting bond caps again and will continue to provide low-interest loans to students. However, will that be through them or will it be at an unfair advantage putting banks out of the student loan business or will it be through banks, thus allowing banks to be in this business and competitive? That is what this boils down to. In my opinion, we need a majority of that board where it has access to such a vital state resources as bond caps to be appointed by the Executive. Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative TRUE: Mr. Speaker, Ladies and Gentlemen of the House. My question to anybody who may choose to answer it, is MELMC a regular corporation that works under the laws of the Constitution of the State of Maine?

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 Calais, Representative Shorey.

Representative SHOREY: Mr. Speaker, Ladies and Gentlemen of the House. I would like to answer the good Representative's question. If you look on the first page of the Majority Report/Minority Report distributed by Representative O'Neal and Representative Marvin, you will see at the bottom changes to MELMC. It states the current status of MELMC as a private nonprofit corporation and do not designate in statute that MELMC is a state agency. Thank you.

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

Representative O'NEAL: Mr. Speaker, Ladies and Gentlemen of the House. If you would continue on to the second page of that same issue that the good Representative from Calais, Representative Shorey, just read to you, I think you will find a few more board items that do indicate that towards the bottom, it adds four members appointed by the Governor as a majority of MELMC's seven member board. This is the only issue in all of this report.

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

Representative CLOUGH: Mr. Speaker, Ladies and Gentlemen of the House. This report, as we agree, has only one major difference and that is the appointment of four members to the board in the Majority Report by the Executive Branch and three members in the Minority Report. I am not going to read you this whole report, but in the summary of the report that was

handed out by Representative Marvin, it says, "The Legislature can properly adopt some accountability provisions to which MELMC has agreed, but it clearly cannot engage in the takeover of a corporation by involuntarily appointing a majority of its board of directors. To do so would be to scuttle the very Constitution, which is the bedrock of our system of government." This is a private nonprofit corporation. I believe that this is a reckless action that could cause considerable harm to a program that has and is providing the best student loan program in the country. There were absolutely no people during the last year that came before our committee, either parents or students or school administrators, that complained about the way the program was being administered. It is an excellent program and we need for it to continue. It is a private corporation. We need for them to continue to have the majority of the board of directors appointed by the corporation and I would ask you to vote against the motion that is before us and support the Minority Report.

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

Representative BOLDUC: Mr. Speaker, Men and Women of the House. I rise today in strong support of the Majority Report. As a legislator who is preparing to finish my second term in the House of Representatives, I must say that I have yet to deal with an issue that is as complex as this one and one that is so difficult to understand. For two years now, the Business and Economic Committee has attempted to identify what the key issues are in this great debate. Our role as legislators is unique compared to the other involved parties because we must make the decision and we do it with the least amount of expertise among the competing participants.

As a result of the unique position that we hold, and as we make the decision of what course to take, we must keep in mind that the unique goal is to benefit the students of Maine. While some participants claim to speak for the benefit of the students, the facts say otherwise.

MES, and MES alone has been, since its inception, the only organization in Maine that could help student's finance their higher educations. They did very effectively for many years and they should be commended for their efforts.

As time passed, however, and the nature of student education financing has changed on the federal and state levels, MES has to learn to deal with their competition as the bipartisan study commission on this subject states. There are substantial loan funds available to Maine students. Given the prevailing interest rate scenario, loan rates for loans offered by lenders to access to tax-exempt funds are not significantly lower than those lenders that are using other sources of funding. Base rates are determined by federal guidelines, but lenders offer a wide range of discounts and incentives to attract students. The competitiveness of the market is driven by desire of private sector lenders to begin relationships with these potentially valuable future customers.

The ultimate responsibility for the failure and breakdown of an effective loan system for Maine students rests with previous Legislatures, who did not provide the necessary public oversight of these organizations. We will now rectify this.

The scarce state subsidy of low interest bonds is not being passed on the students. It is further creating an uneven playing field for the financial institutions in the state. Our job as a legislative committee has time and time again been made difficult by the unwillingness of MES to fully disclose their financial dealings and salaries. This has clouded an already complicated

issue. Whether they like it or not, MES is accountable to the committee for no other reason than the fact that they receive the benefit of state subsidized low-interest bonds. Legislative oversight it, therefore, our paramount objective. I believe the Majority Report most fully addresses the actions necessary to provide public accountability. It ends the interlocking boards of MELA, MELMC and MES, which has greatly contributed to an undermining of the public confidence in these organizations. It directs MELA to be a direct loan organization and that MELMC be strictly the secondary loan entity. It increases the voting members of the MELA board who are accountable to us, the elected representative of the people of the State of Maine. Finally, it provides the rules that insure that any recipient of state subsidies are not unfairly competing with the private sector.

Our committee has worked very hard on this issue and I urge full support of the Majority Report. Thank you.

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

Representative **BOWLES**: Mr. Speaker, Ladies and Gentlemen of the House. I remember last week, I believe it was Thursday night or Friday night, it was late and a representative from South Portland, Representative Cianchette stood up and said, I can't believe that I am going to be talking about taxation issues at this late hour. I thought to myself, I hope we don't get to this bill at this late hour. Sure enough, here we are.

There are two things that I would like to have you keep in mind as you vote on this. Much of what you have heard tonight, nearly all of what you have heard about, is true. The suggestions that we have adopted in our committee will approve the accountability of MELA, MELMC and they will provide greater oversight. They will help students until we get to the point of the MELMC board. By appointing four members to a seven member private nonprofit corporation, please hear that, a private nonprofit corporation, Boy Scouts, Girl Scouts and a lot of other organizations in your communities. Those are private non-profit corporations. The state should not and cannot take over a nonprofit organization. I can say to you with certainty if you pass the Majority Report tonight, three things are going to happen. One, the state is going to find itself embroiled in a lawsuit. Two, since a secondary market is absolutely necessary for the student loan program to survive, we will have to create a new state agency to replace MELMC. Three, as a direct result of that, student loan interest rates are going to increase.

What does that mean to you? It means you are going to start receiving phone calls, ladies and gentlemen, if you haven't already. People are going to call and say, why has my student loan rate increased. It will be the direct result of the action we take here tonight if we pass this Majority Report. The same of all this is, the sad disappointing part of all this is, is that the Minority Report does the same thing without endangering student loan rates and without creating a new state organization. It provides all the oversights and all the controls, but it does not constitute a hostile takeover of a private nonprofit organization. That is the difference. Please understand that when you vote.

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

Representative **SHOREY**: Mr. Speaker, Ladies and Gentlemen of the House. I will make it short and sweet. Our committee spent a lot of time on this. I really give credit to the chairs. They did a great job. We were differing on four issues as you heard. We came together on three of the four. I can't help but stand up and say we cannot have a state takeover a private

nonprofit organization. That is all it is. That is basically the difference between the two reports. Everything else is the same. By doing so, we may be eliminating the secondary loan market. We could be hurting every student. We know that. We could be. Do you want to take that chance? I think not. Thank you.

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

Representative **TRIPP**: Mr. Speaker, Men and Women of the House. I think this committee deserves a lot of credit for all of the time and effort that we spent on this matter and to come up with just one change that we disagreed on. We started with a report called the Featherman Report, which was a commission to look into this whole matter. We decided not to go with their major recommendation, which was to completely eliminate this organization and start over again. We chose to look at all the details. We went through point by point as you see on the paper that was handed out to you with the bullets. One of the reasons that we feel very strongly on the majority to have the oversight is because we are dealing with millions and millions of dollars of not only state money, but federal money. We have been assured that a lawsuit is not in the future on this particular situation. I ask you to follow the Majority Report.

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

Representative **USHER**: Mr. Speaker, Men and Women of the House. I have to concur with the previous speakers that we all did work very hard on this. To go back, I am really impressed with the committee's work that we started in the last session and we had to carry this over. It was a very complicated issue. I am very pleased that the committee paved the road for the future legislators. It took 17 years before we performed the good oversight that we did in the past year or two. It is too bad that it went this long. This person went into business, MES started in 1983, performed a good business, provided a good service to over 125,000 people that used its forms and helped everybody go to college. The committee worked many hours on this. You heard this from every speaker that spoke before me. I think this new system can work. The Majority Report is a responsible way. It shows accountability because a lot of money, as the previous speaker just said, state and federal money and you have to perform oversight. Please support the Majority Report.

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

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

The SPEAKER: The Representative may pose his question.

Representative **BOWLES**: Mr. Speaker, Men and Women of the House. A moment ago in testimony I understood the good Representative from Topsham, Representative Tripp, to indicate that he was assured that there would be no lawsuit against the state. Since that is contrary to the information that I have, information that was passed out to us. I would like to know what the basis was for his statement.

The SPEAKER: The Representative from Sanford, Representative Bowles has posed a question through the Chair to anyone who may care to respond.

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

ROLL CALL NO. 616

YEA - Ahearn, Bagley, Baker, Berry RL, Bolduc, Bouffard, Brennan, Brooks, Bryant, Bull, Chizmar, Clark, Colwell, Cote,

Cowger, Daigle, Davidson, Dudley, Duplessie, Etnier, Fisher, Frechette, Fuller, Gagne, Gagnon, Gerry, Goodwin, Green, Hatch, Jabar, Jacobs, Kane, Labrecque, LaVerdiere, Lemoine, Mack, Mailhot, Martin, Matthews, McDonough, McGlocklin, McKee, Mendros, Mitchell, Muse, Norbert, O'Brien LL, O'Neal, O'Neil, Pieh, Powers, Quint, Richard, Richardson E, Richardson J, Rines, Rosen, Samson, Sanborn, Savage W, Saxl JW, Saxl MV, Shiah, Shields, Skoglund, Snowe-Mello, Stanley, Stevens, Sullivan, Tessier, Thompson, Townsend, Tracy, Tripp, Tuttle, Twomey, Usher, Volenik, Watson, Wheeler EM, Wheeler GJ, Williams, Mr. Speaker.

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

ABSENT - Campbell, Dunlap, Perry, Plowman, Povich, Sirois.

Yes, 83; No, 62; Absent, 6; Excused, 0.

83 having voted in the affirmative and 62 voted in the negative, with 6 being absent, and accordingly the Bill was **PASSED TO BE ENGROSSED** in concurrence.

ENACTORS
Emergency Measure

An Act to Provide for the Year 2000 Allocations of the State Ceiling on Private Activity Bonds

(H.P. 1010) (L.D. 2578)
(C. "A" S-658)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 131 voted in favor of the same and 5 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Mandate

An Act to Improve Public Water Supply Protection

(H.P. 1862) (L.D. 2597)
(C. "A" H-1106)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. In accordance with the provisions of Section 21 of Article IX of the Constitution, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 123 voted in favor of the same and 7 against, and accordingly the Mandate was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Acts

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

(H.P. 1878) (L.D. 2614)
(C. "A" H-1110)

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.

Acts

An Act to Adopt the Model Revised Article 9 Secured Transactions

(H.P. 1601) (L.D. 2245)
(C. "A" H-1109)

An Act to Amend the Liquor Laws to Create a New Category of License for Pool Halls and Exempt Certain Facilities from the Prohibition Against Smoking

(H.P. 1807) (L.D. 2533)
(S. "A" S-669 to C. "A" H-1004)

An Act to Implement the Land Use Recommendations of the Task Force on State Office Building Location, Other State Growth-related Capital Investments and Patterns of Development

(S.P. 1027) (L.D. 2600)
(C. "A" S-660)

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

Non-Concurrent Matter

Bill "An Act to Prohibit Persons Under 21 Years of Age from Purchasing Handguns"

(S.P. 1005) (L.D. 2573)

Bill and accompanying papers **INDEFINITELY POSTPONED** in the House on April 11, 2000.

Came from the Senate with that Body having **INSISTED** on its former action whereby the Minority (6) **OUGHT TO PASS AS AMENDED** Report of the Committee on **CRIMINAL JUSTICE** was **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-611) AS AMENDED BY SENATE AMENDMENT "A" (S-653)** thereto and **ASKED FOR A COMMITTEE OF CONFERENCE** in **NON-CONCURRENCE**.

On motion of Representative **POVICH** of Ellsworth, the House voted to **ADHERE**.

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-668)** on Bill "An Act to Expand a Judge's Powers for Contemptuous Failure to Pay"

(S.P. 523) (L.D. 1557)

Signed:

Senators:

LONGLEY of Waldo
BENOIT of Franklin

Representatives:

THOMPSON of Naples
BULL of Freeport
LaVERDIERE of Wilton
JACOBS of Turner
MITCHELL of Vassalboro

SCHNEIDER of Durham

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

Signed:

Senator:

TREAT of Kennebec

Representatives:

NORBERT of Portland

PLOWMAN of Hampden

MADORE of Augusta

WATERHOUSE of Bridgton

Came from the Senate with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-668)**.

READ.

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

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

Representative **WATERHOUSE**: Mr. Speaker, Ladies and Gentlemen of the House. I hope you will vote against the pending motion. A number of us on the committee had a problem with this concept of expanding the remedies of for the court for finding a person of civil contempt for failure to pay a fine because the solution that they tried to use is to take away your license, your hunting license, your fishing license or something that might really not have any bearing to the offense that was committed. I referred it to, and a couple of other members who agreed with me that this is a bill that has not nexus. It has no logically connection to the offense. The Secretary of State's Office does not look upon this effort with favor. They would be very happy if it didn't pass. You have to ask yourself where do we go next with this? What do we decide to deprive people of in the future if the fine is not paid? It may actually be hurting the efforts of people to pay their fines by taking away these various licenses. I hope you will join me in voting against the pending motion. Thank you.

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

Representative **THOMPSON**: Mr. Speaker, Men and Women of the House. I would like to explain to you how this would work if this bill passes. One of the biggest problems the court system has from a relatively minor portion of the people who go through the courts is the collection of fines. Right now what the court does is they assess a fine to someone and give them a certain period of time in which to pay the fine and then if they do not pay the fine, they are given a date to come back if they haven't paid the fine and the court reviews the fine and sees if they have made an effort to make payments or whatever and reviews their financial history and gives them more time if they need it or can move to take further action of the court deems it is necessary.

Needless to say, there are some people who thumb their noses up to the court and simply play the game of being brought back into court time and time again and not paying their fines. As a result, the court system has a significant amount of money sitting on the books as uncollected fines. In serious cases the court can then go to what is called a contempt proceeding. In order for the court to find you in contempt of the court, they have to find one, that you had any money that is due. Two, that you had the ability to pay. Three, that having that ability to pay, you

refused to pay. When that takes place, after having threatened people and said come back and all that, the only option that the court has left is to put people in jail. You want to talk about a remedy that is not going to make them able to pay the fine, it is putting them in jail. What is the other side of putting them in jail? It costs the taxpayers money.

We have people who are costing the taxpayers money because they are not paying their fine and the remedy is to put them in jail at the rate of whatever working off your fine at \$10 a day. You put them in jail for 10 days if it is a \$100 fine to say that is how your are going to pay off your fine. Well, what we have come up with is giving the court another remedy for only those cases where they make a finding there is contempt of court. We are saying that the court can also suspend a license that you might hold.

The nexus is you owe money to the state and the state has granted you the privilege of having that license. Is their a direct nexus between the offense committed, maybe a fine for an assault case and a driver's license? No. There is enough of a nexus, the fact that they are thumbing their nose up to the court system and they are thumbing up their nose to the State of Maine and saying I am not going to pay it.

It is amazing how quick people come up with the money when you start talking about suspending their license. What we are saying is giving the court the tools they need to collect the money that is due to the State of Maine. For that reason, I hope you will join the majority of the committee, and an interesting mix of the committee it is, to enable the court to collect these fines and have the money come into the state as it should. Thank you.

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

Representative **NORBERT**: Mr. Speaker, Ladies and Gentlemen of the House. I urge you to vote against the pending motion. As usual, I am in complete agreement with my good friend from Bridgton, Representative Waterhouse. I just wanted to explain why am on the Minority Report. Many of us did have concerns that this is just one tool too many for the court to have. We certainly don't believe in allowing folks or encouraging them to thumb their nose at the judicial process, but when they owe any fines, civil or criminal and then to say that the state shall now be engaged in taking away any license or privilege issued by the state. I just think that is a road that we should think twice before we head down it. I think your constituents would want you to think twice. I know as the Representative from Bridgton mentioned, the Secretary of State's Office is loathed to enter into this. They feel we have been really piling on the sanctions and we really feel there should be a more direct relationship between the fine and the privilege or license that is removed as a result of that fine. Just to throw everything, the full power of the state behind this, we think it is just going too far. I really think there is an argument to be made that if we want people to be productive citizens and to go to work and earn money to pay off fines, that taking away their licenses doesn't help and taking away other licenses and privileges is not necessarily wise. I do urge you to vote against this. At first blush, it seems attractive, but I really think it is something we should think twice before we do. Thank you.

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

Representative **WATERHOUSE**: Mr. Speaker, Ladies and Gentlemen of the House. I just want to read briefly a part of the

summary so you can really take cognoscente of the fact of how sweeping this is. It says, "The original bill gave the court authority after finding a person who had contentiously failed to pay a fine or other monetary part of a sentence to suspend the person's license, certification, registration, permit, approval or other similar documents evidencing the granting authority to hunt, fish, trap or to engage in a profession, occupation, business or industry." 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 for the Majority Ought to Pass Report because this bill is all about individual personal responsibility and personal accountability. At the present time if a person contemptuously fails to pay a fine, that means that they have the ability to pay it, but yet they refuse time and time again after appearing before the judge, they refuse to pay the fine, the judge has only one remedy. The judge, he or she, can put the person into jail and then can have them work off the fine for \$5 a day in jail. I have seen judges do it. People will usually come up with the fine money awfully quickly if they are put in jail. This bill would give judges another tool to use to convince people to pay the fines that they both have the ability to pay and have refused to pay in the past. It gives the judges a tool, short of putting somebody in jail, in order to punish contemptuous failure to pay a fine. It is a very good bill. I urge you to vote for the Majority Ought to Pass Report.

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

Representative **MCALVEEY**: Mr. Speaker, Ladies and Gentlemen of the House. I would urge you to vote against the Majority Report. I think giving them another tool is just giving them an excuse to draw a line in the sand. These people who are contemptuous on paying, for the most part, already have suspended driver's licenses. In many cases they don't hold professional licenses or tradesmen licenses for electricians or whatever. The only license many of these people have been exercising is a license to break the law. It is very sobering when you stand before a judge and the judge says, pay up or go to jail. They end up usually having to go to jail, but they get their fine money out of them pretty quick within 12 to 24 hours. Yes, it is an expense that comes back on our county. If the court, when they first realized they had a contemptuous person in front of them, dealt with them early one instead of leading them on to this false sense of I can get away with it. It is like a parent trying to deal with a child who they haven't quite got a hold of yet in curbing their behavior. The average decent person who gets caught doing something wrong atones for it and pays their time or pays their fine. In my limited experience in the Criminal Justice System, it is the frequent flyers, not the people who are trying to raise a family and couldn't get by, but it is the frequent flyers who really don't give a darn. They have no respect for themselves, anybody else's property, anybody else nor the court. If the judiciary came out of the trenches early on and said, take them away. They will come up with the fines. I have seen it happen when it comes to bail. I know darn well that their friends are out on the street doing something wrong to raise the money to pay their buddy's bail or pay their buddies fine. I think the court has been very, very liberal. I think the court needs to be liberal in those individual cases when you have a legitimate situation where a person is trying to make a go of it and they can't pay their fine. That is why we give them that authority and

that latitude. In my limited experiences, these people who thumb their noses at the court will not tolerate spending any time in jail. I would urge you to vote against the Majority Report.

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

Representative **LAVERDIERE**: Mr. Speaker, Men and Women of the House. I figure it is time you heard from everyone on Judiciary on this particular bill. It is very important that you understand a couple of things. First of all, we are talking about people who have money that is owed to the courts. I can tell you if you have ever looked at it, that is millions of dollars. Millions of dollars are owed to Maine courts by people who do not pay their fines.

Second of all, this law would only apply to those individuals who have the ability to pay. We are not talking about the people who go out and are working to try to get a job and they need their license. We are talking about people who the court has found has the ability to pay and they choose not to. How much does it cost to throw them in jail per day? A lot of money. Look at this a different way. How are you going to explain to your constituents that there is someone who has thumbed their nose at the court system in the State of Maine and you have rewarded them by giving them a license? By granting them the right to continue in their profession or to continue to drive on our roads. Those are privileges. Those aren't rights.

I urge you to accept the Majority Ought to Pass Report and find that those people who have the ability to pay and choose not to are not rewarded by giving them licenses to continue in their profession or licenses to continue to drive. Again, I urge you to accept the Majority Ought to Pass Report. Thank you.

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

Representative **CAMERON**: Mr. Speaker, Ladies and Gentlemen of the House. First of all it would seem to me that the alliance on the Ought Not to Pass should tell you that this shouldn't pass. As a member of the Transportation Committee, I will have to vote against this. We worked with the Secretary of State's Office on many, many occasions and it has always been our feeling that, particularly driver's licenses, revoking should be pretty much reserved to issues that were around traffic violations.

Mr. Speaker, may I pose a question? I guess the thing that I don't understand if this is such a huge problem as is being purported, I am not in the Judiciary and that may explain why I don't understand this, but why can't people's wages be attached to get this money? I am baffled as to why we are sitting by and allowing this to happen? If anybody an answer that question for me?

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

Representative **THOMPSON**: Mr. Speaker, Men and Women of the House. In response to the question, you have to realize the way the court system works. The court does a lot of criminal cases and then schedules people to come back on a certain day for a 8:30 on a Wednesday morning. They may schedule 50 people to come back. They have to go through those in a half hour. The judges get tired of playing collection agent. They don't have the resources to attach people's wages. Number two, a lot of these people are working self-employed, hiding their

money or whatever. These are the people that are good at it that you are going after. They are hiding their assets and are doing everything they can to thumb their nose up at their court. They are usually regulars. The judge has seen them in there more than one time. They just know how to play the game because they have plenty of experience playing the game. It is interesting, I hear several different arguments and one argument being the relationship to driving and driver's licenses, which is a valid position and a valid issue. We hear also, don't give it to them because they should throw them all in jail, was a different argument I heard. What we are trying to say is the judges know this will work. I have had several judges come to me and ask me to put this in. This happens to be the good Senator from Somerset, Senator Mills' bill. I had the same provision in a bill of mine, which this body passed, which was taken out of my bill because we already had another bill to deal with it. It came from different sources.

Another issue here is that it is not just simply to throw them in jail because if someone shows up at the Bridgton Court for payment of a \$50 fine time and time again and the judge's option is to throw them in jail, but it is not just the cost of jailing them, they don't have people sitting at the jail ready to transport these people for an hour and ten minute ride to Portland to get them to the Cumberland County jail. They have to call for transport out of Portland, have somebody drive from Portland to Bridgton, transport the prisoner from Bridgton to Portland. All of that to collect \$50. I am going to tell you what, you go up to this guy and say, do you have a driver's license? Yes. Well, now you don't. I guarantee you that within three days that fine will be paid and he will be reinstated. That is the facts of life. What we are talking about is it works.

We can come up with reasons why it shouldn't happen and all of that, but it will work. It will let the courts collect money and give them a way to do it. The courts are in the business right now of being collection agencies. They get people to stand up in front of them. Have you made any payments on your fine? No. Are you working? Yes. Have you got any money today? No. You are working and you are making enough to pay the fine, why haven't you paid it? I had to whatever. They make up every story in the book. The judge says your license is under suspension. The guy says, but I need my license. The judge says, come up with money. A lot of them would come up with it that day. I can only tell you from my experience, the simple explanation is it will work and it will help bring the money into the court system and into the state coffers. Thank you.

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

Representative CARR: Mr. Speaker, Men and Women of the House. After listening to the Representative from Waterboro, Representative McAlevy, it is obvious to me that he has had considerable time that he has dealt with the court system. The Secretary of State already has the authority to and already does suspend licenses for failure to pay traffic fines. I presume that what we are talking about here is a failure to pay criminal fines on criminal cases. Much of the problem that exists is due to the way in which the court collects its fines. They run a collection agency. If they toughened it up, it would take care of the problem. For many, many years I have attended court and watched this process go about. I believe that this bill before us is unnecessary and it is not needed. There are rules and laws already in place. The authority is given to the Secretary of State to suspend licenses and they are routinely suspended. Again, I

think we are making another law that is not necessary. Thank you Mr. Speaker.

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

Representative THOMPSON: Mr. Speaker, Men and Women of the House. This is making it tougher. That is the whole point. This is making the collection process stricter by giving the court another remedy.

The other thing I want to mention is the Secretary of State, they are only concern with this bill was that they didn't get put in the middle of having to do the notice provision. We have made the bill such that the court gives the person the notice of the suspension so that the Secretary of State does not get stuck. They don't get stuck in the middle of doing the notice to the person that they are under suspension. That was what they were concerned about. We took care of that in the bill. I would ask that you support the bill. Thank you.

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

Representative CHICK: Mr. Speaker, Ladies and Gentlemen of the House. I am certainly not a member of the court. I have had a few experiences in trying to be of some help to people with some serious situations. It is all well and good to sit here this evening and listen to the discussion about the attachment of a person's wages. However, when somebody is obviously receiving money somewhere in order to live, but there is no official record that they are receiving money, it is difficult to attach their wages. Also, I have the greatest respect for the Maine Court System and it is easy to say to anyone, get some advice and take it to court. I really believe in what limited experience I have had in trying to work with people that have serious problems, that if there is something here by this document that will assist the courts in correcting some of these shortcomings, I would certainly recommend to you that you support this measure tonight. Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative TRACY: Mr. Speaker, Men and Women of the House. How would the judge go about finding out the individual's license? Would it be going by the driver's license number or would be going by the social security number? If we are going by the social security number, what happens to the ones that haven't had their license renewed, which comes under the federal law? Thank you.

The SPEAKER: The Representative from Rome, Representative Tracy 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 good Representative from Rome's question, the court forms for suspension of license relies on name and date of birth as the way they cross reference the individual involved.

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

Representative **WATERHOUSE**: Mr. Speaker, Ladies and Gentlemen of the House. This is a slight correction, I would think or at least my understanding of the Secretary of State's Office on this measure. It was not their only concern from my conversations with them for being put in the middle of this situation. They also had the continuing concern with the nexus problem. I know their comments to me were that they would have to live with it if this got passed in the present form, but they certainly do not support it. It was not their only concern.

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

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

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

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

ROLL CALL NO. 617

YEA - Ahearne, Andrews, Bagley, Baker, Belanger, Berry DP, Berry RL, Bolduc, Bouffard, Bowles, Brennan, Brooks, Bruno, Bryant, Bull, Chick, Chizmar, Cianchette, Clark, Collins, Cote, Cowger, Daigle, Davidson, Davis, Desmond, Dudley, Etnier, Fisher, Foster, Frechette, Fuller, Gagne, Gagnon, Goodwin, Gooley, Hatch, Heidrich, Honey, Jabar, Jacobs, Jodrey, Kane, LaVerdiere, Lemoine, Lemont, Lindahl, Lovett, Mailhot, Martin, Marvin, Matthews, Mayo, McDonough, McGlocklin, McKee, McNeil, Mitchell, Murphy E, Muse, Nass, Nutting, O'Neal, O'Neil, Peavey, Pieh, Povich, Powers, Quint, Richard, Richardson E, Richardson J, Rines, Samson, Savage C, Saxl MV, Schneider, Shiah, Shields, Stanley, Stanwood, Stevens, Sullivan, Tessier, Thompson, Tobin D, Townsend, Tripp, Twomey, Usher, Volenik, Weston, Wheeler GJ, Williams, Mr. Speaker.

NAY - Bragdon, Buck, Bumps, Cameron, Carr, Clough, Colwell, Dugay, Duncan, Duplessie, Gerry, Gillis, Glynn, Green, Jones, Joy, Kasprzak, Kneeland, Labrecque, MacDougall, Mack, Madore, McAlevey, McKenney, Mendros, Murphy T, Norbert, O'Brien JA, O'Brien LL, Perkins, Pinkham, Rosen, Sanborn, Savage W, Saxl JW, Sherman, Shorey, Skoglund, Snowe-Mello, Stedman, Tobin J, Tracy, Trahan, Treadwell, Tuttle, Waterhouse, Watson, Wheeler EM.

ABSENT - Campbell, Cross, Dunlap, Perry, Plowman, Sirois, True, Winsor.

Yes, 95; No, 48; Absent, 8; Excused, 0.

95 having voted in the affirmative and 48 voted in the negative, with 8 being absent, and accordingly the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (S-668)** 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-668)** 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:

Bill "An Act to Clarify the Authority of Maine Game Wardens to Stop Motor Vehicles"

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

Which was **TABLED** by Representative **SHIAH** of Bowdoinham pending **FURTHER CONSIDERATION**.

Representative **MARTIN** of Eagle Lake moved that the House **ADHERE**.

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

Representative **MARTIN**: Mr. Speaker, Members of the House. Nothing has changed since the last vote. I urge you to stay with your position and to move to Adhere.

Representative **DUNLAP** of Old Town moved that the House **RECEDE AND CONCUR**.

Representative **MARTIN** of Eagle Lake **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 Penobscot, Representative Perkins.

Representative **PERKINS**: Mr. Speaker, Men and Women of the House. Just to remind everybody what the amendment that we voted for the other day, 120 to 14 or so, all it does is require the department to come up with written rules on their policy for stopping motor vehicles, snowmobiles, boats, ATVs and bring that back to the committee as major substantive rules. It gives them a year from this coming October, October 2001. This is exactly the thing that the department has been telling us, the committee, that they want to be able to do. They have been telling us that for two years that they need us to clear up the statutes, which the basic committee report does. It gives them all the powers and duties of Sheriffs, but their main emphasis will be on protecting fish and wildlife laws. When you skim through these letters here that you are just getting a flood of, so many of them say don't take powers away Wardens. Once again, the Committee Report gives them all the powers and duties of Sheriff, with the main emphasis on fish and wildlife enforcement. The amendment that we passed the other night and we are asking you to Adhere on again tonight, would just require them to come up with this written policy so it can get the scrutiny of the committee and the full Legislature. Thank you.

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

Representative **DUNLAP**: Mr. Speaker, Men and Women of the House. Looking at that particular amendment, which we did approve a few weeks ago, it tends to, in my mind, the reason why I opposed it in the first place and why it was not adopted in the other body was that essentially what you are looking at and something that runs counter to the spirit of the Administrative Procedures Act, which allows the Executive and the branches thereof to adopt procedures in rule without coming to the Legislature for statute in virtually everything they do. The whole idea was to basically ease our workload in the Legislature and take care of those minor technical things or even major substantive things that did not require a statute. By adopting that amendment, essentially we are justifying a full-time Legislature. What is going to be next? Is it going to be major substantive rules for how the State Police polish their badges? Major

substantive rules for how DEP licenses ponds, farm ponds? Major substantive rules for how a farm inspector would inspect meat? I see a lot of people nodding their heads. Maybe that is what we want to do. It is not what I want to do.

It just seems to create a bit of a conflict if you are going to have a major substantive rule for how a Game Warden pulls somebody over, under any circumstance, but not any major substantive rules for how a Warden investigator does undercover work. To what extent do the major substantive rules cover how the Department of Human Services takes children out of a home? You start to see what I am talking about, I hope.

In the discussions that have been going on between people in the last few weeks, it has sort of taken on a sort of us versus them aura. You have one group in the Legislature, which cares only about individual Fourth Amendment rights, protections from searches and seizures. You have this other group that doesn't seem to care about that and only cares about protecting natural resources. I think we can agree on a few things. One of those things that we can agree on is the ends do not justify the means. Individual rights should be guarded and we are, in large part, the guardians of individual rights. If you will notice, I haven't really spoken too heavily to the Fourth Amendment issue because the Fourth Amendment doesn't really need my protection. I don't have to write Fourth Amendment guarantees into a statute. The Fourth Amendment tells me what to do when I am writing a bill. The Fourth Amendment is supreme. The Constitution is supreme. We do not need to protect the Constitution. The Constitution protects the people of this country. It is not submissive to state statute, which brings us back to the problem that we are forced to address and are faced with in the Legislature, which is a public trust and resource conservation. I think to that end I am not going to lecture people. You know what your duty is. We tend to execute it very, very well in this body. Everyday we carry that duty forward.

Despite the amount that my good friend from Penobscot and I seem to wrestle with on the floor of this chamber, there are few people in this Legislature that I have more respect for than him. He is truly the conscience of this Legislature. He really cares about what happens to people out there and what happens to those resources. He is not against the resource anymore than I am against individual rights. We are very, very close in agreement on a lot of these issues that have revolved about the Warden's powers issue. There is really not any argument that we need to have laws that protect our resources and that those laws do need to be enforced. Remember on this things we all agree. The question is, how we get there? What we have before us now is a very delicate posture.

If we Recede and Concur we adopt an amendment from the other body, which says exactly what a Game Warden can do and under what circumstances they can do it. Much of the contention has come around the issue of the regulatory check. Somehow this is tantamount to suspicionless stop. Imagine your amazement when you are driving down the highway and all of a sudden you look at your speedometer and you are going 65 miles an hour down the Interstate and there are blue lights behind you. You are not doing anything wrong. None of your taillights are burned out. Your plates are fastened properly. You have a quarter inch of tread on all your tires. Everything is fine, but they just want to look at your license. The courts have ruled that that is unconstitutional. There is no suspicion of a violation. It would seem logically to carry over to fishing and hunting. Just because you are standing on a riverbank fishing, does not give a

Warden the right to stop you and ask for your fishing license. The courts have not been quite so clear on that. We have had a lot of discussion and a lot of venues for a lot of time over this very issue. It really boils down to that. The issue of when you are transporting game or when you are just simply walking along a tot road with a shotgun in your hand or you are standing in a boat fishing, does the Game Warden have the authority to check you when you are in that activity?

The argument is that if there is no reasonable suspicion of an activity it is of a violation. I understand that, but we don't have much in the way of jurist prudence to guide us, because the court decisions that have been cited for the last two years seem to hint around the target. They are very specific. Delaware versus Crouse is one of them that deals with a vehicle stop. You look at court decisions, Taylor versus Maine, which deals with interstate commerce and bait dealing. They all hint at what we are talking about. We know we are sort of going in a general direction, but we don't have anything specific to guide us in the law.

Again, we are not empowered with judicial review. That is the purview of the courts. Sooner or later, whether we like it or not, this matter will be settled in the courts once and for all. This particular argument now boils down to this. If we Adhere, the bill is essentially dead. We will start all over again next year. If we Recede and Concur, as I would wish us to do, we will have very specific guidelines under which the Warden Service can operate, which is what everyone wants. The Warden Service wants this more than anyone. They are the ones that asked me to put the bill in. They want guidance. Remember, going back to the debate we had a month ago, this whole thing started because there was a conflict in the law as to what their powers truly were. They want to have sideboards. They want to have guidelines. They want to be professionalized and to best serve the people in the state. It comes down to this. Very simply, if you do not believe that a warden has the authority to check you when you are fishing and you are standing in a boat fishing, to ask you for your fishing license and to see your life jacket, then vote against the Recede and Concur. Vote against that if you don't believe they have that authority. If you believe they have that authority and should have it, then vote for the pending motion.

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

Representative LAVERDIERE: Mr. Speaker, Men and Women of the House. It is late and we all want to go home. I am going to make this brief. Several weeks ago we voted on this. The vote for 130 to 14. We sent a message and the message was simple, go back, develop rules that are constitutional and bring them back to us. If you do that and they are constitutional, we will enact them and everyone will know precisely where everyone stands. The amendment in the other body, in many opinions, including mine, is clearly unconstitutional.

The good Representative from Old Town indicates that if you believe that a Warden should be able to ask you for your license when you are fishing, vote for the Recede and Concur. That is a simple case. What if the Warden saw you driving down a road where there was a pond, he didn't see you fishing, but he just saw you on the road. Can he stop you? Can he ask for your license? What if you are going down Route 26 and there is a fishing pole in the back of your vehicle? Can he stop you? The Constitution of the United States is not something that I take very lightly. One colleague of ours, in this body, came to me the other

day and said my Wardens say that you are trying to take away their rights. My response to him was simple. The Fourth Amendment of the Constitution of the United States was never designed by our forefathers to protect law enforcement officers from the people. The Fourth Amendment to the Constitution was designed for one simple thing. That is to protect the people from government agents.

Along with you, I have the privilege of traveling to other lands. I have been to China and I have seen agents of the government go up to the people and demand their papers. I have seen them carted away when they couldn't produce the appropriate papers. We have a piece of paper in this country that is far more powerful. It is called the Constitution. It says in the Fourth Amendment that you have to have probable cause of a violation of the law, not probable cause that someone is engaged in the activity, which is legal, but probable cause of a violation. Many of your fathers and my fathers and many of our forbearers have gone to war all over this world to protect that right. I, for one, do not feel that we, as a body, can relinquish that right to a law enforcement agency that has not proven to us that it has the ability to do that wisely. The Fourth Amendment protects us all.

Finally, I would indicate to you, ladies and gentlemen, that we are not saying what the Warden Service can do or can't do. We are merely asking them to go talk to Wardens and talk to sportsmen and to talk to constitutional scholars and to talk to whomever you have to talk to and come back to us with rules that do protect the resource, but do it in a way that is constitutional. That is all we ask. When it comes to the vote, I ask that you join with me in defeating the Recede and Concur and go on to uphold the amendment, which we added in this body several weeks ago. Thank you for your support.

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

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

The SPEAKER: The Representative may pose his question.

Representative CLARK: Mr. Speaker, Ladies and Gentlemen of the House. For anyone that could answer, if a Warden is on duty undercover, he is on a pond watching people fish and the people go out and back five times and bring their limit back onto shore and they get into the vehicle and they drive off, can that Warden call ahead to another Warden, which is in the same vicinity, to catch those people who have already drove off because they saw a violation in progress, is that legal?

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

Representative LAVERDIERE: Mr. Speaker, Men and Women of the House. In answer to that question, under the Constitution of the United States any police officer that has a reasonable and articulable suspicion that a violation has occurred has the right, no, has the duty to stop that individual. If there is any indication, any reasonable and articulable suspicion that, in fact, a violation has occurred, the officer may make the stop. That is black letter law. That is plain and simple. The Constitution is clear and the courts have ruled that time and time again. Thank you.

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

Representative MARTIN: Mr. Speaker, Members of the House. I firmly believe that the action that the House took last time is the correct action for the citizens of the state, the Wardens of the state and for the sportsmen and women of this state. I would ask you to take a look at the editorial that was distributed to you to see the very problem that many people are not aware of. To read the last paragraph in the *Lewiston Sun Journal*, the misunderstanding that clearly this editorial writer had, "It is no more a violation of the Fourth Amendment to stop and ask someone if they hold a valid license to hunt, trap or fish in Maine, than it is a violation of the Fourth Amendment to stop a motorist and ask to examine a valid operator's license." It is clearly unconstitutional. Where is that editorial writer coming from? "It is no more a violation of the Fourth Amendment to stop and ask to examine the number of fish or amount of fish in a vehicle, than it is a violation to stop a motorist who has a burnt out headlight or expired inspection sticker." There is a difference. I wish someone would correct this editorial writer. That is the problem that we are trying to solve here. There is a difference. I certainly hope that we will not Recede and Concur so we can do the correct thing for the long run for the men and women, whether they hunt, fish or believe in preserving the natural resources of this state.

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

Representative SAVAGE: Mr. Speaker, Men and Women of the House. I have been going through the papers that we have received sort of in mass here. I want to point out a couple of different passages that really do tend to point to the problem. The union weighs in that the other body's amendment will provide guidance for wardens and information to the public about what they can expect from the Maine Warden's Service. Another letter says, "The amendment clarifies the authority and more importantly, it will remove the uncertainty that the customer or sportsmen has regarding this issue." The idea seems to be that the Warden Service tells us what the policy is going to be and it is up to us, the Legislature, to tell the people what that policy is going to be so that the people are not under any misapprehension or misunderstanding of what is about to happen to them. That, men and women of the House, is not how it works. The reason there are no constitutional law cases in this are, in the State of Maine and in the United States Supreme Court, is that we don't need them. There are clear principles that apply to every law enforcement officer. Just to put a point on that, every person who gets arrested by a Game Warden goes to the same jail that a person arrested by the State Trooper goes to. We don't need, I think, a separate set of principles to tell us how law enforcement officers with green on should act, relative to law enforcement officers with blue on. They are all the same. They are limited by the Fourth Amendment of the United States and comparable principles in the State of Maine.

I am going to sit down, but I am very disappointed in one thing. That is that folks, such as myself and others in this body, who dare to stand up and question whether or not the Fourth Amendment is being treated properly are denigrated as not caring for fish and wildlife and not caring about our natural resources. I find that very disappointing. I would like to have a discussion about the Fourth Amendment and exactly that. I just think that it is not necessary to go down that road of saying that if you care about the Fourth Amendment and not about fish and wildlife, then you are not a real sportsman or a true sportsman. Thank you.

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

Representative **MCALLEVEY**: Mr. Speaker, Ladies and Gentlemen of the House. I will be very, very brief. A few years ago the law was changed so that Game Wardens went through the Maine Criminal Justice Academy like any other law enforcement officer in the basic municipal 12-week school. Other than a very brief time dealing with self-defense and operating motor vehicles and firearms, half the school is devoted to the elements of law dealing with specific enforcement, motor vehicle law and criminal law. Almost half that curriculum deals with the Fourth Amendment, rules of search and seizure, rules of seizing a person, what is allowable and what isn't allowable. Game Wardens have a specific function, but they are law enforcement officers just like any other law enforcement officer in the state. They are taught the same curriculum. Most law enforcement officers wear a badge to protect people. That protection is not only protecting you from the bad guys, but to protect your rights and the rights that are guaranteed to you under the Constitution. Most of the curriculum that they get deals with laws of search and seizure and when they can and when they can't, based on state and federal case law. These people come out of the academy very well trained, as far as I am concerned. They shouldn't have to write policy. They have a thing called the Law Enforcement Enforcement Manual, which is standard throughout the state, which deals with this type of thing. If you are not sure, you look it up. If you are not sure, you call a DA. People who protect our resources need to do so by protecting our rights guaranteed under the Fourth Amendment. To give them a hunting license, it is a bad analogy, or to do otherwise, is poor public policy. Thank you.

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

ROLL CALL NO. 618

YEA - Bagley, Bruno, Dunlap, Etnier, Fuller, Green, Hatch, Lindahl, Madore, Murphy E, Pieh, Pinkham, Powers, Quint, Savage C, Saxl MV, Schneider, Shiah, Stevens, Thompson, Townsend, Volenik, Watson, Winsor.

NAY - Ahearne, Andrews, Baker, Belanger, Berry DP, Berry RL, Bolduc, Bouffard, Bowles, Bragdon, Brennan, Brooks, Bryant, Buck, Bull, Bumps, Cameron, Campbell, Carr, Chick, Chizmar, Cianchette, Clark, Clough, Collins, Colwell, Cote, Cowger, Daigle, Davidson, Davis, Desmond, Dudley, Dugay, Duncan, Duplessie, Fisher, Foster, Frechette, Gagne, Gagnon, Gerry, Gillis, Glynn, Gooley, Heidrich, Honey, Jabar, Jacobs, Jodrey, Jones, Joy, Kane, Kasprzak, Kneeland, Labrecque, LaVerdiere, Lemoine, Lemont, Lovett, MacDougall, Mack, Mailhot, Martin, Marvin, Matthews, Mayo, McAlevey, McDonough, McGlocklin, McKee, McKenney, McNeil, Mendros, Mitchell, Murphy T, Muse, Nass, Norbert, Nutting, O'Brien JA, O'Brien LL, O'Neal, O'Neil, Peavey, Perkins, Povich, Richard, Richardson E, Richardson J, Rines, Rosen, Samson, Sanborn, Savage W, Sherman, Shields, Shorey, Skoglund, Snowe-Mello, Stanley, Stanwood, Stedman, Sullivan, Tessier, Tobin D, Tobin J, Tracy, Trahan, Treadwell, Tripp, Tuttle, Twomey, Usher, Waterhouse, Weston, Wheeler EM, Wheeler GJ, Williams, Mr. Speaker.

ABSENT - Cross, Goodwin, Perry, Plowman, Saxl JW, Sirois, True.

Yes, 24; No, 120; Absent, 7; Excused, 0.

24 having voted in the affirmative and 120 voted in the negative, with 7 being absent, and accordingly the motion to **RECEDE AND CONCUR FAILED**.

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

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

Representative **KANE**: Mr. Speaker, Men and Women of the House. If I had been present for roll call 454, on LD 2274, I would have voted nay.

On motion of Representative KANE of Saco, the House adjourned at 11:00 p.m., until 9:00 a.m., Wednesday, April 12, 2000.