

# MAINE STATE LEGISLATURE

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**Legislative Record**  
**House of Representatives**  
**One Hundred and Twentieth Legislature**  
**State of Maine**

**Volume I**

**First Regular Session**

December 6, 2000 – May 17, 2001

Pages 1-889

ONE HUNDRED AND TWENTIETH LEGISLATURE  
FIRST REGULAR SESSION  
37th Legislative Day  
Wednesday, April 25, 2001

66 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0066  
Management Letter

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

Prayer by Father Norman Carpentier, St. Margaret's Catholic Church, Old Orchard Beach.

National Anthem by North Country Strings, Blanchard.

Pledge of Allegiance.

Doctor of the day, Richard Dillihunt, M.D., Portland (retired).

The Journal of yesterday was read and approved.

Honorable Michael H. Michaud, President of the Senate  
Honorable Richard A. Bennett, President Pro Tempore of the Senate

Honorable Michael V. Saxl, Speaker of the House of Representatives:

In planning and performing our audit of the general purpose financial statements of the State of Maine for the year ended June 30, 1999, we considered the State of Maine's internal control. We did so to determine our auditing procedures for the purpose of expressing an opinion on the financial statements. We did not do so to provide assurance on internal control.

However, during our audit we became aware of several matters that offer opportunities for strengthening internal control and efficiency of operations. The following findings summarize our comments and suggestions regarding those matters. We previously issued two reports, dated January 31, 2000 and June 9, 2000, that address reportable conditions and material weaknesses in internal control. These can be found in the Single Audit Report and are titled, *Report on Compliance and on Internal Control over Financial Reporting Based on an Audit of Financial Statements Performed in Accordance with Government Auditing Standards*, and *Report on Compliance with Requirements Applicable to Each Major Program, Internal Control over Compliance and on the Schedule of Expenditures of Federal Awards in Accordance with OBM Circular A-133*. This letter does not affect these reports, nor does it affect the Independent Auditor's Report, dated January 31, 2000, on the general purpose financial statements of the State of Maine.

We have included responses to our findings by the audited agencies. We would be pleased to discuss these findings in further detail at your convenience.

S/Gail M. Chase, CIA

State Auditor

Came from the Senate, **READ** and with accompanying papers **ORDERED PLACED ON FILE**.

**READ** and with accompanying papers **ORDERED PLACED ON FILE** in concurrence.

### SENATE PAPERS

#### Non-Concurrent Matter

Bill "An Act to Reimburse Philip Wolley for Litigation Expenses Incurred in Connection with His Termination and Reinstatement as a State Employee"

(H.P. 248) (L.D. 284)

Minority (5) **OUGHT TO PASS** Report of the Committee on **LEGAL AND VETERANS AFFAIRS READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED** in the House on April 24, 2001.

Came from the Senate with the Majority (8) **OUGHT NOT TO PASS** Report of the Committee on **LEGAL AND VETERANS AFFAIRS READ** and **ACCEPTED** in **NON-CONCURRENCE**.

On motion of Representative TUTTLE of Sanford, **TABLED** pending **FURTHER CONSIDERATION** and later today assigned.

### COMMUNICATIONS

The Following Communication: (S.P. 601)

#### STATE OF MAINE 120TH LEGISLATURE

April 24, 2001

Hon. Anne M. Rand

Senate Chair, Joint Standing Committee on Judiciary

Hon. Charles C. LaVerdiere

House Chair, Joint Standing Committee on Judiciary

120th Legislature

Augusta, ME 04333

Dear Senator Rand and Representative LaVerdiere:

Please be advised that Governor Angus S. King, Jr. has nominated Evan D. Richert of South Portland for reappointment and Dawn Gallagher of Hallowell for appointment as members of the Maine Indian Tribal-State Commission.

Pursuant to Title 30, M.R.S.A., §6212, these nominations will require review by the Joint Standing Committee on Judiciary and confirmation by the Senate.

Sincerely,

S/Michael H. Michaud

President of the Senate

S/Michael V. Saxl

Speaker of the House

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

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

### PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

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

### EDUCATION AND CULTURAL AFFAIRS

Bill "An Act to Create the Legislative Youth Advisory Council" (EMERGENCY)

(H.P. 1315) (L.D. 1779)

Presented by Representative QUINT of Portland.

Cosponsored by President Pro Tem BENNETT of Oxford and Representatives: BRUNO of Raymond, COLWELL of Gardiner, CUMMINGS of Portland, NORBERT of Portland, Speaker SAXL of Portland, Senators: DAGGETT of Kennebec, GOLDTHWAIT of Hancock, President MICHAUD of Penobscot.

The Following Communication: (S.P. 602)

#### STATE OF MAINE DEPARTMENT OF AUDIT

**Pursuant to Joint Order  
Joint Standing Committee on Business and Economic  
Development**

Representative RICHARDSON for the **Joint Standing Committee on Business and Economic Development** pursuant to Joint Order (H.P. 682) asks leave to report that the accompanying Resolve, to Establish the Commission to Study Ways to Eliminate Cigarette Litter in Maine (EMERGENCY)

(H.P. 1314) (L.D. 1778)

Be **REFERRED** to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** and printed pursuant to Joint Rule 218.

Report was **READ** and **ACCEPTED** and the Resolve **REFERRED** to the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** and ordered printed pursuant to Joint Rule 218.

Sent for concurrence.

**ORDERS**

On motion of Representative COTE of Lewiston, the following Joint Resolution: (H.P. 1316) (Under suspension of the rules, cosponsored by Senator NUTTING of Androscoggin and Representatives: BOUFFARD of Lewiston, CHIZMAR of Lisbon, HEIDRICH of Oxford, MAILHOT of Lewiston, MENDROS of Lewiston, MICHAEL of Auburn, O'BRIEN of Lewiston, SHIELDS of Auburn, SIMPSON of Auburn, Senators: DOUGLASS of Androscoggin, ROTUNDO of Androscoggin)

**JOINT RESOLUTION COMMEMORATING VIETNAM  
VETERANS MEMORIAL DAY**

WHEREAS, more than 58,000 men and women lost their lives on the battlefields of Vietnam and Southeast Asia defending the ideals on which the United States was founded; and

WHEREAS, in 1982 our nation built a memorial to the lives lost and to the survivors and their families; and

WHEREAS, many people will never have the chance to visit the monument in Washington, D.C.; and

WHEREAS, the Lewiston-Auburn Veterans Council will be hosting The Wall That Heals replica in Kennedy Park, which will allow our citizens to experience the great emotion associated with the monument; and

WHEREAS, Governor Angus S. King, Jr., has proclaimed June 2, 2001 as Vietnam Veterans Memorial Day; now, therefore, be it

**RESOLVED:** That We, the Members of the One Hundred and Twentieth Legislature, now assembled in the First Regular Session, urge citizens throughout the State to observe this occasion; and be it further

**RESOLVED:** That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Lewiston-Auburn Veterans Council.

**READ.**

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

Representative **COTE:** Mr. Speaker, Members of the House. I speak today in honor of the Vietnam Veterans Memorial Wall. I also rise to ask that my fellow colleagues join me in honoring the Vietnam Veterans who lost their lives from 1963 to 1975 fighting over there and honor them with memorializing the visitation of the Vietnam Memorial Wall in Lewiston and Auburn.

As you know, we lost numerous men and women in the battlefields of Vietnam and Southeast Asia. We should get there and pass this because at least their memories are still with us and by doing so, I ask that we pass this in memory of the veterans. Thank you.

**ADOPTED.**

Sent for concurrence.

On motion of Representative BRYANT of Dixfield, the following Joint Order: (H.P. 1317)

**ORDERED,** the Senate concurring, that the Joint Standing Committee on Business and Economic Development report out, to the House, legislation to ensure the statewide television broadcast of state high school basketball championship games.

**READ.**

On motion of Representative BRYANT of Dixfield, **TABLED** pending **PASSAGE** and later today assigned.

**REPORTS OF COMMITTEE**

**Divided Report**

Majority Report of the Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass** on Bill "An Act to Authorize State Agencies to Arrange for Direct Billing of Hotel Rooms for State Business"

(S.P. 315) (L.D. 1083)

Signed:

Senators:

PENDLETON of Cumberland

ROTUNDO of Androscoggin

Representatives:

BAGLEY of Machias

McDONOUGH of Portland

HATCH of Skowhegan

McLAUGHLIN of Cape Elizabeth

MURPHY of Berwick

LESSARD of Topsham

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

Signed:

Senator:

YOUNGBLOOD of Penobscot

Representatives:

KASPRZAK of Newport

CHASE of Levant

HASKELL of Milford

CRESSEY of Baldwin

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

**READ.**

Representative BAGLEY of Machias moved that the House **ACCEPT** the Majority **Ought to Pass** Report.

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

Majority Report of the Committee on **UTILITIES AND ENERGY** reporting **Ought Not to Pass** on Bill "An Act to Amend the Laws Governing the Service Territory of Kennebec Light and Power District"

(S.P. 240) (L.D. 808)

Signed:

Senators:

FERGUSON of Oxford

TREAT of Kennebec

CARPENTER of York

Representatives:

SAVAGE of Buxton  
RINES of Wiscasset  
CRABTREE of Hope  
BERRY of Belmont  
DUNCAN of Presque Isle  
HALL of Bristol  
BLISS of South Portland  
GOODWIN of Pembroke

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

Signed:

Representatives:

PERKINS of Penobscot  
McGLOCKLIN of Embden

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

**READ.**

Representative BLISS of South Portland 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.

---

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

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Majority Report of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought Not to Pass** on Bill "An Act to Require the Labeling of Certain Genetically Engineered Foods"

(H.P. 698) (L.D. 902)

Signed:

Senators:

KNEELAND of Aroostook  
NUTTING of Androscoggin  
KILKELLY of Lincoln

Representatives:

LANDRY of Patten  
LUNDEEN of Mars Hill  
GOOLEY of Farmington  
FOSTER of Gray  
CARR of Lincoln  
JODREY of Bethel

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-149)** on same Bill.

Signed:

Representatives:

McKEE of Wayne  
VOLENIK of Brooklin  
HAWES of Standish  
PINEAU of Jay

**READ.**

Representative McKEE of Wayne moved that the House **ACCEPT** the Minority **Ought to Pass as Amended** Report.

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

Majority Report of the Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought Not to Pass** on Bill "An Act to Require Cardiopulmonary Resuscitation Certification Prior to Graduation from High School"

(H.P. 673) (L.D. 873)

Signed:

Senators:

MITCHELL of Penobscot  
NUTTING of Androscoggin  
ROTUNDO of Androscoggin

Representatives:

RICHARD of Madison  
DESMOND of Mapleton  
SKOGLUND of St. George  
WATSON of Farmingdale  
ESTES of Kittery  
CUMMINGS of Portland  
STEDMAN of Hartland  
WESTON of Montville  
LEDWIN of Holden

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-144)** on same Bill.

Signed:

Representative:

ANDREWS of York

**READ.**

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

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

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Majority Report of the Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-145)** on Bill "An Act to Provide a Local Option on Display of the State Flag"

(H.P. 369) (L.D. 471)

Signed:

Senators:

PENDLETON of Cumberland  
YOUNGBLOOD of Penobscot  
ROTUNDO of Androscoggin

Representatives:

BAGLEY of Machias  
McDONOUGH of Portland  
HATCH of Skowhegan  
LESSARD of Topsham  
McLAUGHLIN of Cape Elizabeth  
KASPRZAK of Newport  
MURPHY of Berwick  
NORBERT of Portland

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

Signed:

Representatives:

CHASE of Levant  
HASKELL of Milford

**READ.**

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

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

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Majority Report of the Committee on **TAXATION** reporting **Ought Not to Pass** on Bill "An Act to Create Equitable Taxation of Leased Property"

(H.P. 456) (L.D. 577)

Signed:

Senators:

GAGNON of Kennebec  
KNEELAND of Aroostook

Representatives:

GREEN of Monmouth  
STANLEY of Medway  
GAGNE of Buckfield  
PERRY of Bangor  
McLAUGHLIN of Cape Elizabeth  
MURPHY of Berwick  
BUCK of Yarmouth  
BUMPS of China  
BOWLES of Sanford

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-153)** on same Bill.

Signed:

Representative:

McGOWAN of Pittsfield

**READ.**

Representative STANLEY of Medway 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.

---

Majority Report of the Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-154)** on Bill "An Act to Fairly Distribute the Payment of Real Estate Transfer Taxes"

(H.P. 729) (L.D. 949)

Signed:

Representatives:

GREEN of Monmouth  
STANLEY of Medway  
PERRY of Bangor  
McLAUGHLIN of Cape Elizabeth  
MURPHY of Berwick  
BUCK of Yarmouth  
BUMPS of China

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

Signed:

Senators:

GAGNON of Kennebec  
LEMONT of York  
KNEELAND of Aroostook

Representatives:

GAGNE of Buckfield  
McGOWAN of Pittsfield  
BOWLES of Sanford

**READ.**

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

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

---

Majority Report of the Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-155)** on Bill "An Act to Exempt Bottled Water from State Sales Tax"

(H.P. 800) (L.D. 1044)

Signed:

Senators:

GAGNON of Kennebec  
KNEELAND of Aroostook

Representatives:

GREEN of Monmouth  
STANLEY of Medway  
GAGNE of Buckfield  
PERRY of Bangor  
McLAUGHLIN of Cape Elizabeth  
BUCK of Yarmouth  
BOWLES of Sanford

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

Signed:

Representatives:

McGOWAN of Pittsfield  
MURPHY of Berwick

**READ.**

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

The Bill was **READ ONCE**. **Committee Amendment "A" (H-155)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** later in today's session.

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## CONSENT CALENDAR

### First Day

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

(S.P. 158) (L.D. 502) Bill "An Act to Create the Right to Fish" Committee on **MARINE RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-68)**

(S.P. 323) (L.D. 1091) Bill "An Act Concerning the Lobster Management Fund" Committee on **MARINE RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-67)**

(H.P. 997) (L.D. 1334) Bill "An Act to Modify Municipal Shellfish Ordinances" Committee on **MARINE RESOURCES** reporting **Ought to Pass**

(H.P. 259) (L.D. 308) Resolve, to Regulate the Harvesting of Horseshoe Crabs Committee on **MARINE RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-158)**

(H.P. 288) (L.D. 366) Bill "An Act to Revise Maine Laws Governing Aquaculture" Committee on **MARINE RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-157)**

(H.P. 502) (L.D. 642) Bill "An Act Concerning the Administration of Medications in County Jails" Committee on **CRIMINAL JUSTICE** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-161)**

(H.P. 594) (L.D. 749) Bill "An Act to Prohibit Cyberstalking" Committee on **CRIMINAL JUSTICE** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-160)**

(H.P. 714) (L.D. 929) Bill "An Act to Amend the Supervised Community Confinement Law" Committee on **CRIMINAL JUSTICE** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-163)**

(H.P. 804) (L.D. 1048) Bill "An Act to Establish the Maine Firefighter Training Fund" Committee on **CRIMINAL JUSTICE** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-159)**

(H.P. 827) (L.D. 1081) Bill "An Act to Adopt a New Interstate Compact Regarding Adults Who are on Probation or Parole" Committee on **CRIMINAL JUSTICE** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-162)**

(H.P. 968) (L.D. 1292) Bill "An Act for Voluntary Testing for Hepatitis-C of Adult Prisoners in the Maine Correctional System" Committee on **CRIMINAL JUSTICE** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-164)**

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

There being no objection, the Senate Papers were **PASSED TO BE ENGROSSED as Amended** in concurrence and the House Papers were **PASSED TO BE ENGROSSED or PASSED TO BE ENGROSSED as Amended** and sent for concurrence. **ORDERED SENT FORTHWITH.**

(S.P. 95) (L.D. 321) Bill "An Act to Strengthen Maine's Economic Development Incentive Laws" Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-69)**

On motion of Representative MURPHY of Berwick, was **REMOVED** from the First Day Consent Calendar.

On further motion of the same Representative, **TABLED** pending **ACCEPTANCE** of the Unanimous Committee Report and later today assigned.

**BILLS IN THE SECOND READING  
Senate As Amended**

Bill "An Act to Establish a Light Trailer Transporter Plate and License"

(S.P. 56) (L.D. 220)  
(H. "A" H-136 to C. "A" S-17)

Bill "An Act to Implement the Recommendations of the Judicial Compensation Commission Regarding Compensation"

(S.P. 124) (L.D. 400)  
(C. "A" S-55)

**House**

Bill "An Act to Restructure the Kennebec County Advisory Budget Committee"

(H.P. 1226) (L.D. 1673)

Resolve, for Laying of the County Taxes and Authorizing Expenditures of Kennebec County for the Year 2001 (EMERGENCY)

(H.P. 1309) (L.D. 1772)

Bill "An Act to Revise the Salaries of Certain Kennebec County Officers" (EMERGENCY)

(H.P. 1310) (L.D. 1773)

**House As Amended**

Bill "An Act to Eliminate Smoking in Maine Schools and on School Grounds"

(H.P. 482) (L.D. 622)  
(C. "A" H-123)

Reported by the Committee on **Bills in the Second Reading**, read the second time, the Senate Papers were **PASSED TO BE ENGROSSED AS AMENDED** in concurrence and in non-concurrence and sent for concurrence and the House Papers were **PASSED TO BE ENGROSSED or PASSED TO BE ENGROSSED AS AMENDED** and sent for concurrence.

Bill "An Act to Eliminate Unnecessary Paperwork for Wage-hour Compliance"

(H.P. 423) (L.D. 544)  
(C. "A" H-114)

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

On motion of Representative SMITH of Van Buren, was **SET ASIDE.**

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

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. Were I present on April 24, I would have voted the following. On Roll Call 42, LD 1026, I would have voted yea. On Roll Call 48, LD 191, I would have voted yea. On Roll Call 50, LD 191, I would have voted nay. On Roll Call 49, LD 191, I would have voted nay. On Roll Call 51, LD 510, I would have voted yea. On Roll Call 52, LD 238, I would have voted yea. Thank you Mr. Speaker.

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

The House recessed until 5:00 p.m.

(After Recess)

The House was called to order by the Speaker.

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

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

**HOUSE DIVIDED REPORT** - Majority (8) **Ought to Pass** - Minority (5) **Ought Not to Pass** - Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Authorize State Agencies to Arrange for Direct Billing of Hotel Rooms for State Business"

(S.P. 315) (L.D. 1083)

Which was **TABLED** by Representative BAGLEY of Machias pending her motion to **ACCEPT** the Majority **Ought to Pass** Report.

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

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

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

Representative **KASPRZAK**: Mr. Speaker, Men and Women of the House. Before we take a vote on this, I would like to say that when this bill came before the Committee on State and Local Government, we realized that the only problem that was occurring was with a certain agency and that was DHS. When we discussed the matter with the people in charge of billing and such, they said that it would complicate matters to do things in this manner and that there was only that one department, the Department of Health and Human Services, that had employees that weren't happy with the current situation. We asked the question, couldn't they handle that in rulemaking? They said that they could take care of it within their department. It seems to me that it is a very unnecessary direction to head in and I would appreciate it if you would vote against the current motion. Thank you.

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

**ROLL CALL NO. 54**

**YEA** - Ash, Bagley, Berry RL, Blanchette, Bouffard, Brooks, Bryant, Bull, Bunker, Canavan, Chick, Chizmar, Clark, Colwell, Cote, Cowger, Davis, Dorr, Dudley, Dugay, Dunlap, Duplessie, Estes, Etnier, Fisher, Gerzofsky, Goodwin, Gooley, Green, Hall, Hatch, Hutton, Jacobs, Jones, Kane, Koffman, Labrecque, Landry, LaVerdiere, Laverriere-Boucher, Lemoine, Lessard, Lundeen, Mailhot, Marley, Marrache, Matthews, McDonough, McGowan, McKee, McLaughlin, Michaud, Mitchell, Murphy E, Norbert, Norton, O'Brien LL, O'Neil, Paradis, Patrick, Perry, Pineau, Povich, Quint, Richardson, Rines, Savage, Simpson, Smith, Stanley, Sullivan, Tessier, Thomas, Tracy, Tuttle, Usher, Volenik, Wheeler GJ, Mr. Speaker.

**NAY** - Andrews, Annis, Belanger, Berry DP, Bowles, Bruno, Buck, Bumps, Carr, Chase, Clough, Collins, Crabtree, Cressey, Daigle, Duncan, Duprey, Foster, Fuller, Glynn, Haskell, Heidrich, Honey, Jodrey, Kasprzak, Lovett, MacDougall, Mayo, McGlocklin, McKenney, McNeil, Mendros, Michael, Morrison, Murphy T, Muse C, Nass, Nutting, O'Brien JA, Perkins, Pinkham, Rosen, Schneider, Sherman, Shields, Snowe-Mello, Tarazewich, Tobin D, Tobin J, Trahan, Treadwell, Twomey, Waterhouse, Wheeler EM, Winsor, Young.

**ABSENT** - Baker, Bliss, Brannigan, Cummings, Desmond, Gagne, Hawes, Ledwin, Madore, Muse K, Peavey, Richard, Skoglund, Stedman, Watson, Weston.

Yes, 79; No, 56; Absent, 16; Excused, 0.

79 having voted in the affirmative and 56 voted in the negative, with 16 being absent, and accordingly the Majority **Ought to Pass** Report was **ACCEPTED**.

The Bill was **READ ONCE** and was assigned for **SECOND READING** Thursday, April 26, 2001.

**AND ENERGY** on Bill "An Act to Amend the Laws Governing the Service Territory of Kennebunk Light and Power District"

(S.P. 240) (L.D. 808)

Which was **TABLED** by Representative BLISS of South Portland pending his motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

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

Representative **MURPHY**: Mr. Speaker, Men and Women of the House. I will not be asking for a division. I will not be asking for a roll call. There are comments that I would like to make on the record. Kennebunk is in a unique situation when it comes to electric service. There is a line that was established in 1903 that on one side of that line you are served by a quasi-municipal utility company and on that side you have the lowest electric rates in Maine. You have very prompt service and you only lose your power when they announce beforehand the power is going to be shut down for service. I know to a lot of you who live elsewhere in Maine, that is kind of a shock. On the other side of the line, you are served by CMP. Your rates are double. Your outages occur on average once every month and a half. You have gaps in your service. You have surges and those outages aren't planned for service. In some cases in July or August, they last for an entire day. When you have a restaurant full of people or a motel full of people or you have relatives visiting from out of town and the power goes out for 12, 18 or 24 hours in the middle of summer, it is a pretty tough experience.

On the Kennebunk Light and Power side when a line goes down, within 20 minutes they are there and the line is repaired. If you are on the other side of the lines, CMP has to come almost, in some cases, from the New Hampshire border. No one understands where that line came from. I am sure not going to turn around a committee report, especially the Utility Committee, which I have always had a great deal of respect for. I think there are some issues that have to be addressed. We know how terrible the service is, because a local citizen's group got together raised money and put meters on the meters. We always knew that if you lived on the other side of the line, you had terrible service from CMP. For the last year and a half that they put the meters on the meters and they got every gap, every outage and every surge. Surges that could burn out every motor in your home. They also kept track of the response times. Those citizens came to the Maine Legislature to have that line removed. They did that after a year or a year and a half of unsuccessfully trying to negotiate with CMP. For a year or a year and a half a refusal to even sit down. Calls to the new CEO and which of the three offices might we be able to nail our concerns to that new CEO, New York, Connecticut and I can't remember the third place. The company wasn't even responsive enough to say where you could reach the CEO of that company. One thing that we learned during this experience is that CMP, because of deregulation, is no longer your mother's electric company.

As a group of citizens, they came from Kennebunk, I don't care what town they came from. They poured their hearts into that for a year and a half. At the work session of that committee, they were shabbily treated. They were actually yelled at. I have never seen that experience in terms of Maine citizens before a committee. They were told to go the PUC route after two years ago they had been told to try to sit down and negotiate a deal. I also have a deeper concern, someone who is very much concerned about economic development, especially the high-tech economic development that says you have to have a stable power source. It has to be dependable. It can't have gaps. It can't have surges. It can't have outages, everything that we see in California. Those meters on the meters showed that at least in

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

**HOUSE DIVIDED REPORT** - Majority (11) **Ought Not to Pass** - Minority (2) **Ought to Pass** - Committee on **UTILITIES**



part of the state we are not getting the electric service we are paying for and it puts us at a economic disadvantage.

My real concern is that for all the talk of deregulation and what it was going to do for competition here in the State of Maine, when it comes to distribution and transmission, no matter how lousy your service and the damage it causes, you have a lifetime monopoly, period. Thank you Mr. Speaker.

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

Representative **SULLIVAN**: Mr. Speaker, Men and Women of the House. I am well aware that I am not going to turn around this committee vote either. I do need to tell you that I have people in Kennebunkport who own businesses in Kennebunk. I know people who live in Kennebunk in places that are serviced by CMP. However, if anything were to happen to the Kennebunk Power and Light, they are responsible financially for something that they cannot even get service from. Think of that. You live in a community and you are responsible financially for that service and because you live on this line that the Representative from Kennebunk spoke of, in 1903 it was drawn, you get your service from a different company. You can be elected to a trustee seat on the municipality power company, but you are not serviced there. This group has, as you have heard, poured their time and money and effort in and it was David taking on Goliath. This has a different outcome. In this case Goliath wins. Mr. Speaker, I am going to request the yeas and nays when this vote is taken, please. Thank you very much.

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

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

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

Representative **SAVAGE**: Mr. Speaker, Men and Women of the House. Those of you who live or represent people who live in the CMP utility district can decide on your own whether you agree with the previous characterizations of their service. One thing that is undeniable is that there are some very complicated issues when you remove a part of a utility and separate it and there are stranded costs to be considered. We, in the Legislature, have always thought that the Public Utilities Commission was the best place for those sorts of complicated issues to be resolved. This bill has been a perennial in this Legislature. They have never gone to the PUC. I would happy to see the Kennebunk Light and Power District take over that part of the service territory of CMP once they have gone through the proper channels. They have not. They never have. That is all we are saying. Please, accept the Ought Not to Pass report. Thank you.

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

Representative **MURPHY**: Mr. Speaker, Men and Women of the House. The proper channel to have solved this problem, which there have been efforts since the early 1970s to resolve this, would be for CMP to sit down and negotiate in good faith, which the citizens of Kennebunk have tried to do. They went and looked at CMP's own assessed value of its property in Kennebunk. They were able to identify what pieces of the property and their valuations for transmission and distribution and they brought in experts and looked to see what would be the savings for CMP, not only not having to repair those lines, keep those lines up, but being able to have that capital, no longer to have to pay property taxes to the Town of Kennebunk. They made a reasonable first offer. CMP came back, we are talking about 1,400 customers, with a flip, our counter offer is \$1 billion.

One billion dollars, that is what you are dealing with. The PUC route means that the four or five lawyers that were hired full time to lobby against this bill, you don't think that is part of your electric bill. Four or five up here working full time against the tiny little quasi-municipal utility company. You don't think you are paying for that coming through your meter. It goes to the PUC. CMP has deep pockets. They are unaccountable. That means before the PUC those costs will be driven up by the lawyers in an effort to what is a very attractive electric rate will be brought up and exceed CMP. CMP is really embarrassed by the yardstick, the six or seven cooperatives or quasi-municipalities, the quality of service and the price they do it at throughout the state. The reasonable route would have been in good faith CMP to negotiate. They know and that is why they pushed to the PUC because the lawyers will be the beneficiaries in this. Thank you.

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

**ROLL CALL NO. 55**

**YEA** - Berry DP, Berry RL, Bowles, Bruno, Bryant, Bull, Bunker, Chase, Colwell, Cote, Cowger, Crabtree, Duncan, Dunlap, Etnier, Fisher, Foster, Gerzofsky, Goodwin, Green, Hall, Kane, Koffman, Landry, LaVerdiere, Lemoine, Lessard, Lundeen, Mailhot, Matthews, McDonough, McGowan, McKee, McLaughlin, Mitchell, Muse C, Nass, Norbert, Norton, O'Neil, Paradis, Patrick, Pineau, Povich, Richardson, Rines, Rosen, Savage, Schneider, Sherman, Simpson, Smith, Tessier, Thomas, Tuttle, Volenik, Winsor, Young, Mr. Speaker.

**NAY** - Andrews, Annis, Ash, Bagley, Baker, Belanger, Blanchette, Bouffard, Brooks, Buck, Canavan, Carr, Chick, Chizmar, Clark, Clough, Collins, Cressey, Daigle, Davis, Dorr, Dudley, Dugay, Duplessie, Duprey, Estes, Fuller, Glynn, Gooley, Haskell, Hatch, Heidrich, Honey, Hutton, Jacobs, Jodrey, Jones, Kasprzak, Labrecque, Laverriere-Boucher, Lovett, MacDougall, Marley, Marrache, Mayo, McGlocklin, McKenney, McNeil, Mendros, Michael, Michaud, Morrison, Murphy E, Murphy T, Nutting, O'Brien JA, O'Brien LL, Perkins, Perry, Pinkham, Quint, Richard, Shields, Snowe-Mello, Stanley, Sullivan, Tarazewich, Tobin D, Tobin J, Tracy, Trahan, Treadwell, Twomey, Usher, Waterhouse, Wheeler EM, Wheeler GJ.

**ABSENT** - Bliss, Brannigan, Bumps, Cummings, Desmond, Gagne, Hawes, Ledwin, Madore, Muse K, Peavey, Skoglund, Stedman, Watson, Weston.

Yes, 59; No, 77; Absent, 15; Excused, 0.

59 having voted in the affirmative and 77 voted in the negative, with 15 being absent, and accordingly the Majority **Ought Not to Pass** Report was **NOT ACCEPTED**.

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

The Bill was **READ ONCE** and was assigned for **SECOND READING** Thursday, April 26, 2001.

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

**HOUSE DIVIDED REPORT** - Majority (11) **Ought to Pass** as **Amended by Committee Amendment "A" (H-145)** - Minority (2) **Ought Not to Pass** - Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Provide a Local Option on Display of the State Flag"

(H.P. 369) (L.D. 471)

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

On motion of Representative COLWELL of Gardiner, **TABLED** pending the motion of Representative BAGLEY of Machias to **ACCEPT** the Majority **Ought to Pass as Amended** Report and later today assigned.

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

Bill "An Act to Eliminate Unnecessary Paperwork for Wage-hour Compliance"

(H.P. 423) (L.D. 544)  
(C. "A" H-114)

Which was **TABLED** by Representative SMITH of Van Buren pending **PASSAGE TO BE ENGROSSED as Amended**.

The **SPEAKER**: The Chair recognizes the Representative from Van Buren, Representative Smith.

**Representative SMITH**: Mr. Speaker, Ladies and Gentlemen of the House. I rise to speak to you and oppose the motion to accept the Majority Report on this bill. The bill is titled "An Act to Eliminate Unnecessary Paperwork." In fact, that is not what it seeks to do. It is not about paperwork. It is about taking away from some additional employees the protections of our overtime laws. This started as a bill to remove overtime protection from auto body workers working for car dealers. It has since been amended and I will discuss the amendment in a minute. I guess the theory of this bill is that if you don't have to comply with overtime laws, you don't need to keep records. I guess that can explain the title of the bill. I suppose on this theory we can eliminate all overtime protections for all workers and save a lot more paperwork. I don't think that is the appropriate policy for this state. It questions whether it is good policy that more workers of our state receive the overtime protections and be paid overtime benefits like the other worker of the state. This bill will create more exemptions to the overtime laws. It does not benefit the workers of our state. The only result will be that there will be denial of overtime protections. They will work longer hours and they will be paid less for each hour worked.

It was significant to me, as I sat in the committee, that not a single worker that stood up and spoke in favor of this. This was not a worker's bill.

There are two reasons why this bill should be defeated. One, in some ways it is going to take away the overtime protections for some of our workers. The other reason is that reading the amendment, you can't really be sure which workers will be affected. As the summary states, federal law exempts employees with the same title as state law, but the federal interpretation covers more types of employees and may cover at least some of the employees who would have been exempted by this bill. I tried to figure it out for myself exactly who would be exempted. I can't. If anybody on this floor knows exactly who is going to be affected, I would welcome them to explain it. I do know from the source where this bill is coming from and the industry that has presented it, it is going to strip protections from workers. I ask you to defeat the present motion and keep the protections for the workers of our state.

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

**Representative TREADWELL**: Mr. Speaker, Ladies and Gentlemen of the House. I would like to fill in some of the blanks that were not addressed by the previous speaker. First of all, in any automobile dealership in the state, automobile mechanics are exempted from the wage and hour law. Parts personnel are exempted from the wage and hour law. Automotive salespersons are exempted from the wage and hour law. The

original bill asks that the service writers, who are a key factor within the service department of an automobile dealership, be exempted from the wage and overtime law. Those people are paid much, much higher than a minimum wage. I have heard figures going as high as \$60,000. I am sure there are people in this chamber who have better knowledge than I do of that.

The amendment replaced the bill. All the amendment does is require that the federal interpretation of those exempted positions be used by the state. I think it is a good law. With the paperwork reduction, the unnecessary paperwork, that is being done right now is when one of these people we are asking for the exemption for, at the end of the week if they had 45 or 50 hours of work and they earned \$700 or \$800 that week, the staff in the office had to take their hours that they worked and based on the incentive pay that they were to receive, which sometimes is \$700 or \$800 a week or more, then they had to play mathematical gymnastics with that to come out with the wage and hour compliance, to satisfy the wage and compliance people. It is strictly an administrative function to keep the paperwork correct. With this bill, nobody is going to lose any overtime pay. I would urge that you support the pending motion and vote **Ought to Pass**. Thank you.

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

**Representative MCKENNEY**: Mr. Speaker, Ladies and Gentlemen of the House. I would just like to back up what the Representative from Carmel has stated. The people that this bill is trying to exempt from overtime are highly compensated individuals that either work at car dealerships or they work at automotive service shops. The service writer, for instance, really doesn't get paid by the hour. He gets paid based on a system of incentives. He gets paid by the amount of business that he writes. His paycheck changes from week to week. It is never the same. In order to back that into an archaic wage hour system requires a lot of paperwork. The people that are affected by this law don't want to be paid by the hour. They don't want to be paid overtime. They want to be paid based on their commission system because they make far more money doing that than they ever would working by the hour. Thank you.

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

**Representative MATTHEWS**: Mr. Speaker, Men and Women of the House. My greatest concern with this bill is that none of those people, hundreds, dozens, millions, I don't know what they are, came to the committee. There was not one. I am sure all of us have frequented dealerships, God forbid, on occasion and I have not been accosted by technicians and service writers that said, change this law, it is driving me crazy. I don't want to be protected by overtime standards and wage and hour compliance laws. Please, change the law. I haven't had any. None were at the hearing. The industry was at the hearing. Their chief lobbyist was at the hearing. I am reminded in this House today by a change that we were asked to do last session on a particular bill and I won't go into detail about it. It was a bill that we were told in this committee came through unanimous, flew through this particular committee, it is a change. Yes, the industry was there. The affected population, they didn't make it. Let me tell you, it is good for everybody. It wasn't too good. Be careful of legislation like this, ladies and gentlemen. I hate to mention another bill. I don't want to put that elephant's nose under the tent, but wage and hour overtime provisions and protections are good things that protect Maine workers. I am not going to do anything that will change that. No one has come to me. No one came to the committee. Representative Smith said it well. I am not going to vote for it and I urge you not to vote for it.

The **SPEAKER**: The Chair recognizes the Representative from Kossuth Township, Representative Bunker.

Representative **BUNKER**: Mr. Speaker, Men and Women of the House. As you can see in this report, you may not see it clearly today because more than likely the committee report hasn't been read today. I am on the side with Representative Treadwell and others in the Majority Report. I do that not lightly. If there is anyone in here who thinks I am against labor, you are in the wrong room. I look at this as not an anti-labor, anti-business bill. I looked at the issues involved here. I saw the good reason why the employees weren't beating our door down saying to change the law. It is quite simply because they are not affected by it in any way, shape or form. What these folks are doing is they are in good high paying jobs. They are in a very skilled labor type of work. They are in a position right now that they are standing, you have heard of the cliffs and the employees being side-by-side with somebody who has this deal and somebody that has that deal, these folks are side-by-side and they are sitting next to a salesman that has an incentive plan with commission and this is how his pay is done. This person went in there and made the same deal. This person is an auto body technician or a car mechanic, but the service writer was a little cloudy in the federal language and we tried to point at that language to bring the service writer in. They are in the same part of the building with the same kind of the people. They all have the incentive deal made with the dealership when they got employed. The only difference between what happens today and what happens tomorrow is when they get their paycheck, they go home and they get the same paycheck. You get the same amount of work out of them. They work the same way they did yesterday today and tomorrow. The only difference is the management folks don't have to do some juggling of their books so that when labor comes in to inspect them for that one employee and not those other three employees, they have to backtrack the payroll and recompute it to a weekly wage with overtime type of things to comply with our labor cops. That is all this is. It is a paperwork juggling act to comply with labor inspections. The labor inspection folks did come and say it is difficult when you go in there. You have different classes of people, one is this way and the other folks are exempt under state law. We learned during the hearing folks that the three out of the four of these folks, three of them are clearly indicted in federal statute. Even our labor folks were unclear that there was a different standard for these kind of class of people. The service writers are the only one we helped clarify and point toward federal statute. I ask you folks to vote your conscience here. Don't vote for me if you think this is a labor issue. Don't vote just for business if you think this is just a business issue. Just vote based on the facts that you heard this afternoon and I think that is the best way to go. Thank you.

The Chair ordered a division on **PASSAGE TO BE ENGROSSED as Amended**.

Representative **TUTTLE** of Sanford **REQUESTED** a roll call on **PASSAGE TO BE ENGROSSED as Amended**.

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

On further motion of the same Representative, **TABLED** pending **PASSAGE TO BE ENGROSSED as Amended** and later today assigned. (Roll Call Ordered)

#### UNFINISHED BUSINESS

The following matters, 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.

**SENATE DIVIDED REPORT - Majority (11) Ought to Pass as Amended by Committee Amendment "A" (S-45) - Minority (2) Ought Not to Pass - Committee on UTILITIES AND ENERGY on Bill "An Act to Authorize the Town of Bar Harbor to Acquire the Bar Harbor Water Company" (EMERGENCY)**

(S.P. 159) (L.D. 503)

- In Senate, Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-45)**.

**TABLED** - April 12, 2001 (Till Later Today) by Representative **SAVAGE** of Buxton.

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

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

The Bill was **READ ONCE**. **Committee Amendment "A" (S-45)** was **READ** by the Clerk.

Representative **GOODWIN** of Pembroke **PRESENTED** **House Amendment "A" (H-175)** to **Committee Amendment "A" (S-45)**, which was **READ** by the Clerk.

The **SPEAKER**: The Chair recognizes the Representative from Pembroke, Representative Goodwin.

Representative **GOODWIN**: Mr. Speaker, Men and Women of the House. Eminent domain proceedings we take very seriously. It is the taking of a person's land for a public purpose with payment to the landowner after proper appraisal. LD 503, this legislation, expands the eminent domain authority of the Town of Bar Harbor to include not only real property, but also personal property and assets of a Bar Harbor water company. This legislation is not a friendly takeover. In the hearing process no one said the water is bad, the service is bad or the cost too high. The profits of a water company are limited by PUC ratemaking. This company in existence in Bar Harbor has been there 145 years. It works everyday to provide services to the town. Questions asked at the hearing brought out facts that this company would not share the maps and engineering data of all of the underground services and accessories. This is not a friendly takeover. The precedent of allowing eminent domain to pressure this company to sell is unheard of. We don't need it in Maine. My amendment just strips the expanded eminent domain provision. The town may purchase, at any time, this water company. Al Goodwin could go to Bar Harbor and buy this water company. The Speaker of this body could go to Bar Harbor and buy this water company. Anyone can buy the water company, but not anyone can use eminent domain to pressure a sale.

I did not come to Augusta from Washington County to allow eminent domain proceedings to take a private company, a public company, a company that has stopped. We have too many water companies, small water companies, across this state. They are scattered from Madawaska to Kittery. We can't allow eminent domain to be used to purchase these companies. I ask the body to accept my amendment and I thank the Speaker.

Representative **HALL** of Bristol moved that **House Amendment "A" (H-175)** to **Committee Amendment "A" (S-45)** be **INDEFINITELY POSTPONED**.

The **SPEAKER**: The Chair recognizes the Representative from Bristol, Representative Hall.

Representative **HALL**: Mr. Speaker, Men and Women of the House. We heard a great deal of debate and discussion on the committee on this apparently straightforward bill. The facts, as I understand them, are as follows. The Town of Bar Harbor has agreed amicably to purchase the independent water company

that currently serves a part of that town. The purchase price has been agreed to at the sum of \$2.5 million. An additional bidder emerged for that company, an out-of-state private water company. It also bid \$2.5 million. The difference between the two bids was as follows. The out-of-state water company was offering of the existing water company a stock deal. The Town of Bar Harbor as a municipality does not, obviously, issue stock. It is offering a cash deal. In the event that the private company purchases the current Bar Harbor Water Company, the selling stock holders will be liable for some capital gains in the range of several hundreds of thousands of dollars.

The internal revenue code provides only two exceptions for the payment of capital gains. The first exception is where there is a stock deal where no cash changes hands. The second exception is where a transaction takes place with the threat or the possibility of eminent domain being used by a governmental entity. It is the case that the Town of Bar Harbor could acquire the physical assets of the water company by eminent domain, its pipes, its reservoirs and its trucks. However, eminent domain law in Maine does not also allow the Town of Bar Harbor to acquire intangible non-real estate assets, the receivables or indeed the stock of the company.

The Utilities Committee did not want to consider any kind of blanket change in Maine law that would permit any municipality to acquire intangibles by eminent domain. We did want to allow the Town of Bar Harbor's taxpayers to pay the same cash price that a private company would be paying with a stock deal. We therefore carefully crafted with legal advice, an amendment to the original act that would permit in this one specific case, the Town of Bar Harbor to acquire intangible assets of the water company under power of eminent domain. Doing so, we do not expect that power of eminent domain to be used. That power will expire immediately after the friendly acquisition of the stock of the water company by the Town of Bar Harbor. The bill as it is currently crafted will save the Town of Bar Harbor, I believe, a sum in excess of a quarter million dollars. It will not create any precedent for expanding the municipal powers of eminent domain. This bill exists in this form solely to save money for the taxpayers of this one town.

It is worth saying in conclusion that the out-of-state private water company which had originally bid has decided that it no longer wishes to proceed with that transaction and it presented testimony to the committee in support of the town acquiring the Bar Harbor Water Company. I am afraid, I think, the reason this is being debated today is because this is a complex issue on which there has been some misunderstanding of the intent or of the facts behind this bill. I hope you will join with me and all but one of the members of his committee in voting down this House Amendment. Thank you very much.

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

Representative BERRY: Mr. Speaker, Men and Women of the House. I rise here today to support the words that were just given. They are absolutely correct. I support the motion that he has made and I just want to point out very briefly two things. It is the two letters that I have sitting on my desk in front of me at the present time. The first one is, "I am the Director and Clerk of the Bar Harbor Water Company, the purpose of my letter is to confirm that the Board of Directors of the company fully support passage." The Second, testimony of Dana Reed, Town Manager, "In support of." Thank you Mr. Speaker.

The Chair ordered a division on the motion to **INDEFINITELY POSTPONE House Amendment "A" (H-175) to Committee Amendment "A" (S-45)**.

The SPEAKER: A division has been ordered. The pending question before the House is Indefinite Postponement of House

Amendment "A" (H-175) to Committee Amendment "A" (S-45). All those in favor will vote yes, those opposed will vote no.

A vote of the House was taken. 110 voted in favor of the same and 14 against, and accordingly **House Amendment "A" (H-175) to Committee Amendment "A" (S-45) was INDEFINITELY POSTPONED.**

Subsequently, **Committee Amendment "A" (S-45) was ADOPTED.** The Bill was assigned for **SECOND READING** Thursday, April 26, 2001.

**HOUSE DIVIDED REPORT - Majority (9) Ought Not to Pass - Minority (3) Ought to Pass as Amended by Committee Amendment "A" (H-108) - Committee on BUSINESS AND ECONOMIC DEVELOPMENT on Bill "An Act to Permit the Sale of Motorcycles on Sunday"**

(H.P. 59) (L.D. 68)

TABLED - April 12, 2001 (Till Later Today) by Representative RICHARDSON of Brunswick.

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

The SPEAKER: The Chair recognizes the Representative from Kittery, Representative Estes.

Representative ESTES: Mr. Speaker, Ladies and Gentlemen of the House. I serve as a cosponsor on the original LD, LD 68. I rise in strong opposition to the Majority Ought Not to Pass Report. I urge you to defeat the pending motion and instead pass the Minority Ought to Pass as Amended by Committee Amendment "H" (H-108). There is a significant difference and a compromise between the original bill and the Minority Report. The original bill would have removed one of the last remnants of the old puritan blue laws from the books of the Maine Statutes. That is the prohibition of the sales of motorcycles on Sundays. For those of you who are old enough to remember, it wasn't too long ago that you couldn't buy a six-pack of beer on Sunday afternoon. You couldn't do any gambling at Scarborough Downs. You couldn't shop at the Maine Mall or the Bangor Mall. There were a number of other things that you couldn't do like go to a concert at the Civic Center or even to a movie theater. You couldn't buy other recreational vehicles. Recreational vehicles such as RVs, motorcycles, snowmobiles and boats.

Title 17 of Section 3201 defines the Lord's Day. That was the original section that the blue laws were located. Section 3203 prohibits the sale of motor vehicles. Under the definition of motor vehicles that includes motorcycles. The key words in 3203 is any person who shall carry on or engage in the business of buying, selling or so on and so on or who shall open any place of business or lot where he attempts to do or does engage in the business of buying, selling or so on and so on. They will be known as a disorderly person and then there is a fine that accompanies it plus other offenses for the second or third offense.

The thing that is interesting if you go to Webster's Dictionary and you define carrying on, it means to engage in or to conduct. If you look up the definition of engage it means to draw into, involve as in conversation, to attract and hold the attention of a potential buyer. The Department of Motor Vehicles has interpreted carry on or engage in the business of buying or selling as something that cannot be allowed.

I cosponsored this bill on behalf of a constituent of mine who owns the Indian Motorcycle Dealership in Kittery, Maine. It is about a half mile from the New Hampshire border. It is a beautiful shop that opened up at about April of last year. One section of the store has apparel and accessories, which is open on Sunday for people to purchase. Another larger section has

the beautiful Indian motorcycles, which are cordoned off and none of his employees or himself can talk to any perspective buyer. In the back is the shop where all the repairs are done. On any given day from April until the end of October the parking lot was often filled with 30, 35 or 40 vehicles and people walking in to look at the accessories, maybe purchase, and maybe wanting to look and possibly talk about the motorcycles.

The original bill would have allowed anyone who decided to stay open who was primarily a motorcycle dealer to stay open on Sundays and to sell. When that wasn't going to fly before the committee, we came up with a compromise. If you take a look at the summary of the minority amendment (H-108), it says that this would allow licensed dealers of motorcycles whose primary business is buying and selling of motorcycles to display motorcycles on their lots on Sunday and to answer questions about features, options and accessories on those displayed motorcycles. The bill does not, I repeat, does not remove the prohibition against sales. What we are talking about here is the compromise that would allow a dealer to show and tell about his product while being open, if he chooses to be open, on Sunday afternoons. This won't force anyone on Sundays to open up. In fact, my constituent does not have any competition within the State of Maine that is any closer than 20 or more miles away from him. If you go across the border within that same 20-mile radius, you are talking a half dozen or more dealers that stay open on Sundays and sell on Sundays.

This is a minor amendment to the old blue laws and simply it just allows a dealer to show and tell. This is about promoting business and economic development. I urge you to vote against the pending motion. Mr. Speaker, I would request the yeas and nays. Thank you.

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

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

Representative **DORR**: Mr. Speaker, Men and Women of the House. I urge you to vote against this. We are voting for the Majority Ought Not to Pass Report. Having heard testimony on this bill in our committee there was only one individual who came forward from all the motorcycle dealers in the State of Maine. This bill was really put forth to benefit on individual dealer. The Motor Sports Dealers of Maine opposed the bill. The United Bikers of Maine opposed the bill and the Automobile Dealerships of Maine unanimously opposed the bill. This was a piece of legislation for one individual alone. We did not hear compelling evidence that there was sufficient need to open these businesses. In fact, the majority of them preferred, as you will see from the letters that were circulated yesterday, to have a day when they did not have to extend their overhead, the term in elastic sales, meaning that a certain number of motorcycles are sold and there will not be more sold if they are open another day. The dealers have said that they would prefer not to feel that there would be competition and the need to be open on Sundays. I would urge you to oppose this piece of legislation. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Orono, Representative Thomas.

Representative **THOMAS**: Mr. Speaker, Men and Women of the House. This sort of halfway compromise on this bill is going to cause extreme headaches for an already stressed police force here. We are going to have dealers all but consummating the sale on Sunday. There is going to be no way of keeping track of this. The last time this issue came up the various polls showed overwhelming support to keep these businesses closed. The shoppers need to have a day of unfettered access to the machines without someone bothering them. As it is, six days

you are able to buy the motorcycle. I have a stat here where only 1.5 percent of total motorcycle sales take place out of state. That is 47 motorcycles out of 3,129 that were sold in 2000. I think that is a pretty insignificant amount and I think that this is a piece of legislation that would only benefit one individual person. It is unnecessary. Thank you Mr. Speaker.

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Representative DUNLAP of Old Town assumed the Chair.  
The House was called to order by the Speaker Pro Tem.

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The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Kittery, Representative Estes.

Representative **ESTES**: Mr. Speaker, Ladies and Gentlemen of the House. I want to clear up some confusion because it seems like we are talking about two different issues. First of all, last night on your desk you received a blue sheet and it had a *Portland Press Herald* editorial from the February 17, which is about the time that the bill was originally heard. It was very supportive and that the state should permit dealers to open seven days a week. One of their comments was it would not force anyone to open on Sunday. It would, however, give enterprising dealers the choice of opening on a day that may be more convenient for customers. You also received from members of the Majority Report letters from individual dealers from different parts of the state, Ellsworth, Augusta and Bangor, which were also dated at the same time and dealt with the original bill, which we are not talking about anymore. There was no one representing any motorcycle association at the hearing to speak in opposition of the group. In fact, the person that was there representing a special interest group and spoke on and on and on was the lobbyist for the Maine Automobile Dealers Association who has been vehemently opposed to any Sunday sales.

The pending motion is for the Majority Ought Not to Pass Report on the original bill. I am urging you to reject that and to go with the Minority Ought to Pass as Amended Report, which will not allow Sunday sales. It will simply allow a dealer not to have a legislative gag rule that says that he cannot talk about his product, features, price and then say to the potential customer, come back on Monday or Wednesday and we will talk about paperwork and we will talk about a sale. In my particular constituents case, he has an accessory shop that is set up adjacent to where he has his motorcycles on display. He stays open on Sunday. It is a good business practice for him and there are 31 Sundays between the first of April and the end of October that don't allow him to even just promote his product. Again, I urge you to vote against the pending motion and to go with the Minority Report. Thank you.

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

Representative **CLOUGH**: Mr. Speaker, Ladies and Gentlemen of the House. This bill, there is some other things I think I would like to tell you about it. The Department of Motor Vehicles Licensing Program reported to us that there are 172 dealer plates issued in the State of Maine. Of these dealers who sell motorcycles, there are only seven that sell motorcycles exclusively. What that means is that many of them sell vehicles or used cars. One of the problems you have as many motorcycle dealers when they sell a motorcycle are interested in taking a used car in trade. There is no way that you can okay the sale of motorcycles on Sunday and not get involved with the sale of cars on Sunday.

Another item that I found interesting was that when this Sunday sales issue came up a couple of years ago, there were

some surveys done. WGAN did one survey and found that 67 percent of those people polled were opposed to opening on Sunday and the *Bangor Daily News* poll came up with 81 percent. I was also surprised that not one single motorcyclist, no member of the motorcycle riding public came before the committee and said that they would like to see their motorcycle dealer open on Sunday. You might have thought that there would be some who would think it would be an extra convenience for them if they broke down or something like that. Not one came before us to ask that we consider that. I would urge you to support the Ought Not to Pass report. 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. Make no mistake about this. This amendment is that people are going to do everything but exchange money. It will go that far. Speaking from personal experience, the title of this bill is a little deceptive. It says permit. What it is is a mandate that you stay open on Sunday. There is a finite number of sales to be made out there. Right now we have had communications by dozens, I guess, of dealers that don't want to open Sunday. If you permit this one person to, I have been in this position myself, it is a mandate for everyone to stay open because there is a finite number of sales and if this guy is open on Sunday, he is going to put someone out of business. You have to open in order to save your business. I have been in that position and that is what will happen here. I urge you to vote for the Ought Not to Pass. Thank you.

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

Representative ANDREWS: Mr. Speaker, Ladies and Gentlemen of the House. I am the primary cosponsor of this bill. Although this constituent's business is in Kittery, he lives in the Town of York. Yes, I am putting this bill in for a special individual. We live in a unique situation down in York and other areas along the New Hampshire border. We are forced to compete with a state who has no sales tax, who is open seven days a week and has access to sell everything with no blue law restrictions. This gentleman was not aware when he opened this business that he would not even be able to discuss the motorcycle part of the business. It is a matter of survival, I think, for him, because about 250 yards down the road, across the bridge in New Hampshire, is a motorcycle dealer that is open seven days a week. I know we collect sales tax when you purchase in New Hampshire when you go to register your vehicle. I say to you that we are losing business for individuals here in Maine because they are not able to be open on Sunday. This is lost revenue and lost revenue to my area. I, myself, buy my car in New Hampshire on Sunday because that is the only day that I can shop. This is a freedom of choice for this man to be open and to try and survive, to promote his product without an actual sale going through. You can buy booze. You can buy skidoos, you can buy guns, you can buy RVs, you can buy everything else, but you can't buy motorcycles. It is a form of recreation. My area is a recreational area. This is important to this individual. I would ask you to vote against this pending motion. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Brunswick, Representative Richardson.

Representative RICHARDSON: Mr. Speaker, Men and Women of the House. I have often heard it said that all politics are local and I understand what that means. Sometimes you sponsor a bill for someone because you think it is a great idea. When I first looked at this bill, I thought it was a great idea tool, but then it came under the reflection of the committee process and we decided, the majority, 9 votes, decided this wasn't such a

good idea after all. Right now in New Hampshire we are losing 26 sales out of 3,127. That is less than 1 percent of the sales of motorcycles that occur in the State of New Hampshire. I would have thought differently if I thought 5, 10, 15 or 20 percent of the sales were occurring in New Hampshire, which could also occur in Maine. That is not the case. That is fact number one.

Fact number two, one dealer came in to ask. That doesn't mean that it is not a bad idea. We had many dealers contact us and tell us it was an awful idea. We all know the pace of life. We run around. Things are quicker, faster paced than they ever were before. It seems like we just can't get our work done around here and when you go home, you don't have enough time to get your work done at home either. One motorcycle dealer wants us to open up to the detriment of 177 people. You saw the letters that came across your desk from Bangor Motor Sports, also from Friend to Friend and also from North Country Harley Davidson here in Augusta. To sum it up, here is what they said. A seven day workweek would put a severe strain on my business. Not only on my employees, but also economically. The added cost would also be added on to the consumer. Why would the added cost be passed on to the consumer? Sales are inelastic. That means we are only going to sell 3,127 motorcycles in the State of Maine, whether you are open seven days or five or six days, you are going to sell the same number of motorcycles.

Here is what is going to happen when we do this. If you don't vote to accept the Majority Ought Not to Pass Report, you are going to have this gentleman on the border open up. You are going to have somebody in Portland open up. They are going to sell the 3,127 motorcycles in the State of Maine to the detriment of the Bangor Motor Sports and to Ellsworth and to Augusta dealers, to the mom-and-pop dealers who have three and four workers who want a day off. That is what is going to happen when you do this. I just want to remind people that there are vestiges of the blue laws and we are a rural state. We all talk about losing some of the rural character of this state. When you vote not to accept the Majority Ought Not to Pass Report, then you are going to be doing so. You are going to be contributing to some of the loss of rural character in Northern Maine, Central Maine and Western Maine. They are going to be forced to open up. When York opens up, Kennebec is going to open up and then Scarborough is going to have to open up and then Portland. The next thing you know, all the stores are going to have to stay open. Why? Not because they are going to sell more motorcycles, but simply because we put a law together that was really totally unnecessary. For the 26 motorcycles that were sold in New Hampshire, it is not about being open on Sundays, it is about the sales tax and many other issues that we ought to confront here, but it is not about staying open on Sunday. In fact, there is no reported cases of sales which occur on Sunday in New Hampshire to the detriment of someone in Maine. Maybe there are, but 26, I doubt it. I bet if you just divided the number of 26 by seven, you would know that the number is less than four. The number on an average would be less than four motorcycles sold on a Sunday. Need for a law? I think not. All I ask is that you consider the points that I have raised in deciding whether or not this bill is necessary.

Finally, as one person said it best, I think, selling is a high-pressure activity and sales people need a day of rest. This was the key reason cited in a court case recognizing the strong legislative rationale behind remaining closed. It does not matter that a dealer might say his sales people can stay at home. Sales work is commission work and it is crucial that they be where the action is. We all lament the loss of rural character in Maine and we all lament the fact that we have to work harder and harder. Well, if we don't accept the Majority Ought Not to Pass Report,

then that is what we are going to the employees of these motorcycle dealers. Thank you very much.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Baileyville, Representative Morrison.

Representative **MORRISON**: Mr. Speaker, Ladies and Gentlemen of the House. I support the minority amendment and oppose the motions on the floor. We are talking one dealer. In a democracy one dealer is important. He came in. He has a problem with border sales. It is a long ways between Baileyville and Kittery, but we have a problem down our way with cross border sales. To my knowledge, from what I found out in the committee, the only things that we can't sell on Sunday here in Maine are motorcycles and automobiles. I guess the logic escapes me of why automobile dealerships and motorcycle dealerships can dictate to me whether I should, as I businessman, open my shop or not. It doesn't make sense. I have a shop. If I open my shop and it puts pressure on the other dealers to open theirs, that is a business decision they have to make. To me, it is a case of government dictating something to businesses that is unnecessary. It is a business decision here that we are talking about. This is one individual. If it only means one sale to him, I think that is important to him. I am not sure what the markup is on a motorcycle, but why should he lose an opportunity of a sale to New Hampshire. If he opens on Sunday, it doesn't work out and he isn't making sales, he has to make a business decision. He has to shut down. He has a problem with employees, they don't want to work on Sunday, whatever the case might be, he has a business decision to make with his employees. I guess I just can't understand why we, as a government, have to hang on to this one little vestige of what somebody called the blue laws and not allow this one individual to stay open and run his business and try to make a sale or two. If a business is successful, it is good for the business, it is good for the employees. As your business goes, so goes the fate of the employees. It is certainly good for the State of Maine. He is a small businessman. That is what we are talking about here. He came in with an interest in staying open. He can go in and he can sell accessories, leather jackets, helmets, etc, but if customer comes in and looks at his motorcycle and asks him questions, he can't even answer questions about it. My original position on this is, I asked, why can't a businessman open on Sunday if he wants to? That question didn't go very far.

The amendment is a nice compromise. It allows him to at least answer questions about the motorcycle, the cost of the motorcycle, the ccs of the motorcycles or anything else that he might want to ask about it. The sale cannot be consummated until Monday or whenever. Maybe that makes sense. The banks are open then and the customer can get financing and so forth. That, to me, is the very least we should allow. I would have allowed more personally, but I think that is the very least we should allow. Allow the man to stay open and maybe if that helps his business, that is great. It is great for everybody.

In conclusion, I recommend voting down the present motion and then in return going with the amended compromise motion, which makes more sense and allows the man to open his business as he should be allowed.

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

Representative **TWOMEY**: Mr. Speaker, Men and Women of the House. This is not an issue that when someone approached me, I really had not given it any thought. Truthfully, I really didn't care one way or the other. I started to think about it and I thought, how hypocritical. We have stores open in Maine on Sunday. We have Wal-Mart. We have Shop 'n Save that is open. We have all the stores in the mall that are open. Why should we single out the dealerships? I mean, I guess I could

support this if we said that no one could work in the State of Maine on Sunday. These are the hardworking people who work for little money in the service area. They have to work on Sunday. The dealerships don't want to do this. I am reflecting on this and I am saying that we should play by the rules and we should treat everyone the same. We haven't in the State of Maine. We haven't valued families in the State of Maine. We haven't said that on Sunday you should stay home, go to church, be with your family, have family dinners, the traditional values that we were brought up with. We haven't done that in the State of Maine. We have said, let the stores be open, because they are going to go to New Hampshire and we are going to lose that revenue. We haven't done that. Until we do that, why should we single out the dealerships? Thank you.

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

Representative **TRACY**: Mr. Speaker, Ladies and Gentlemen of the House. I would like to get into a little history here. I am going to cast myself back into the stone ages when we first voted on the blue law on allowing the stores to open in these chambers. I, for one, didn't support that at the time because I was inundated with phone calls from my small storeowners and letters from them. It was going to be the demise of these stores. One of the stores, as a matter a fact, was Reny's. I took that all into account and I voted against the motion at that time that was on the floor in, not to allow the opening of stores on Sundays. A year or so after that, which I will stand here and say that, I probably made a mistake by not voting to allow that because the same individuals that wrote me and called me, actually got back to me and told me that Sunday sales was the biggest day of the week for them. I don't know what the problem is with allowing these motorcycle dealers, if they choose, to open on Sunday. I think it is time that the State of Maine gets its business stuff in order here and do away with these blue laws and let's get on with this. Thank you.

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

Representative **MURPHY**: Mr. Speaker, Ladies and Gentlemen of the House. I stand here remembering the debate on the blue laws with Representative Tracy. I was on the other side of that. I came from the New Hampshire border at that time and I still come from the New Hampshire border. Some of us stood here almost alone on that debate. We had had open stores in New Hampshire for almost 30 years. Maine, to me, was behind times. I had people stand here and say that I come from the Bible belt, I can't vote for it. I really don't know what that has to do with it.

Here we are tonight standing again and I have a motorcycle shop in my area. He has just opened. I don't think Representative Estes realizes there is one in Berwick. He hasn't been there very long. He actually sells antique motorcycles. He also would like to be open on Sunday. When we say there are only 26 sales in New Hampshire, I am sure that is true, but remember one thing. The people of New Hampshire would be coming to Maine to shop to buy motorcycles and that would promote business along the Maine/New Hampshire border if they could do it on Sunday.

That border business down there is only going one way. We are losing out. We have no business along the Maine/New Hampshire border. We have one new supermarket in York. That is 11 miles from the border. From Kittery to Fryeburg there is not another supermarket up along the Maine/New Hampshire border. You wonder why. It is because we had these blue laws and they got established. Across the Salmon Falls River and the Piscataquis River into New Hampshire, there are automobile dealerships, brand new ones, any kind you want. There are

motorcycle dealerships. You can buy anything over there and you have been able to for a number of years. Please vote to let the people in southern York County and along that border to be able to compete in business with everybody else down there. We are the most populated. We are really hurting on property tax because businesses do not come to that area for that reason. We are begging you to at least be able to let us show motorcycles and at least talk about them and maybe some day we will be able to have some business all over this state because we will get rid of those old blue laws that other states got rid of 30 years ago. Thank you.

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

Representative **MENDROS**: Mr. Speaker, Ladies and Gentlemen of the House. When I looked at this bill from what I had heard, it sounded like a good idea. It is a free-market system. Let the free-market system work. Let's help these small businesses. I went and I made a few phone calls and I can tell you that every single auto dealer in the Lewiston/Auburn area opposes this bill. I can tell you that Harleys Are US, which is located in my district in Lewiston, which is the biggest motorcycle dealer in the State of Maine vehemently opposes this bill. I got to wondering, why are we going to help a group of people that doesn't want to want to be helped. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Hampden, Representative Duprey.

Representative **DUPREY**: Mr. Speaker, Men and Women of the House. I am on the minority even though there are only three of us. One thing that we have to keep in mind is that this guy is open anyway. He is open on Sunday, every single Sunday. He is open selling apparel. What we are doing is stopping his first amendment right to free speech to answer a question about his motorcycles. A customer has a question and we put a legislative zipper on his lips that says you can't answer that question. That is all this does. It puts a gag order on this. To respond to the Representative from Brunswick who is worried that everyone would have to be open, I didn't see a rush for everyone to open to sell apparel just because he sells apparel. It hasn't happened, but yet they might be losing business because of it. It hasn't happened. I am all for choice in this issue. They have a choice whether to open. They have a choice whether or not to open. Let's give them the choice.

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

Representative **CLOUGH**: Mr. Speaker, Ladies and Gentlemen of the House. I don't think we put a gag order on anybody. The laws haven't changed since the motorcycle dealer in Kittery was open. When the business was opened, he was fully aware of the requirements of Sunday sales. There really is no support for this bill within the motorcycle industry or from the motorcycling community. This bill is being pushed by one dealer and one dealer only. This dealer sells a specialty motorcycle, an Indian motorcycle. Of the 26 motorcycles that were sold last year in New Hampshire, I would venture to say that not one of them was an Indian. I would be pretty safe to bet that if there was more than one, I would say there wouldn't be more than one as a possibility. He doesn't have any immediate competition. He sells Indian motorcycles, which are only available in Concord, New Hampshire, which is 45 miles away or in Everett, Massachusetts, which is 58 miles away. It is not like walking across the bridge to Portsmouth and being able to buy an Indian motorcycle. It can't be done. Please support the Ought Not to Pass.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Bristol, Representative Hall.

Representative **HALL**: Mr. Speaker, Ladies and Gentlemen of the House. I ask you to set aside for one moment your views on religious matters as a observance of the Sabbath. I ask you to set aside your thoughts on preserving a traditional way of life in Maine. I ask you to think about the three economic tests that can be used to justify repealing any blue law and then I ask you to consider whether motorcycles pass any of those three tests. The first test is that of convenience. We allow people to buy groceries or gasoline on a Sunday because they need to. The second test is whether repealing a blue law would expand sales to Maine residents. For example, clothing. We go to the Maine Mall these days as a recreation. There are many impulse buys made on a Sunday, which actually increased the total volume of commerce. The third test is whether repealing a blue law would expand sales to visitors from out of state. Clearly nobody wants to shut down LL Bean on a Sunday. I ask you this, a motorcycle purchase is a purchase of a capital good. The number of sales is finite. This is not an impulse buy for anybody except a millionaire. These are not sold to anybody from out of state. I do not believe that repealing this particular law passes any of the three economic tests that can be used to justify it and I ask you to support the Majority Ought Not to Pass Report. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Kittery, Representative Estes. 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 **ESTES**: Mr. Speaker, Ladies and Gentlemen of the House. I think that there is clearly a semantics misunderstanding here. We are not suggesting that we go with the original bill, which would have allowed the sale of motorcycles to take place on Sunday. We are going with the Minority Ought to Pass Report, which has also been re-titled and says, "An Act to Clarify the Laws Relating to the Prohibition Against the Sales of Motorcycles on Sunday." It means that the dealer, one dealer or any dealer, who wants to stay open may end up talking about their product and promoting their product and then turning around and selling it on Monday, Tuesday, Wednesday, Thursday, Friday or Saturday. I would also like to bring to your attention, I am not a lawyer, but I found it an oddity.

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

Representative **CLOUGH**: Mr. Speaker, Point of order. It is my understanding that we are not supposed to discuss the amendment when we are discussing the bill.

The SPEAKER PRO TEM: The pending question is acceptance of the Majority Ought Not to Pass Report. The Representative should confine his remarks to that motion. The Representative may proceed.

Representative **ESTES**: Thank you Mr. Speaker. I will point out because if we were to refer to the original bill, which refers to Section 3203, out of Title 17. I found it very interesting that the first line says, "Any person who shall carry on or engage in the business of selling, buying, exchanging, dealing or trading in new or used motor vehicles or those who shall open any place of business." If we go to any person, any person could be you or you or me selling a vehicle out of my front yard or it could be anyone who ends up answering an advertisement through *Uncle Henrys*. I thought that was of interest. Again, the reason why this blue law is blue law is archaic. Thank you.

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



**ROLL CALL NO. 56**

YEA - Annis, Ash, Baker, Berry DP, Berry RL, Blanchette, Bouffard, Bowles, Brooks, Bruno, Bryant, Bull, Bumps, Bunker, Canavan, Carr, Chase, Chizmar, Clark, Clough, Colwell, Cowger, Cressey, Cummings, Daigle, Davis, Desmond, Dorr, Dudley, Duncan, Dunlap, Duplessie, Etnier, Fisher, Gerzofsky, Glynn, Goodwin, Green, Hall, Hatch, Hutton, Jones, Kane, Koffman, LaVerdiere, Laverriere-Boucher, Lemoine, Lessard, Lundeen, Mailhot, Marrache, Matthews, Mayo, McDonough, McGlocklin, McKee, McKenney, McLaughlin, Mendros, Michaud, Mitchell, Muse C, Norbert, Norton, O'Brien JA, O'Brien LL, O'Neil, Paradis, Patrick, Perry, Povich, Richardson, Rines, Savage, Schneider, Sherman, Shields, Simpson, Skoglund, Smith, Snowe-Mello, Stanley, Sullivan, Tarazewich, Tessier, Thomas, Tobin D, Tobin J, Trahan, Treadwell, Usher, Volenik, Watson, Weston, Wheeler EM, Winsor, Young.

NAY - Andrews, Belanger, Buck, Chick, Collins, Crabtree, Dugay, Duprey, Estes, Foster, Fuller, Gooley, Haskell, Heidrich, Honey, Jacobs, Jodrey, Kasprzak, Labrecque, Ledwin, Lovett, MacDougall, Marley, McGowan, McNeil, Morrison, Murphy E, Murphy T, Nass, Nutting, Perkins, Pineau, Pinkham, Quint, Richard, Rosen, Tracy, Tuttle, Twomey, Waterhouse, Wheeler GJ.

ABSENT - Bagley, Bliss, Brannigan, Cote, Gagne, Hawes, Landry, Madore, Michael, Muse K, Peavey, Stedman, Mr. Speaker.

Yes, 97; No, 41; Absent, 13; Excused, 0.

97 having voted in the affirmative and 41 voted in the negative, with 13 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

Resolve, Directing the Department of Inland Fisheries and Wildlife to Submit a Proposal to Encourage the Harvest of Coyotes

(H.P. 199) (L.D. 229)  
(C. "A" H-98)

TABLED - April 24, 2001 (Till Later Today) by Representative TUTTLE of Sanford.

PENDING - **FINAL PASSAGE.** (Division Requested)

The Chair ordered a division on **FINAL PASSAGE.**

The SPEAKER PRO TEM: A division has been ordered. The pending question before the House is Final Passage. All those in favor will vote yes, those opposed will vote no.

A vote of the House was taken. 105 voted in favor of the same and 12 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker Pro Tem and sent to the Senate.

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

**REPORTS OF COMMITTEE**

**Change of Committee**

Report of the Committee on **TAXATION** on Bill "An Act to Provide Incentives to Families Who Save for College"

(S.P. 108) (L.D. 334)

Reporting that it be **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS.**

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

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

**CONSENT CALENDAR**

**First Day**

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

(S.P. 71) (L.D. 277) Bill "An Act to Amend the Standards Regarding the Endangerment of the Welfare of a Dependent Person" Committee on **CRIMINAL JUSTICE** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-75)**

(S.P. 179) (L.D. 607) Bill "An Act to Amend the Tax Expenditure Review Process" Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-72)**

(S.P. 250) (L.D. 882) Bill "An Act to Provide Loans for the Construction of Potato Storage Facilities" Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-70)**

(S.P. 271) (L.D. 936) Resolve, Creating the State Fire and Emergency Medical Services Academy Committee on **CRIMINAL JUSTICE** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-74)**

(S.P. 303) (L.D. 1050) Bill "An Act to Allow Victims of Crimes More Access to Inmate Records" Committee on **CRIMINAL JUSTICE** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-73)**

(H.P. 703) (L.D. 918) Bill "An Act to Amend the Public Drinking Law" Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass**

(H.P. 1137) **JOINT RESOLUTION MEMORIALIZING THE PRESIDENT OF THE UNITED STATES, SECRETARY OF THE INTERIOR GALE A. NORTON AND THE CONGRESS OF THE UNITED STATES TO ABANDON PLANS TO CONDUCT A FEASIBILITY STUDY CONCERNING THE BEST ESTABLISHMENT OF A NATIONAL PARK IN MAINE'S NORTH WOODS** Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass**

(7-8) (H.P. 222) (L.D. 257) Bill "An Act to Discourage Underage Consumption of Alcohol by a Minor" Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-167)**

(H.P. 266) (L.D. 344) Bill "An Act to Extend the Repeal of the Lobster Trap Tag Freeze" Committee on **MARINE RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-171)**

(H.P. 849) (L.D. 1121) Bill "An Act to Allow Flexibility in Regulation of Telephone Utilities" Committee on **UTILITIES AND ENERGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-165)**

(H.P. 1110) (L.D. 1479) Bill "An Act to Allow Flexibility in Payment of School Year Employee Wages" Committee on **LABOR** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-170)**

(H.P. 1220) (L.D. 1661) Bill "An Act to Amend the Charter of the Portland Water District to Permit the Extension of Water and Wastewater Service to the Town of Raymond" (EMERGENCY) Committee on **UTILITIES AND ENERGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-166)**

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

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

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

**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.

**HOUSE DIVIDED REPORT** – Majority (9) **Ought Not to Pass** – Minority (4) **Ought to Pass** – Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Preserve the Right to Air-dry Laundry"

(H.P. 1126) (L.D. 1523)

**TABLED** – April 24, 2001 (Till Later Today) by Representative **BAGLEY** of Machias.

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

On motion of Representative **COLWELL** of Gardiner, **TABLED** pending the motion of Representative **BAGLEY** of Machias to **ACCEPT** the Majority **Ought Not to Pass** Report and later today assigned.

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

**REPORTS OF COMMITTEE**

**Divided Report**

Majority Report of the Committee on **UTILITIES AND ENERGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-66)** on Bill "An Act to Create the Boothbay Region Water District" (EMERGENCY)

(S.P. 440) (L.D. 1442)

Signed:

Senators:

**FERGUSON** of Oxford  
**TREAT** of Kennebec  
**CARPENTER** of York

Representatives:

**SAVAGE** of Buxton  
**RINES** of Wiscasset  
**PERKINS** of Penobscot  
**BERRY** of Belmont  
**McGLOCKLIN** of Embden  
**DUNCAN** of Presque Isle  
**BLISS** of South Portland  
**HALL** of Bristol  
**CRABTREE** of Hope

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

Signed:

Representative:

**GOODWIN** of Pembroke

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-66).**

**READ.**

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

The Bill was **READ ONCE. Committee Amendment "A" (S-66)** was **READ** by the Clerk and **ADOPTED.** The Bill was assigned for **SECOND READING** Thursday, April 26, 2001.

**BILLS IN THE SECOND READING**

**House As Amended**

Bill "An Act to Exempt Bottled Water from State Sales Tax"

(H.P. 800) (L.D. 1044)

(C. "A" H-155)

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

**CONSENT CALENDAR**

**First Day**

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

(H.P. 263) (L.D. 312) Bill "An Act to Modernize the Laws Regarding Bicycle Safety" Committee on **TRANSPORTATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-177)**

(H.P. 557) (L.D. 712) Bill "An Act to Exempt Organized Veterans Groups from Motor Vehicle Registration of Ceremonial Vehicles" Committee on **TRANSPORTATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-178)**

(H.P. 643) (L.D. 843) Bill "An Act to Clarify when Reduced Speed Limits are in Effect in School Zones" (EMERGENCY) Committee on **TRANSPORTATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-179)**

(H.P. 730) (L.D. 950) Bill "An Act to Eliminate the Fees Imposed on Purple Heart Recipients for Special Registration Plates" Committee on **TRANSPORTATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-180)**

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

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

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

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

**HOUSE DIVIDED REPORT** - Majority (7) **Ought to Pass as Amended by Committee Amendment "A" (H-154)** - Minority (6) **Ought Not to Pass** - Committee on **TAXATION** on Bill "An Act to Fairly Distribute the Payment of Real Estate Transfer Taxes"

(H.P. 729) (L.D. 949)

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

The **SPEAKER PRO TEM:** The Chair recognizes the Representative from Monmouth, Representative **Green.**

Representative **GREEN:** Mr. Speaker, Ladies and Gentlemen of the House. LD 949 is all about fairness. It is

about taxes. It is about property taxes. It is about letting people keep taxes that they pay in the county and the town in which they pay them.

You may or may not know that every time real estate is bought and sold in the State of Maine a real estate transfer tax is paid. The rate of that tax is \$4.40 per thousand. It is split equally between the buyer and the seller and it then goes through a series of transformations. At this time, part of it stays in the county to support the Registry of Deeds and all the work that the county does to take care of real estate records. Part of it goes to the Home Fund and part of it goes to the General Fund. Prior to 1983, counties retained 15 percent of that money. Then they only retained 10 percent.

LD 949 is an attempt to turn back the clock, if you will. Go back to the good old days and allow taxes that are paid in a particular county and municipality more of those taxes to stay closer to home. Since it is the counties that collect the real estate transfer tax and provide the services to payers through the Registry of Deeds, it should be the counties that retain a greater portion of the tax collected. The portion that goes to the Maine State Housing Authority according to this bill would remain the same. There would be no deductions. Yes, the General Fund would receive a deduction. In fact, the amendment is the fiscal note. However, unlike other types of fiscal notes, this money doesn't disappear into the ether. This money simply does not go into the General Fund because it stays at home. It stays closer to the taxpayers who paid it and closer to the taxpayers who actually benefit from county government services.

In fact, LD 949 could be viewed as a mini revenue sharing program for the counties. I encourage your support that gives the counties a little extra so they don't have to ask their municipalities to raid their county section of the tax. I hope that you will vote with the majority on this bill. Thank you very much.

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

Representative **BLANCHETTE**: Mr. Speaker, Ladies and Gentlemen of the House. I rise today to encourage you support the Majority Report on this LD. As a former County Treasurer, I can tell you that the tax dollars in the counties are spread mighty thin. We are an old state. We are a historic state. We have a lot of documents stored in our county courthouses in the Registry of Deeds office. The codification and sealing of all of these records falls on the direct responsibility of county government. Funds are very, very hard when you look at preserving an old book or repairing a road. Guess what comes first. The road has to be repaired so the money is cut. We were funding this at a rate of 15 percent not that long ago and then we reduced it down on 10 percent. I have heard from the Registry of Deeds Association. These are the people that do the work and guard the records and file all of the papers, dot all the I's and cross all the T's in every real estate transfer that happens in this state. They earn the money. We are skimming the cream off the top of the quart of milk. I urge your support on this. Take the message home to the people that elected you here that you want to keep their tax dollars closer to their pocketbook and farther away from ours. Thank you Mr. Speaker.

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

Representative **BOWLES**: Mr. Speaker, Ladies and Gentlemen of the House. Yours is a very simple decision. If you believe that county government is an efficient and productive use of your taxpayer dollars and if you support the expansion and growth of county government, then you should vote for this bill. If, however, you feel that county government is large enough and must learn to live within its means, just as we do as individuals, then I ask you to vote against this bill.

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

Representative **MURPHY**: Mr. Speaker, Ladies and Gentlemen of the House. The hour is getting late, but I just want to say that I agree 100 percent with my good chair of the Taxation Committee. I would hope that you would vote with the Ought to Pass report. The money will go back to the counties, but it will also go back to help property tax. Thank you.

The SPEAKER PRO TEM: 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 the Representative from Sanford, Representative Bowles. It is not often that we disagree. I would agree with him when he raises the question about the efficiency of government. If I thought for a moment that by not passing this bill that we would make county government more efficient, I would be the first to jump on board with it. However, it begs the question, if we do what we want to do, is it going to make state government more efficient? I think not. I rarely agree with the House Chair from Taxation, but I must say, for once, she is absolutely correct. We are sending the money closer to the taxpayer. We are sending the money back to the counties, the counties that actually raised the money and have to do the work in order to collect it. The only better option available would be to send the money directly back to the taxpayer, which I know none of us would entertain at this point. Therefore, I would urge you to vote with the House Chair of Taxation. Thank you.

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

The SPEAKER PRO TEM: A division 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.

A vote of the House was taken. 87 voted in favor of the same and 7 against, and accordingly the Majority **Ought to Pass as Amended Report** was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-154)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Thursday, April 26, 2001.

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

**HOUSE DIVIDED REPORT** – Majority (9) **Ought Not to Pass** – Minority (4) **Ought to Pass** – Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Preserve the Right to Air-dry Laundry"

(H.P. 1126) (L.D. 1523)

Which was **TABLED** by Representative COLWELL of Gardiner pending the motion of Representative BAGLEY of Machias to **ACCEPT** the Majority **Ought Not to Pass Report**.

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

Representative **PERRY**: Mr. Speaker, Ladies and Gentlemen of the House and any members who may be listening over the audio system, I would encourage you to come in for this. I wish to speak in opposition to the pending motion so we can go on to accept the Minority Report and at that time I have an amendment that may address one minor concern with the bill. This bill is not about local control. I don't want to dictate to municipality's ordinances. If the local people decide they do or do not want to allow clotheslines, that is fine. The issue I want to get at is property rights. It is also energy conservation. It is also the rates that you and I pay for electricity. It is also air quality. Those are the issues that I seek to address with this bill. As far

as property rights, if you are a homeowner, you own your home on your piece of land and you want a clothesline, you are welcome to have one. That is the issue I want to get at. As far as conservation, it is free to dry clothes in the air. It takes no electricity, no pollution, no impact on the environment. As far as electricity rates for you and I when you think about what drives electric bills behind perhaps electric hot water, you would quickly think of maybe a refrigerator or clothes dryer. In the summer months, the hot weather, when we have power shortages or power alerts, people need to cut back. The way power companies purchase electricity, what they contract for these blocks of electricity, is very cheap. On power alert days when they have to buy more electricity than they have contracted for, it becomes very, very expensive. A neighborhood that does not allow clotheslines, they are burning electricity during the summer months and putting pressure on these peak days and forcing the utilities to buy very expensive electricity that in the end figures into our stand offer rate, which is recently in Bangor Hydro's territory gone from 4.6 to 7.4 cents a kilowatt hour. That started March 1. Not everyone knows that, but they will be seeing that in this month's bills. I suspect most people will not be happy about it. To air quality, here in Maine we suffer from the effects of the Midwest coal fired electric plants. They say that one plant emits more pollution than every car in the State of Maine. I think we should be doing whatever we can to not depend on those plants. I would thank you for your support in defeating the pending motion. Thank you.

Representative McDONOUGH of Portland **REQUESTED** that the Clerk **READ** the Committee Report.

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

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

Representative **MCDONOUGH**: Mr. Speaker, Men and Women of the House. This bill, the summary report, prohibits a municipality from passing or imposing an ordinance covenant contract provision rule, regulation or restriction that prohibits the hanging of laundry outdoors, except for reasonable health or safety purposes. Mr. Speaker, I think that we all realize that there are closed, gated communities, condominium complexes and all that have covenants in their deeds that say that you cannot hang your laundry in the front yard. You go into trailer parks, there are covenants in the lease or in the lease of the lot that say you cannot do certain things. This bill says that this Legislature is going to override that provision. It is not a good bill. The majority on the committee felt that we don't have a problem here in the State of Maine. I have not heard of one single incidence where that would occur. I would like to ask the sponsor of the bill, where in the state have we had a problem that generated this bill?

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

Representative **PERRY**: Mr. Speaker, Ladies and Gentlemen of the House. If you buy a piece of land to build a house along a road somewhere, you do as you please with it. If you purchase a house lot in most subdivisions and they load the deed up with restrictions to make it a desirable neighborhood. As far as I am concerned if these restrictions to you make it a desirable neighborhood, say no commercial vehicles parked in the driveway, 3,000 square foot minimum on the construction of the house, things of that nature, that is fine. If that is desirable to you, I have no problem with that. Where the problem occurs is when people in the neighborhood would like to have a clothesline and can't, they are using electricity that during the peak time of

the year is now affecting mine and your electric bill. Before we get in a situation like California, I think we ought to take care of it. Thank you.

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

Representative **MCDONOUGH**: Mr. Speaker, Men and Women of the House. I don't really want to get into a heated debate with my good friend from Bangor over this issue, but he really didn't answer the question that was posed to him at the committee. If I could refresh his memory, if that would be appropriate, I would like to do that. Representative Perry, as I recall, you said that we didn't have a problem here in the State of Maine, but you have a brother up in Vermont and they have a bill like this up there and you just wanted to do it on a preventive basis. That is where it came from. That is the reason the committee felt the way we did.

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

Representative **KASPRZAK**: Mr. Speaker, Point of order. I am not sure we are allowed to address a fellow legislator in that manner.

The **SPEAKER PRO TEM**: The Representative will refer his remarks to the pending question to the chair. The Representative may proceed.

Representative **MCDONOUGH**: Thank you Mr. Speaker. I will do that. I thank the good Representative from Newport for reminding the body of that. I apologize to Representative Perry for my remarks. I would ask the body, the men and women of the House, to support my Majority Ought Not to Pass Report on this bill. 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. I cosponsored this legislation and when the Representative asked me to cosponsor it, I first thought it was a joke. I really did. He is such a really good comedian that sometimes it is hard to tell the difference. Seriously, after I got into it, I was called by Channel 13 and the Chair of State and Local Government says that there is no call for this. Channel 13 wanted to speak to me because the lady who works there is having this very same problem. She can't hang her clothes out. We talk about gated communities. How elitist. There are people who really want to hang out their clothes and sometimes it is not aesthetically pleasing to see the laundry hung out, but it really does come to an environmental bill. It really saves energy. In light of what is happening in California, we really need to be visionaries and see into the future. There are lots of people who like to smell those sheets when they hang out their clothes and there are people who can't afford dryers. There are people who shouldn't be dictated to that if they want those clotheslines, they should be allowed. Seriously, the bottom line after I really thought about long and hard is it is an environmental bill. I no longer laughed at him and I was no longer angry that Channel 13 sought me out instead of single payer to talk about air-drying clothes. When I got home, I had calls saying that we live in projects and we would like to be able to hang out our clothes. Aesthetically, some people just don't like it. It is a little elitist. The gated communities certainly wouldn't want people to hang out their laundry. I say let's go for it. I am supporting this. Thank you.

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

Representative **MURPHY**: Mr. Speaker, Ladies and Gentlemen of the House. This is a local control bill. This bill is up to each and every municipality to vote on. I hope that you will go with the Ought Not to Pass and let each municipality handle it

in their own way. It is part of a business. If it is a subdivision and they a covenant in, I know that when I buy my home there or I buy a piece of land. Please let the municipalities handle this one. Thank you.

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

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

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

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

**ROLL CALL NO. 57**

**YEA** - Andrews, Ash, Berry DP, Bouffard, Bowles, Bruno, Bull, Bunker, Canavan, Chase, Chick, Clark, Clough, Colwell, Cowger, Crabtree, Cressey, Daigle, Davis, Dunlap, Etnier, Foster, Fuller, Glynn, Goodwin, Gooley, Hatch, Heidrich, Honey, Hutton, Jodrey, Jones, Kane, Labrecque, LaVerdiere, Ledwin, Lessard, Lundeen, MacDougall, Mailhot, Marrache, Matthews, Mayo, McDonough, McKenney, McNeil, Mendros, Michaud, Nass, Norbert, Nutting, Paradis, Patrick, Perkins, Pineau, Povich, Richardson, Rosen, Schneider, Shields, Smith, Tessier, Tobin D, Tobin J, Trahan, Treadwell, Usher, Waterhouse, Weston, Winsor, Young.

**NAY** - Annis, Baker, Berry RL, Blanchette, Brooks, Bryant, Buck, Carr, Chizmar, Collins, Cummings, Desmond, Dorr, Dudley, Dugay, Duncan, Duplessie, Duprey, Estes, Fisher, Gerzofsky, Green, Hall, Haskell, Jacobs, Kasprzak, Koffman, Laverriere-Boucher, Lemoine, Marley, McGlocklin, McGowan, McKee, McLaughlin, Mitchell, Morrison, Murphy T, Muse C, Norton, O'Brien LL, O'Neil, Perry, Pinkham, Quint, Richard,

Rines, Savage, Sherman, Simpson, Skoglund, Snowe-Mello, Stanley, Sullivan, Tarazewich, Thomas, Tracy, Tuttle, Twomey, Volenik, Watson, Wheeler EM, Wheeler GJ.

**ABSENT** - Bagley, Belanger, Bliss, Brannigan, Bumps, Cote, Gagne, Hawes, Landry, Lovett, Madore, Michael, Murphy E, Muse K, O'Brien JA, Peavey, Stedman, Mr. Speaker.

Yes, 71; No, 62; Absent, 18; Excused, 0.

71 having voted in the affirmative and 62 voted in the negative, with 18 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

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HOUSE DIVIDED REPORT - Majority (11) **Ought Not to Pass** - Minority (1) **Ought to Pass as Amended by Committee Amendment "A" (H-153)** - Committee on **TAXATION** on Bill "An Act to Create Equitable Taxation of Leased Property"

(H.P. 456) (L.D. 577)

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

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

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The Speaker resumed the Chair.

The House was called to order by the Speaker.

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On motion of Representative DUNLAP of Old Town, the House adjourned at 8:14 p.m., until 9:00 a.m., Thursday, April 26, 2001.