

MAINE STATE LEGISLATURE

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

Volume I

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Pages 1-889

ONE HUNDRED AND TWENTIETH LEGISLATURE
FIRST REGULAR SESSION
40th Legislative Day
Tuesday, May 1, 2001

Secretary of the Senate
READ and ORDERED PLACED ON FILE.

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

Prayer by Chaplain David O. Sivret, St. Matthews Episcopal Church, Hallowell.

Pledge of Allegiance.

The Journal of yesterday was read and approved.

SENATE PAPERS

The following Joint Order: (S.P. 604)

ORDERED, the House concurring, that the Joint Standing Committee on Criminal Justice report out, to the Senate, a bill regarding training requirements for certain employees of the Department of Public Safety.

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

READ and PASSED in concurrence.

COMMUNICATIONS

The Following Communication: (H.C. 224)

**STATE OF MAINE
HOUSE OF REPRESENTATIVES
SPEAKER'S OFFICE
AUGUSTA, MAINE 04333-0002**

April 25, 2001

Honorable Millicent M. MacFarland

Clerk of the House

2 State House Station

Augusta, ME 04333

Dear Clerk MacFarland:

Pursuant to my authority under MRSA 20A §12106, I have appointed Patricia J. Wallace of Lamoine to the Advisory Committee on Medical Education.

Should you have questions regarding this appointment, please do not hesitate to contact my office.

Sincerely,

S/Michael V. Saxl

Speaker of the House

READ and ORDERED PLACED ON FILE.

The Following Communication: (S.C. 242)

**SENATE OF MAINE
OFFICE OF THE SECRETARY
3 STATE HOUSE STATION
AUGUSTA, ME 04333-0003**

April 30, 2001

The Honorable Michael V. Saxl

Speaker of the House

2 State House Station

Augusta, ME 04333

Dear Speaker Saxl:

In accordance with Joint Rule 506, please be advised that the Senate today confirmed the following nomination:

Upon the recommendation of the Joint Standing Committee on Legal and Veterans Affairs, the nomination of Kathleen McGibney Newman of Hallowell, for reappointment to the State Liquor and Lottery Commission.

Sincerely,

S/Joy J. O'Brien

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:

BANKING AND INSURANCE

Bill "An Act to Lower Costs in the Small Group Market"

(H.P. 1324) (L.D. 1784)

Presented by Speaker SAXL of Portland.

Cosponsored by Senator LaFOUNTAIN of York and Representatives: CANAVAN of Waterville, DUDLEY of Portland, MARRACHÉ of Waterville, MAYO of Bath, O'NEIL of Saco, PERRY of Bangor, SMITH of Van Buren, SULLIVAN of Biddeford.

ORDERS

On motion of Representative SOCTOMAH of the Passamaquoddy Tribe, the following Joint Resolution: (H.P. 1323) (Cosponsored by Senator SHOREY of Washington and Representatives: BAGLEY of Machias, BUNKER of Kossuth Township, DUGAY of Cherryfield, DUNLAP of Old Town, GOODWIN of Pembroke, HALL of Bristol, MORRISON of Baileyville, Senator: GOLDTHWAIT of Hancock)

JOINT RESOLUTION COMMEMORATING MAY FIRST AS COLONEL JOHN ALLAN, AMERICAN REVOLUTIONARY WAR HERO, DAY

WHEREAS, Colonel John Allan, Scottish-born patriot of the Revolutionary War, was appointed by President George Washington in 1776 as the Military Commander of the Eastern Area; and

WHEREAS, the Continental Congress in 1778 acknowledged the work of Colonel Allan in defending the District of Maine; and

WHEREAS, Colonel Allan had headquarters in Machias, Maine and defended the country during the Revolutionary War; and

WHEREAS, Colonel Allan united the Passamaquoddy, Maliseet, Penobscot and Micmac tribes with the Maine settlers and together they defended the Maine coast against the British; and

WHEREAS, Colonel Allan worked to fulfill promises made to the Passamaquoddy Tribe by meeting with President Washington and the Continental Congress; and

WHEREAS, Colonel Allan's service to the American colonies kept the area from the St. Croix River to the Penobscot River from becoming Canadian territory; now, therefore, be it

RESOLVED: That, We, the Members of the One Hundred and Twentieth Legislature now assembled in the First Regular Session, on behalf of the people we represent, take this opportunity to recognize Colonel John Allan as a Patriot of Maine and we proclaim that May 1st, 2001 is Colonel John Allan Day; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to Porter Memorial Library in Machias, Peavey Memorial Library in Eastport, the Charlotte Historical Society, the Dennysville Historical Society, the Pembroke Historical Society, the Passamaquoddy Tribe and the Daughters of the American Revolution, who maintain the historical memorials in honor of this important time in Maine history.

READ.

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

Representative **SOCTOMAH**: Mr. Speaker, Men and Women of the House. Colonel John Allan was a Revolutionary War hero here in Maine. Very little is taught about him in the schools, but he probably had the most impact on the boundary of Maine than any other person in history. He had to convince George Washington of the importance of defending the northeast corner of the country. Both the Continental Congress and George Washington appointed him as a Eastern Army Commander in 1777. Stationed in Machias with a few settlers and soldiers, he gained the alliance of the Passamaquoddy, Penobscot, Micmac and Maliseet. The tribes fought to protect this state. Colonel Allan's friendship with the Passamaquoddy Tribe lasted a lifetime and a bond was developed between the tribes, the state and the federal government. Colonel Allan continued to communicate with George Washington and the Continental Congress throughout his retirement. Colonel Allan and the tribes are credited for saving the area from the Penobscot River to the St. Croix River and prevented the expansion of Canada into this area. He spent the last of his years near the Passamaquoddy Tribe and presented the Tribal Chief Neptune a folder full of historic papers and letters signed by George Washington and the Continental Congress and the Massachusetts Legislature. These papers were the promises that were made to the tribe. He told the Passamaquoddy Tribe to protect these papers and someday the government will live up to their promises. Two hundred years later, these papers were the papers that started the historic 1980 Land Claims Settlement Act. His service to the Passamaquoddy Tribe and this country will forever be imprinted in history.

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

Representative **GOODWIN**: Mr. Speaker, Men and Women of the House. Today we are honoring Colonel John Allan of American Revolutionary War fame. He was quite prominent during that time period in Eastern Maine and he deserves much more attention than historians have bestowed upon him up until now. John Allan was the oldest son of William Allan, one of the earliest settlers of Nova Scotia. He was born in Edinburgh Castle in Scotland, January 3, 1746. At the time of his birth, John Allan's family was in temporary residence in the castle having sought refuge there during the troubles of the Scottish Rebellion. While a young man in Nova Scotia, John Allan held the offices of Justice of the Peace, Clerk of the Sessions, Clerk of the Supreme Court and he also served as Representative to the Provincial Assembly until June 28, 1776. It was at this time when his seat was declared vacant for non-attendance. Like many people in Canada at the time, he had taken a lively interest in the strife and contention in which Great Britain was engaged with their American colonies. His sympathies were entirely with the colonists. He openly and fearlessly espoused their causes. The Provincial Government began to law their plans to apprehend him for treason to the King and placed 100 pounds on his head. He escaped from the province and cast his lot with the colonies on August 3, 1776, arriving at Passamaquoddy Bay on August 11 and entered Machias Bay three days later. His obscurity in our history is easily accounted for. His position under General Washington as the Superintendent of the Indians of Eastern Maine did not bring him into the limelight, although his duties were arduous, required skill, executive ability, keen foresight and sagacity. His services for the cause of the American colonies again brings into prominence

Passamaquoddy Bay and the historic Town of Machias, his headquarters.

Colonel Allan was appointed a commission to take charge of what is known in history as the St. John Expedition. He left Machias in June of 1778 and returned the latter part of the following August. The net result of this movement was the obtaining of much valuable information and establishing, to a great extent, friendly relations with the Native American Tribes. This lasted until the end of the revolution. The value of Colonel Allan's services in this respect and throughout the war in maintaining peace with the eastern tribes and often securing them as our allies can never be fully estimated. He was both by temperament and ability eminently well qualified for such service. When he returned to Machias from the St. John River, a large number of Native American warriors and their families accompanied Colonel Allan who remained true to the Americans as long as the hostilities continued. There is ample evidence that General Washington placed implicit confidence in his conduct and supervision of the Native American affairs on the eastern frontier. It is also apparent that when Colonel Allan united his fortunes with the people of Passamaquoddy and Machias, they were in dire distress and exposed to danger from the threatened invasion of the settlements by the British.

Colonel Allan's home and headquarters were at Machias until the close of the war. In July 1783, he visited Boston and resigned his commission. In 1784, he returned to Maine and entered upon a mercantile business on what was afterwards known as Allan's Island. Two years later he closed his business and retired to Lubec Mills where he resided until his death in 1805.

The stories of the white settlers and the Native Americans contains much tragedy, cruelty and injustice. Equally, there were some settlers who were able to treat their Native American counterparts with kindness, win their affection and establish good working relationships with them. Colonel Allan belongs in this galaxy for just men. His unceasing faithfulness to their cause and his kindness won him their love and respect. Today we honor Colonel Allan and his accomplishments in eastern Maine and his collaborative work with the Passamaquoddy Tribe. Many of his descendants are here today. We honor John Allan's patriotic duty to his adopted new nation. I thank the Speaker and I thank the members of this body.

ADOPTED.

Sent for concurrence.

On motion of Representative LEMOINE of Old Orchard Beach, the following Joint Order: (H.P. 1325)

ORDERED, the Senate concurring, that the Joint Standing Committee on Marine Resources report out, to the House, legislation relating to marine patrol officers.

READ and PASSED.

Sent for concurrence.

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

SPECIAL SENTIMENT CALENDAR

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

Recognizing:

Amanda McDermott, of Gorham, who placed first in the Northeast National Junior Olympic Archery Development Indoor Championship and 11th in the nation. She was one of 30

competitors in her junior class for the northeast region. Amanda is an 8th grade high honor student. She has been involved with archery competition for the last 3 years. We extend our congratulations and best wishes to Amanda on this achievement;

(HLS 231)

Presented by Representative LABRECQUE of Gorham. Cosponsored by Representative CLOUGH of Scarborough, Senator O'GARA of Cumberland.

On **OBJECTION** of Representative LABRECQUE of Gorham, was **REMOVED** from the Special Sentiment Calendar.

READ.

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

Representative **LABRECQUE**: Mr. Speaker, Ladies and Gentlemen of the House. It is my pleasure to introduce to you Amanda McDermott. She is an up and coming Olympian. She has had the privilege of being able to compete at the junior level in archery. It has been my pleasure to present this special sentiment to her. Placing first in the national northern division of the Olympic Archery Development Indoor Championship meant that she was in competition with at least 30 other youngsters in her age bracket. The northeast division is all of New England, New York and all the way down to Virginia. I would also like to make one other little correction. She is seventh in the nation. I look forward to seeing her name as she progresses through this. As we all know, it takes a tremendous amount of dedication to become as excellent in this sport. Thank you Mr. Speaker.

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

Representative **CLOUGH**: Mr. Speaker, Ladies and Gentlemen of the House. In addition to placing first in the Northeast Junior Olympic Archery Development Indoor Championship, Amanda McDermott is a straight A, high honor student at Shaw Middle School in Gorham. I congratulate Amanda on her ability to maintain this high scholastic record while at the same time achieving this high honor in archery. It truly shows the results of dedication and hard work. We all wish Amanda well in her future endeavors.

PASSED and sent for concurrence.

Recognizing:

John Blouin, of Manchester, the Executive Vice President of Blouin Motors Incorporated, who is the recipient of the 2001 Time Magazine Quality Dealer Award. The award recognizes outstanding new car dealers for exceptional performance in their dealerships and for distinguished community service. We send our congratulations to Mr. Blouin on this occasion;

(HLS 270)

Presented by Representative O'BRIEN of Augusta. Cosponsored by Representative FULLER of Manchester, Senator TREAT of Kennebec, Representative MADORE of Augusta, Representative MITCHELL of Vassalboro, Senator DAGGETT of Kennebec.

On **OBJECTION** of Representative O'BRIEN of Augusta, was **REMOVED** from the Special Sentiment Calendar.

READ.

The **SPEAKER**: The Chair recognizes the Representative from Augusta, Representative O'Brien.

Representative **O'BRIEN**: Mr. Speaker, Esteemed Colleagues of the House. It gives me great pleasure and honor today to speak on behalf of John Blouin and Blouin Motors. All of us have these business people in our communities, those that have very successful businesses, but still have the time for family life and an extensive amount of community service. They

are always available when you need them. John Blouin of Blouin Motors are one of those fine businesses. John Blouin received this award. He was one of over 60 who were the recipient of the 2001 Time Magazine Quality Dealer Award. As was stated, the award recognizes outstanding car dealers for exceptional performance in their field and also distinguished service. I can speak to that distinguished service.

For 22 years John has been involved in the car business. I was told my his daughter Jillian, who is a page today, that he started at age 12 polishing cars and has never stopped. The work ethic and the community service ethic have been handed down from his parents, Peter and Mary Blouin, who are with us today. We want to thank them. He has had incredible support from his family, his wife, Cricket, and three children, Jillian, Reed and Lesley.

As the Executive Director of the Children's Discovery Museum, I can tell you that Blouin Motors and John Blouin has been one of our staunch supporters and it is just one indication of how much he has given back to the community that he serves.

Again, I am very proud to congratulate John and his family on this award. I thank him for all he has done for the central Maine community. Thank you.

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

Representative **FULLER**: Mr. Speaker, Ladies and Gentlemen of the House. I want to also add my congratulations to John Blouin for receiving this award as a quality dealer in this car business. I second all the comments made by my distinguished colleague, Representative O'Brien. I have known John since he was a youngster growing up on the lake. I have known his family for many, many years and I agree with all the comments that he has been instilled with, a wonderful work ethic, as well as community support. I have bought my cars at Blouin Motors for many, many years, both new and used and one of the best parts of dealing with Blouin Motors is their service manager who I have all the confidence in the world in. I can fully understand why he got this award for quality as a quality dealer. He is also a fine person and I offer my congratulations for him receiving this award. Thank you.

PASSED and sent for concurrence.

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **BANKING AND INSURANCE** reporting **Ought Not to Pass** on Resolve, to Reduce the Cost of Health Care Policies Purchased by Consumers and Businesses

(S.P. 178) (L.D. 606)

Signed:

Senators:

LaFOUNTAIN of York
DOUGLASS of Androscoggin
ABROMSON of Cumberland

Representatives:

DUDLEY of Portland
MICHAEL of Auburn
SMITH of Van Buren
YOUNG of Limestone
MAYO of Bath
O'NEIL of Saco
SULLIVAN of Biddeford
CANAVAN of Waterville
MARRACHÉ of Waterville

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (S-90)** on same Resolve.

Signed:

Representative:

GLYNN of South Portland

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

READ.

Representative O'NEIL of Saco moved that the House **ACCEPT the Majority Ought Not to Pass Report.**

The same Representative **REQUESTED** a roll call on his motion to **ACCEPT the Majority Ought Not to Pass Report.**

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

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

Representative **GLYNN:** Mr. Speaker, Ladies and Gentlemen of the House. I rise in opposition to the pending motion and would ask the House to consider defeating this motion and moving on to the Minority Ought to Pass as Amended Report, which is report (S-90). We have before us a very important policy question regarding the cost of health insurance in the State of Maine and what we can do as legislators to impact that. The bill presented by the good Senator from the other body, Senator Turner from Cumberland County, he presented an idea to study the cost of the mandates that we have enacted through the State Legislature. He went further onto the bill and asked that we repeal the mandates. The Minority Report changes that a little bit. While I can't reference the Minority Report, as I rise, I urge you to take a look at the copy and you will find an amendment (S-90), the things that you don't like have been removed and the things that you should like are in there.

With regard to looking that the costs of these expensive mandates, it is important to note that when the Legislature enacts mandates, the Banking and Insurance Committee has a process where we go out and we do a cost analysis of them. However, that cost analysis is only done at the time of enactment of these mandates. Once they have been in place and there is a track record and we can accurately come up with just how much this is increasing the cost of insurance premiums, we never go back and look at them again. That is the important thing with this measure that we are considering. We are going to look at the price. We are going to come up with how much this is actually impacting the costs of health insurance products and what we can do to reduce those costs. By the most conservative estimates for groups larger than 20, it is estimated that health insurance premiums increase on the average of 7.74 percent for indemnity and 7.42 percent for HMO products. That is at the time of enactment. We have absolutely no idea how much these mandates are costing us because we have never conducted the study and we have never taken a look at it.

Most troubling to me was at the public hearing on this bill in front of Banking and Insurance. I asked those that had spoke against the measure if they would be against the Maine Legislature looking at the cost of the mandates and doing the study for just the mandates, not repealing them, but just the mandates? Surprisingly, each and every one of the special interest groups that testified against this bill said that we don't want you to know how much these mandates cost. I said, "Are you telling me that as a legislator you don't want me to know the cost impact of these mandates?" Each and every one of them that testified said, no. We don't think you need that information.

I was very offended by that and I think all of you should be offended by that because if we are going to have a free exchange of ideas in this House and in the other body, then, in fact, we need all of the information so that we can make the best, most informed decisions possible.

It was no surprise we received a lot of pro-testimony in favor of looking at these costs of these insurance mandates. We received testimony from the NFIB and even Anthem testified as a proponent of this measure because they know if we are going to lower the cost of health insurance, we need to be able to negotiate. We need to have innovative products. We need to look at forming purchasing alliances with other people, but we can't as long as we have these rules and regulations and red tape on the books that prohibits it.

I ask that you strongly consider the value of knowing the cost of these mandates. I ask that you support me in opposing this measure. Thank you Mr. Speaker.

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. 64

YEA - Ash, Baker, Berry RL, Blanchette, Bliss, Bouffard, Brannigan, Brooks, Bryant, Bull, Bunker, Canavan, Chizmar, Clark, Colwell, Cote, Cowger, Cummings, Desmond, Dorr, Dudley, Dugay, Dunlap, Estes, Etnier, Fisher, Fuller, Gagne, Gerzofsky, Hall, Hatch, Hawes, Hutton, Jacobs, Jones, Kane, Labrecque, Landry, LaVerdiere, Laverriere-Boucher, Lemoine, Lessard, Lundeen, Marley, Marrache, Matthews, Mayo, McDonough, McGlocklin, McGowan, McKee, McLaughlin, McNeil, Michael, Michaud, Mitchell, Morrison, Muse C, Norbert, Norton, O'Brien JA, O'Brien LL, O'Neil, Patrick, Perry, Pineau, Richard, Richardson, Rines, Savage, Simpson, Skoglund, Smith, Stanley, Sullivan, Tarazewich, Tessier, Tracy, Tuttle, Twomey, Usher, Volenik, Watson, Wheeler GJ, Young, Mr. Speaker.

NAY - Andrews, Annis, Belanger, Berry DP, Bowles, Bruno, Buck, Bumps, Carr, Chase, Chick, Clough, Collins, Crabtree, Cressey, Daigle, Duncan, Duprey, Foster, Glynn, Gooley, Haskell, Heidrich, Honey, Jodrey, Kasprzak, Ledwin, Lovett, MacDougall, Madore, McKenney, Mendros, Murphy E, Murphy T, Muse K, Nass, Nutting, Perkins, Pinkham, Rosen, Schneider, Sherman, Shields, Snowe-Mello, Tobin D, Tobin J, Trahan, Treadwell, Waterhouse, Weston, Wheeler EM, Winsor.

ABSENT - Bagley, Davis, Duplessie, Goodwin, Green, Koffman, Mailhot, Paradis, Peavey, Povich, Quint, Stedman, Thomas.

Yes, 86; No, 52; Absent, 13; Excused, 0.

86 having voted in the affirmative and 52 voted in the negative, with 13 being absent, and accordingly the Majority **Ought Not to Pass Report was ACCEPTED** in concurrence.

Majority Report of the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** reporting **Ought Not to Pass** on Bill "An Act Regarding the Rescission Period in the Purchase of Time Shares"

(S.P. 98) (L.D. 324)

Signed:

Senators:

SHOREY of Washington
BROMLEY of Cumberland

Representatives:

HATCH of Skowhegan
RICHARDSON of Brunswick
BRYANT of Dixfield
CLOUGH of Scarborough

DORR of Camden
MURPHY of Kennebunk
MICHAUD of Fort Kent

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (S-93)** on same Bill.

Signed:

Representatives:

THOMAS of Orono
MORRISON of Baileyville
DUPREY of Hampden

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

READ.

On motion of Representative RICHARDSON of Brunswick, the Majority **Ought Not to Pass Report was ACCEPTED** in concurrence.

Majority Report of the Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-94)** on Bill "An Act to Expand the Maine Mathematics, Science and Engineering Talent Search Venture"

(S.P. 280) (L.D. 991)

Signed:

Senators:

MITCHELL of Penobscot
NUTTING of Androscoggin
ROTUNDO of Androscoggin

Representatives:

RICHARD of Madison
DESMOND of Mapleton
SKOGLUND of St. George
ESTES of Kittery
CUMMINGS of Portland
WATSON of Farmingdale

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

Signed:

Representatives:

STEDMAN of Hartland
ANDREWS of York
WESTON of Montville
LEDWIN of Holden

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-94).**

READ.

Representative RICHARD of Madison 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.

Majority Report of the Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought Not to Pass** on Bill "An Act to Clarify Laws Pertaining to Nuisance Wildlife"

(S.P. 168) (L.D. 587)

Signed:

Representatives:

TRAHAN of Waldoboro

CHICK of Lebanon
CLARK of Millinocket
HONEY of Boothbay
PERKINS of Penobscot
TRACY of Rome
McGLOCKLIN of Embden

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (S-84)** on same Bill.

Signed:

Senators:

CARPENTER of York
KILKELLY of Lincoln
WOODCOCK of Franklin

Representatives:

DUNLAP of Old Town
USHER of Westbrook
BRYANT of Dixfield

Came from the Senate with the Minority **OUGHT TO PASS AS AMENDED Report READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-84).**

READ.

Representative CLARK of Millinocket moved that the House **ACCEPT** the Majority **Ought Not to Pass Report.**

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

Representative **DUNLAP**: Mr. Speaker, Men and Women of the House. I hope that we do not accept the Majority Ought Not to Pass Report and go on to accept the Minority Ought to Pass as Amended Report. This was a bill that was worked very hard in our committee. What you see before you on the calendar is a truly honest division. We worked very hard on this issue. We were confronted with a fairly significant problem dealing with law, nuisance wildlife and I think what we have come up with on the Minority Report is a fairly effective solution. I don't really see any long-term problems with it. There were some concerns on the committee when we discussed this about a farmer's ability to protect their crops and livestock from nuisance wildlife and I do not wish to speak for the majority, but I believe that is the crux of their objection to this legislation.

What the Minority Report entails, essentially, is putting into place a process by which farmers can still protect their livestock and crops very effectively. The amendment, which is in the Minority Report asks that a farmer who employs an individual outside of their family to do so with notification to a game warden and any nuisance wildlife that they take, that they take proper care of the carcasses and not to waste that wildlife. It is important to note that all wildlife is held in common by the people of the State of Maine. The problem brought before us was one where individuals who were engaged in this practice were doing so mostly on posted land and that resource was not available to the people. What we are trying to get at is equal access to all the resources for all the people and protecting that right and at the same time guaranteeing that farmers can still protect their crops. If it sounds like this is a little bit redundant with what is going on now, it may very well be. I think it is important to note that this is not a widespread problem. If it were a widespread problem, it wouldn't be a problem, it would be a tradition. It is a problem that arises occasionally where the farmer or other landowner will post their land and then have problems with wildlife and then bring in people under a depredation permit to take that wildlife. What we are trying to do is protect the rights of people to access the resources without putting any undue hardships on farmers.

This solution was arrived at by a coalition of people, including the Farm Bureau and also the Sportsmen's Alliance of Maine and other interested parties. We worked, like I say, very, very hard on this. I hope that you will consider this argument when you cast your vote and look at the Minority Report. When the vote is taken, I request a division.

Representative **DUNLAP** of Old Town **REQUESTED** a division on the motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

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

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

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

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

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

Representative **SNOWE-MELLO**: Mr. Speaker, Men and Women of the House. How does this affect property rights? Does it intrude on them?

The **SPEAKER**: The Representative from Poland, Representative Snowe-Mello has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Old Town, Representative Dunlap.

Representative **DUNLAP**: Mr. Speaker, Men and Women of the House. In an attempt to answer the question, I believe the Representative from Poland's question deals with the Minority Report. It does not affect property rights. A landowner still has the authority under the Minority Report or the Majority Report to post their land and limit who has access to that land. The only real difference is under the Minority Report a farmer could not employ or hire a convicted felon or someone who has been convicted of night hunting in the previous five years to engage in activities under a depredation permit. That is really the only major difference. I don't believe that is a restriction of property rights. I hope that answers the question.

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

Representative **PERKINS**: Mr. Speaker, Colleagues of the House. The good chair from Old Town, the chair of the committee, said this is a localized problem. That is probably why you haven't heard from any of your constituents. I would guess you haven't. If you have, then vote accordingly. It is a very localized problem apparently. In fact, it is so localized that I think the problem was only brought to our attention on only one farm. It was a large farm up in central Maine. The part that the good Representative just mentioned about not allowing convicted felons who had been convicted of night hunting to do this. This isn't hunting. There is no connection here that I could see. It is a complicated bill. If this is a bill that you could explain to some teenager in your household, go ahead and vote for it. Otherwise, I suggest you vote against the bill.

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

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

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

Representative **TRAHAN**: Mr. Speaker, Men and Women of the House. If the only change in this bill is to not allow felons to

do the killing of these problem animals, it was my understanding that felons could not possess firearms to begin with. Is this bill really necessary if that is true? Thank you.

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

Representative **DUNLAP**: Mr. Speaker, Men and Women of the House. I will attempt to answer my good colleague from Waldoboro's question about the necessity of the bill. I think that in terms of the issue of the convicted felon, the Representative is absolutely correct, but in terms of many fishing and wildlife violations where revocation is a result, an individual is not deprived of the right to possess a firearm in the field and, therefore, could engage in these activities legally because as the good Representative from Penobscot pointed out, we do not consider this hunting. It was felt by the minority of the committee that those who were engaging in that activity to procure wild game were doing so as an in around, around the suspension of their privilege to hunt and fish.

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

Representative **TRAHAN**: Mr. Speaker, Honorable Members of the House. Now that you have had that question clarified, I would like to tell you what some of the testimony and some of the calls that I received spoke to as far as farmers taking care of troubled animals like deer that are coming in and destroying their pumpkin patches. Often times some of the most efficient killers, some of the best people to come in and take care of these troubled animals, are some of the very people that he spoke of earlier. They are very efficient in their ability to kill these animals. Even as bad as that may seem to some of you that these people might have been convicted of a wildlife violation, when they are taking part in this elimination of nuisance animals, they are abiding by all of the laws within the State of Maine. They aren't breaking any laws. Sometimes as something may appear to you as troubling, this is a very important role that people play in farming.

As many of you know, a great deal of money can be lost in one night. Four or five deer can come in and destroy a pumpkin patch overnight. If you eliminate this ability for a farmer to get the most efficient individual to come in and eliminate those animals, you have eliminated a tool for the farmer to protect his crops. Thank you ladies and gentlemen.

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

Representative **BRYANT**: Mr. Speaker, Ladies and Gentlemen of the House. As the good chair has mentioned, we did debate this issue in committee a long time. I had to rise and just say this. I think there are plenty of people out there that can do the animal control part of the nuisance law without rewarding someone that the commissioner took his license away because he was jacking deer to allow him the privilege to do it for farmers. I would encourage you to vote against the pending motion. Thank you.

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

Representative **CHICK**: Mr. Speaker, Ladies and Gentlemen of the House. I serve on this committee and I recall when the bill was presented. Here this morning, as it occurs quite often here in this body, the original intent and the comments skirt what the bill was really presented to do. The bill, when it was presented, was simply that a person raising crops in the State of Maine would have a privilege to defend those crops from, in this case, white tailed deer. During the discussion of the bill, many other things that you have heard mentioned here this morning came

into the picture. The one thing why I am not on the Minority Report, which hasn't been covered here this morning, it has been skirted, is that the deer that would be taken by the landowner in the process of protecting his crops would be limited to how many he would be able to retain for himself. I think I am correct, probably out of that committee, I possibly am the only one who would have an occasion to be able to answer these having lived on a farm and raised crops, but I will share something else with you. I have not gone out and killed white tailed deer. I have used other methods to protect my crops. However, when this will occur in the summertime, picture yourself out there 3 o'clock in the morning, maybe there is a thundershower coming up. You have killed three or four deer and according to this Minority Report, you would only keep two and the others would go to organizations that would feed the hungry. Do you really believe that people out there at this time in the morning when the temperature is maybe 80 degrees and you have to take care of this animal right away or it will spoil? I hardly believe that the ones that are not being allowed by this bill to be kept by the landowner would ever be used for human consumption.

There is no doubt by my saying this that someone will stand and say that it will be left to the discretion of the attending game warden. He will have the soul privilege to decide if about two will go to another source. It is really about a person protecting their crops and I would ask that you would support the Ought Not to Pass report. Thank you.

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

Representative DUNLAP: Mr. Speaker, Men and Women of the House. I would like to respond to my good friend from Lebanon, Representative Chick, especially concerning the number of white tail deer that one can keep and whose discretion it is that they can keep them. If the issue truly is protecting one's crops, it doesn't really matter if they keep any of the deer. They could just leave them laying and rotting if that was really the issue. The problem brought before the committee was that people were being denied access to that resource, the resource being euphemistic for white tailed deer. They are denied access on that land. It is posted land. This was the problem that was brought before us. It is not always posted land. It could be the issue of the depredation permit itself. If that is really the issue, then the landowner is still protected. They can still shoot as many deer as they wish. If they don't talk to a warden about it before hand or afterwards, they can only utilize two of the deer. The warden can say to the person who decides, look, I have three guys I am going to hire to protect my crops. I would like to be able to pay them by giving them each one of the deer they take. The warden will say that is fine. You can keep two for yourself and they can each get one. They shoot five deer and everybody is happy. In terms of how the meat is handled, under the Minority Report, it is handled completely in accordance with the current statutes on labeling the deer. If you give it away, you still have to label it, whether you take it in deer season or under a depredation permit.

I think that if you are really concerned about protecting the crops, neither report changes anything. A farmer still has the ability to protect their crops, whether you pass this bill or kill it. It matters not. The only difference is, in the Minority Report the resource is allocated a little bit more evenly. Remember, these are not really the landowner's wildlife. It belongs to the people. When the animal is taken and reduced to possession, the Minority Report also clarifies that it is the landowner, which owns that reduced possession, not the person who shoots it. Distribution is still at the discretion of the landowner. What we are looking for is an accounting here. Thank you very much.

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

Representative TRAHAN: Mr. Speaker, Honorable Members of the House. I would just like to clarify a point that was made earlier about posted land, this was about posted land. Ladies and gentlemen of the House, some of this land is posted for good reason. I am in the logging business and I do a lot of work for farmers and often times the farmer will post the land out of protection for the individuals who might be on it, including myself who is working on that piece of property. He might post the land to protect his cows or his livestock. He may post his land for various reasons to protect his equipment from vandalizing.

What you do when you pass laws to try to gain access to somebody's land or a resource and you ignore the very reason the land is posted, to me, that is irresponsible. I just wanted to clarify that point. The posting wasn't to eliminate the hunter, in this case, but sometimes to protect the farmer's land and his property and his livestock. Mr. Speaker, when the vote is taken, I request a roll call.

Representative TRAHAN of Waldoboro 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 Dexter, Representative Tobin.

Representative TOBIN: Mr. Speaker, Men and Women of the House. I apologize. I have a sinus infection. I will try to speak slowly, but I will try to be quick. I have a constituent in my district who raises beans. In the fall when the beans are ripe, the deer come from a far to raid his beans. On a beautiful day like today, I hope the woodchucks aren't raiding your tulips, crocuses or daffodils. It became quite a contention in my district because the landowner either hired or contracted with a professional killer, so to speak, who wasn't of a reputation that was enjoyed by the members of the community. There were a lot of questions, especially from the Archers, the people that like to be in the fields in the fall bow hunting because they were killing deer, literally by the dozens in this bean field. I am asking you to vote down the present motion and to vote for the amendment. I think it will clean up a lot of the questions regarding this issue. 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. 65

YEA - Annis, Ash, Belanger, Berry DP, Bowles, Brooks, Buck, Bumps, Chase, Chick, Chizmar, Clark, Clough, Collins, Crabtree, Cressey, Dugay, Duncan, Duprey, Foster, Gagne, Glynn, Goodwin, Gooley, Haskell, Hatch, Heidrich, Honey, Jodrey, Kasprzak, Labrecque, Ledwin, Lundeen, MacDougall, Madore, Marrache, McGowan, McKenney, McNeil, Mendros, Michael, Morrison, Murphy T, Muse C, Muse K, Nass, Nutting, O'Brien JA, Perkins, Pinkham, Rosen, Schneider, Sherman, Skoglund, Snowe-Mello, Sullivan, Tessier, Tobin D, Tracy, Trahan, Treadwell, Tuttle, Volenik, Waterhouse, Wheeler EM, Wheeler GJ, Winsor, Young.

NAY - Andrews, Baker, Berry RL, Blanchette, Bliss, Bouffard, Brannigan, Bruno, Bryant, Bull, Bunker, Canavan, Carr, Colwell, Cote, Cowger, Cummings, Daigle, Desmond, Dorr, Dudley, Dunlap, Estes, Etnier, Fisher, Fuller, Gerzofsky, Green, Hall, Hawes, Hutton, Jacobs, Jones, Kane, Landry, LaVerdiere, Laverriere-Boucher, Lemoine, Lessard, Lovett, Marley, Matthews, Mayo, McDonough, McGlocklin, McKee, McLaughlin, Michaud, Mitchell, Norbert, Norton, O'Brien LL, O'Neil, Patrick,

Perry, Pineau, Richard, Richardson, Rines, Savage, Shields, Simpson, Smith, Stanley, Tarazewich, Tobin J, Twomey, Usher, Watson, Weston, Mr. Speaker.

ABSENT - Bagley, Davis, Duplessie, Koffman, Mailhot, Murphy E, Paradis, Peavey, Povich, Quint, Stedman, Thomas.

Yes, 68; No, 71; Absent, 12; Excused, 0.

68 having voted in the affirmative and 71 voted in the negative, with 12 being absent, and accordingly the Majority **Ought Not to Pass** Report was **NOT ACCEPTED**.

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

The Bill was **READ ONCE**. **Committee Amendment "A" (S-84)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** later in today's session.

Majority Report of the Committee on **BANKING AND INSURANCE** reporting **Ought Not to Pass** on Bill "An Act to Create Catastrophic Health Insurance for Small Businesses in Maine"

(H.P. 349) (L.D. 439)

Signed:

Senators:

LaFOUNTAIN of York
DOUGLASS of Androscoggin
ABROMSON of Cumberland

Representatives:

DUDLEY of Portland
SMITH of Van Buren
YOUNG of Limestone
MAYO of Bath
O'NEIL of Saco
SULLIVAN of Biddeford
CANAVAN of Waterville
MARRACHÉ of Waterville

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-201)** on same Bill.

Signed:

Representatives:

MICHAEL of Auburn
GLYNN of South Portland

READ.

Representative O'NEIL of Saco moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

The same Representative **REQUESTED** a roll call on his motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

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

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

Representative **MACDOUGALL**: Mr. Speaker, Ladies and Gentlemen of the House. What this bill would do, as amended, would direct the Bureau of Insurance within the Department of Professional and Financial Regulation to work with an actuarial consultant to develop a catastrophic health insurance plan that would then be offered by all carriers providing small group health insurance in the state. Of course, as many of you know, the cost of health care has skyrocketed in recent years for Maine families and businesses. The high premiums have become a barrier for many citizens and businesses. This let's some employees raise their contribution to the plan or perhaps not to offer health insurance benefits at all. The result leaves far too many small employers, their employees and their families with no health coverage.

Talking to small business people, I have learned that premiums can run as high as \$800, \$900 or \$1,000 or more per month for a family policy, far out of the reach of many people. Additionally, many fear major increases to these already high premiums. What many small business and family business people desire is a health plan that would cover emergency items, a heart attack, broken bones from a fall or a long-term illness. They do not want the myriad of benefits that have been added to the health plans over the years with mandates and preventative medical measures. It is their hope that this would put premiums at a level of affordability for themselves and their employees and offer protection against financial ruin.

According to a recent publication that we all get early in the session, measures of growth, prepared by the Maine Development Foundation, Maine ranks 37th in the nation for the second year in a row for personal income. The number of new business starts was lower by 2.5 percent in 1999 than the year before. Job growth among new businesses for the first time since 1992 dropped and after two years in a row at 39th, Maine now stands at 43rd. Yet, despite those trends, the number of jobs in Maine has actually increased an average of 1.9 percent per year in the last five years with an increase of almost 3 percent from 1998 to 1999. In that same year we ranked seventh in the nation in job growth, which is good. Across the nation citizens holding multiple jobs have declined 2 percent on average since 1995, but Maine's rate has actually increased 5 percent during that time. What you have is many businesses and employees not having health insurance and many Mainers working one, two or three jobs and having a difficult time affording coverage.

If this Legislature would allow a bare bones health insurance policy to be developed and offered if carriers so wished to offer them, I believe many more Maine businesses and families could afford health coverage than they can right now. The overall trends discussed a minute ago, while they might not change overnight, this proposal would help immensely.

This would bring savings to the health care system at large, I believe, because thousands more of our citizens would be paying into the system than currently do today. Many uninsured people would welcome the opportunity to purchase catastrophic health insurance that is not currently available. It would help them afford the piece of mind should they incur serious illness. There would be financial support for them that does not exist now. Their premium benefits would help lower the cost of the system and provide increased health care for more Maine citizens. I would urge you to vote against the pending motion. Thank you for listening.

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

Representative **MAYO**: Mr. Speaker, Ladies and Gentlemen of the House. This is the second mandate bill of the morning. I believe there may be one more coming before we are done. This is an 11 to 2 Ought Not to Pass report of the Committee on Banking and Insurance. The two reasons the committee took the action it did was that the bill proposes a catastrophic health plan that provides no mandated benefits and the bill also prohibits, I would repeat, prohibits, a catastrophic health plan from providing coverage for preventive care or annual exams.

The State of Maine currently and Anthem Blue Cross and Blue Shield, in particular, are offering a number of catastrophic health plans today. Some with deductibles of \$2,500, \$5,000, \$7,500 and I believe they are now offering one with a \$10,000 deductible. Those plans are being bought by some people. However, they do have the mandates that have been passed by this body and they do have the preventive health aspect. To do away with these two things was not even acceptable to the

Bureau of Insurance who testified in opposition to this particular piece of legislation. I could go on, but I think there are many other more important things on the calendar this morning. I would urge you to support the Banking and Insurance Committee's 11 to 2 Ought Not to Pass vote. Thank you.

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

Representative **GLYNN**: Mr. Speaker, Ladies and Gentlemen of the House. I rise to join with the Representative from North Berwick, Representative MacDougall, in opposing the Majority Ought Not to Pass Report and ask you to consider moving on to the Minority Ought to Pass as Amended Report. I would like to point out to everyone that currently we do not have equity in health insurance rules here in Maine. The large group market covering employers with more than 50 employees is divided between insured groups and self-insured or self-funded groups. Self-funded insurance groups are preempted from being regulated by Maine State Government by a federal law known as ARISA, while other health insurance falls under expensive state mandates that we enact. Because in the self-funded plans the employer bears the risk, the business can tailor their health insurance plans to what the company can afford and can realize dramatic health cost savings. That means depending on which company you, as a resident are employed in in the State of Maine, it will dictate whether or not you are subjected to Maine State government expensive mandates on insurance. I ask you, my fellow legislators, where is the fairness in Maine citizens bearing this cost and where is the equity? This bill proposes to allow an option, not a requirement, so that people that are currently going without health insurance or are unable to afford continuing their health insurance have an option. That is what it is all about.

I don't believe that there is any one piece of legislation that we look at here in the Legislature is going to solve the health care crisis in the State of Maine. I can tell you it is going to take a number of solutions, coming at it from a variety of different angles. I can also tell you that from the proposals that we have been looking at in front of Banking and Insurance, I can't see where a lot of options are going to be presented that are going to reduce the cost of health care this session. I am very afraid that we are going to be going home and informing our constituents that the 120th Legislature did nothing to reduce the cost of health insurance. We need options. We need solutions and the good Representative from North Berwick, Representative MacDougall, has shown us the way. Follow his light. Thank you.

The SPEAKER: The Chair recognizes the Representative from Saco, Representative O'Neil.

Representative **O'NEIL**: Mr. Speaker, Men and Women of the House. We have a funny dichotomy here. We could kind of meld the last bill in with this one where we would typically would see the school of thought, the neo-classical economic theory of Adam Smith and the people who say, let the market forces have their way and then you have the theory that says the government should intervene and play a part. We have kind of a role reversal here in some cases. This bill is prescriptive. It sets prices and it is technically flawed. The fact of the matter is, yes, we do have government intervention in the delivery of health care insurance and it is overwhelmingly ratified year after year here. I have made the analogy before that these bare boned policies have their place. They are available. Some folks want them, but when it comes to the mandates, the market has driven those. We have a situation. The analogy of the car, most of us drive cars nowadays because the market has provided cars and they are very handy. If we wanted to save some money, we could all drive a horse, I suppose, but the fact of the matter is it is

just not that practical and the market doesn't have that much room for it.

On a final note, in reference to the actions of the Committee on Banking and Insurance, which has worked through some very difficult proposals and we are keenly aware of the situations at hand relative to, I think, the biggest crisis in Maine, at this point, economics and that is the cost of health care for us. This bill and most of these other proposals that are in the Committee in Banking and Insurance do nothing about the cost of health care. The cost of health care is simply passed through and it resurfaces as the cost of health insurance. Please support the 11 to 2 Ought Not to Pass.

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

Representative **SULLIVAN**: Mr. Speaker, Men and Women of the House. I would ask you to support the Majority 11 to 2 Banking and Insurance motion. Our health care has undergone some major changes in addition to the costs. Without a doubt the cost is a driving factor, but we have gone to HMOs. Like them or not, they are here to stay. The whole premise of an HMO is that if you can do prevention or early detection, you will save money. Catastrophic illnesses happen because people in trying to make ends meet fail to get the mammograms, fail to get the prostate training, fail to have diabetes treated and recognized. Mandates are the engine that drive the HMOs or vice versa. There is a very definite reason that a committee, bipartisan, can come out with an 11 to 2. We pay those same premiums. We are aware of them. If health care is based on HMOs in prevention and early detection and public policy is what we are supposed to do, then the idea to make sure our citizens don't get sick and find every way we possibly can to protect Maine citizens, the older person developing cancer that they could have been saved. It could be your spouse, my spouse, your parents or my parents. Mandates are necessary in order to make the HMO, which the insurance companies asked for and society did. This is not the way to get at rising costs. Please support us and vote with the Majority Ought Not to Pass Report. Thank you.

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

Representative **WATERHOUSE**: Mr. Speaker, Ladies and Gentlemen of the House. I was very interested in the previous comment from the good Representative from Saco referring to these mandates as being market driven. This is my seventh year up here. It has been my observation that mandates and people requesting mandates are driven by providers, not the market. I will tell you how the market really works. My wife every so often has to revamp health insurance coverage and she is covered by insurance that doesn't have the state mandates. She goes down through the list of things that she wants to be covered for. When she gets through that, she figures out what the premium is going to be. There are some things she doesn't want to be covered for because she doesn't think it is necessary. There are some states that have mandates that cover hair transplants and so on and so forth. We don't have that yet, but I am sure we will have a provider that will come up here, but I don't think it is market driven. Tonight, I think that we are going to have a number of bills and we are going to have a lot of people talk about choice. Choice is going to be the topic of conversation tonight when we deal with some bills before us. That is what we are talking about here, nothing other than consumer choice. Grownups deciding what they want to have to cover in their health insurance and what they want to pay for it.

Mr. Speaker, may I pose a question through the chair? To anybody who maybe could answer this, if this bill passes will it

provide more choice to the consumer and if this bill passes, does it have the potential to reduce the cost of health care premiums?

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

Representative **BUNKER**: Mr. Speaker, Men and Women of the House. This isn't one of the committees that I serve on and I wasn't going to rise, but I would like to answer that question. I do represent the National Association of Self-Employed and we do provide catastrophic health care to our business members here in the State of Maine and nationwide. We have 1.1 million people in our group for small businesses. Ladies and gentlemen, we offer the catastrophic plan that you are voting on here today. It exists in Maine and it exists through the Blue Cross policy. One of the questions is, are we going to give them choice? Quite honestly when I sit down with folks and I have to go through a long little talk with these folks and say, what are your health needs? We do offer catastrophic and I have to determine whether they have great health needs. It is really tough for me. I believe that we need to provide full health care for all our folks. I have to figure out what is in their best interest from a dollar and cents point of view and also from their health care point of view. I have to go through these issues. I ask them stuff like mental health questions. If we allow this bill to go through, you are not going to give my clients the choice of being able to get something that covers them for mental health without having to reach a \$5,000 minimum before they start paying a bill. If you allow this bill to pass, you are not going to allow somebody who has a substance or a drug problem to get a \$100 deductible, which is the state mandate before they can buy our policy. They are going to have to go buy one of the \$700, \$800 or \$1,200 policies to get their family or their loved one covered. Yes, to answer the good Representative's question, will remove choice, not give choice. It may give choice to maybe one or two out of the 10 people I see on a daily basis. That will not happen. As far as cost, I can see with a catastrophic policy like one of our policies that are a \$5,000 level for a certain aspect of our health care that we offer, it may reduce the policy by 2 percent. When I sit down in front of somebody who has no insurance at all, I can tell you right now that if I tell them the family policy is \$400 or \$389.50, it is not going to make a heck of a beans of difference to that family whether they can say, yes, I think that is a good deal and I will pay for it. It is not going to provide anything, but when you get down into the mandates, the mammography that we offer once a year, Blue Cross offers a lot of interesting options that allow you accidental care at a much lower dollar figure than the \$5,000 and also provide once a year medical screening like a physical. We don't want to remove all of those things. Those are the things that make it unique to allow us to offer a catastrophic policy that helps on both ends. Unfortunately, there is a big price tag on a big issue that the family would be obligated to pay. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from China, Representative Bumps.

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

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

Representative **BUMPS**: Mr. Speaker, Men and Women of the House. The previous speaker mentioned that there are currently catastrophic coverages for Maine health insurance consumers. I would be interested in knowing from any member of the committee how many Maine health care consumers are covered currently by catastrophic health insurance plans?

The **SPEAKER**: The Representative from China, Representative Bumps has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Bath, Representative Mayo.

Representative **MAYO**: Mr. Speaker, Ladies and Gentlemen of the House. In answer to the question of the good Representative from China, we have been told by both the insurance companies and the insurance superintendent that catastrophic plans to date, I would emphasize to date, have not been the policy of choice of the consumer because most of the people want a small deductible and not, at least in this state and most states in this country, are not able to bankroll the \$5,000 and \$10,000 deductible. That may change over time, but to date that has been the experience.

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

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

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

Representative **SNOWE-MELLO**: Mr. Speaker, Men and Women of the House. I am hearing conflicting statements. It seems that those are who are against the bill say it is a mandate. Then it seems that those who favor the bill say it is options. I need some clarification because, to me, when somebody says options, you can opt into this, then I can't understand because it doesn't sound like a mandate. Which is it? Can someone answer that for me, please?

The **SPEAKER**: The Representative from Poland, Representative Snowe-Mello has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from South Portland, Representative Glynn.

Representative **GLYNN**: Mr. Speaker, Ladies and Gentlemen of the House. Several questions have been raised and I would like to take an opportunity to respond to them. In response to the good Representative from Poland, Representative Snowe-Mello, had asked if this, in fact, is a mandate. It gives options. As far as requiring someone to do something against their will, taking a policy with benefits less than they choose to, that answer is absolutely and unequivocally a no. You have 100 percent options under this proposal. It was also asked by one of the good Representatives the question regarding, do we have catastrophic health plans in Maine? The answer is absolutely, yes. However, if you do not work for one of the self-employed companies that are preempted by ARISA from being covered under these oppressive state mandates, you are required to put them in the health care policies, whether it makes financial sense or not, whether or not it raises the cost or not. We do have catastrophic health plans available in Maine, but they are higher than they need to be because the state mandates that are in place have to be abided by. There are a lot of options and opportunities people would like to have to be able to negotiate down the price of their health care so that it becomes affordable. Obviously having an option at a health care product that did not contain all of the mandates is very appealing to a lot of people to be able to afford their health insurance products. It is very, very important. Lastly, with the issue of the uninsured, right now in Maine there is approximately 13 percent or 130,000 Mainers who currently go without health insurance. Regardless of what source you speak with, be it the insurance leaders, small businessmen, citizens in your district or any of the endless studies on the topic, the source of the problem is identified as health insurance premium costs. We need to do something to address health insurance premium costs. We need options. This bill presented by the good Representatives from South Berwick, Representative MacDougall presents us with a health insurance option. If you don't like it and it is not the

product for you, don't buy it. Buy one of the other products. It does give the option so that some of these people who are uninsured, like the 13 percent of Maine people will have an option. Thank you.

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

Representative **DUDLEY**: Mr. Speaker, Men and Women of the House. This bill does nothing ultimately about premium or rather about the cost of health insurance, as the Representative from Saco, Representative O'Neil, mentioned earlier. That is the problem that we are dealing with here. The cost of health insurance is going through the roof. If you want to control premiums, let's get at the cost of health care. It is not the insurance that is the problem, it is the cost of health care. This bill promises, I think a heck of a lot more than it can really deliver. It limits health insurers to charging no more than 80 percent of that which they charge for their basic plan. In return for that, lower premiums. They are given an option to offer a plan with no mandates, which under the best of circumstances, will save them 7.75 percent. It also allows them to remove coverage for preventative care and annual exams, which over the long term, from my perspective, is going to cost them money. They are not going to be able to stay in business if they are offering plans like this. Meaning, they are not going to offer it. We can go through whatever contortion we want to go through to try and make this available to insurers to offer, but the fact of the matter is, I don't see them making money off of it, so they are not going to offer it.

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

Representative **MENDROS**: Mr. Speaker, Ladies and Gentlemen of the House. We are blessed in this country with the best health care service in the world, the best doctors, the best providers, people from Canada come to the United States to the Mayo Clinic, they come to Lewiston, Maine to the Central Maine Medical Center because they have to wait in line in Canada for service. Why do we have the best service? We have a free market system driving it, but with the best service, we also have access to everybody who is sick can go to a hospital and be treated. When somebody has a catastrophic illness, it happened to a very close friend of mine that I owned a business with at the time, he hurt himself at the beach. It was a freak accident. He fell. He was in the hospital for six weeks. He had no insurance because the other place he worked couldn't afford to give him insurance. We were just starting out in business. We couldn't afford it. Could he have had a catastrophic plan? I will tell you that a catastrophic plan with a \$10,000 deductible would have saved this guy \$110,000. His bill was \$120,000. Why are health care costs so high? This friend of mine couldn't afford to pay that and the hospital absorbed it. Hospitals absorb huge amounts of money because people come in that don't have insurance, but they see them. Who pays that bill? We do, those of us who have insurance. If we allow a catastrophic plan, it will lower everybody's rates because people like my friend that went through that will have insurance that will cover the vast majority of the bill. The savings on these plans, I don't know how much the insurance industry changed in 10 years, but when I was selling it 10 years ago, the saving on these plans was in the thousands of dollars a year. If I have to go pay for my exam for \$100 or \$200 to save \$1,000 a year and I am sure it more now, I would gladly do it. In the long run, I will be saving money. 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. 66

YEA - Ash, Baker, Berry RL, Blanchette, Bliss, Bouffard, Brannigan, Brooks, Bruno, Bryant, Bull, Bunker, Canavan, Carr, Chase, Chizmar, Clark, Colwell, Cote, Cowger, Cummings, Desmond, Dorr, Dudley, Dunlap, Estes, Etnier, Fisher, Fuller, Gagne, Gerzofsky, Goodwin, Green, Hall, Hatch, Hawes, Hutton, Jacobs, Jones, Kane, Labrecque, Landry, LaVerdiere, Laverriere-Boucher, Lemoine, Lessard, Lundeen, Madore, Mailhot, Marley, Marrache, Matthews, Mayo, McDonough, McGlockin, McGowan, McKee, McLaughlin, McNeil, Michaud, Mitchell, Murphy E, Muse C, Norbert, Norton, Nutting, O'Brien JA, O'Brien LL, O'Neil, Paradis, Patrick, Perry, Pineau, Povich, Richard, Richardson, Rines, Savage, Schneider, Simpson, Skoglund, Smith, Stanley, Sullivan, Tarazewich, Tessier, Tracy, Tuttle, Twomey, Usher, Volenik, Wheeler GJ, Young, Mr. Speaker.

NAY - Andrews, Annis, Belanger, Berry DP, Bowles, Buck, Bumps, Chick, Clough, Collins, Crabtree, Cressey, Daigle, Dugay, Duncan, Duprey, Foster, Glynn, Gooley, Haskell, Heidrich, Honey, Jodrey, Kasprzak, Ledwin, Lovett, MacDougall, McKenney, Mendros, Michael, Morrison, Murphy T, Muse K, Nass, Perkins, Pinkham, Rosen, Sherman, Shields, Snowe-Mello, Tobin D, Tobin J, Trahan, Treadwell, Waterhouse, Weston, Wheeler EM, Winsor.

ABSENT - Bagley, Davis, Duplessie, Koffman, Peavey, Quint, Stedman, Thomas, Watson.

Yes, 94; No, 48; Absent, 9; Excused, 0.

94 having voted in the affirmative and 48 voted in the negative, with 9 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

Eleven Members of the Committee on **BANKING AND INSURANCE** report in Report "A" **Ought to Pass as Amended by Committee Amendment "A" (H-200)** on Bill "An Act to Define and Ensure Coverage of Basic Health Services by Health Maintenance Organizations"

(H.P. 749) (L.D. 968)

Signed:

Senators:

LaFOUNTAIN of York
DOUGLASS of Androscoggin
ABROMSON of Cumberland

Representatives:

DUDLEY of Portland
MICHAEL of Auburn
YOUNG of Limestone
MAYO of Bath
O'NEIL of Saco
SULLIVAN of Biddeford
CANAVAN of Waterville
MARRACHÉ of Waterville

One Member of the same Committee reports in Report "B" **Ought to Pass** on same Bill.

Signed:

Representative:

SMITH of Van Buren

One Member of the same Committee reports in Report "C" **Ought Not to Pass** on same Bill.

Signed:

Representative:

GLYNN of South Portland

READ.

Representative O'NEIL of Saco moved that the House **ACCEPT** Report "A" **Ought to Pass as Amended**.

The same Representative **REQUESTED** a roll call on his motion to **ACCEPT** Report "A" **Ought to Pass as Amended**.

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

The **SPEAKER**: The Chair recognizes the Representative from Saco, Representative O'Neil.

Representative **O'NEIL**: Mr. Speaker, Men and Women of the House. This one is a little more simple. In 1975, the Legislature defined what is called basic health care services. We still use them today. In the 119th Legislature we amended that somewhat by allowing or authorizing the Superintendent of Insurance to make rules defining basic health care services. We did so and made the rules routine technical. Given the gravity of the health care situation in Maine these days, 12 of the people on the committee saw fit that those rules should be major substantive as opposed to routine technical. Hence, the Ought to Pass as Amended report. Thank you.

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

Representative **GLYNN**: Mr. Speaker, Ladies and Gentlemen of the House. I would like to apologize, first of all to the good men and women of the House, that we have so many divided reports together from the Banking and Insurance Committee. I appreciate all of your attention to these important issues. This bill presented to the Banking and Insurance Committee was opposed by the Superintendent of Insurance. I think that it bears your consideration before we put into place some of the reasons why. The purpose of having these rules in 750 is that the HMOs need flexibility to design products in response to what the policyholders want. If you pass this bill, you affect that and when you affect that, you affect the ability of insurance carriers to be able to respond to changing market conditions. It means that with less flexibility, they are not going to be able to be as creative with their products. It is going to cost more money to do and it is going to prohibit them or slow them down, in most cases, from being able to pass cost savings measures onto consumers.

Last year the Legislature directed the Bureau of Insurance to adopt a rule amending 750 to include more flexibility and guidelines for health care services provided by HMOs. Let's continue with where we are. Let's support the Superintendent of Insurance and his efforts to help keep health insurance costs low in Maine and oppose this measure. Thank you.

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

ROLL CALL NO. 67

YEA - Annis, Ash, Baker, Belanger, Berry RL, Bliss, Bowles, Brannigan, Brooks, Bruno, Bryant, Bull, Bumps, Bunker, Canavan, Chase, Chick, Chizmar, Clark, Clough, Colwell, Cote, Cowger, Cummings, Daigle, Desmond, Dorr, Dudley, Dugay, Duncan, Dunlap, Duplessie, Estes, Etnier, Fisher, Fuller, Gagne, Gerzofsky, Gooley, Green, Hall, Haskell, Hatch, Hawes, Hutton, Jacobs, Jodrey, Jones, Kane, Labrecque, Landry, LaVerdiere, Laverriere-Boucher, Ledwin, Lemoine, Lessard, Lundeen, Mailhot, Marley, Marrache, Matthews, Mayo, McDonough, McGlocklin, McGowan, McKee, McLaughlin, McNeil, Mendros, Michael, Michaud, Mitchell, Morrison, Murphy E, Muse C, Muse K, Nass, Norbert, Norton, O'Brien JA, O'Brien LL, O'Neil, Paradis, Patrick, Perry, Pineau, Povich, Richard, Richardson, Rines, Rosen, Savage, Schneider, Sherman, Shields, Simpson, Skoglund, Smith, Stanley, Sullivan, Tarazewich, Tessier,

Tobin D, Tracy, Trahan, Tuttle, Twomey, Usher, Volenik, Watson, Wheeler EM, Wheeler GJ, Young, Mr. Speaker.

NAY - Andrews, Berry DP, Bouffard, Buck, Carr, Collins, Crabtree, Cressey, Duprey, Foster, Glynn, Heidrich, Honey, Kasprzak, Lovett, MacDougall, McKenney, Murphy T, Nutting, Perkins, Pinkham, Snowe-Mello, Tobin J, Treadwell, Waterhouse, Weston, Winsor.

ABSENT - Bagley, Blanchette, Davis, Goodwin, Koffman, Madore, Peavey, Quint, Stedman, Thomas.

Yes, 114; No, 27; Absent, 10; Excused, 0.

114 having voted in the affirmative and 27 voted in the negative, with 10 being absent, and accordingly Report "A" **Ought to Pass as Amended** was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-200)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** later in today's session.

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

Majority Report of the Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** reporting **Ought Not to Pass** on Bill "An Act to Establish Returnable Tobacco Products and to Create the Returnable Tobacco Products Fund"

(H.P. 223) (L.D. 258)

Signed:

Senators:

SHOREY of Washington
BROMLEY of Cumberland
YOUNGBLOOD of Penobscot

Representatives:

RICHARDSON of Brunswick
MORRISON of Baileyville
HATCH of Skowhegan
DUPREY of Hampden
BRYANT of Dixfield
CLOUGH of Scarborough
MURPHY of Kennebunk

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-205)** on same Bill.

Signed:

Representatives:

THOMAS of Orono
MICHAUD of Fort Kent
DORR of Camden

READ.

Representative RICHARDSON of Brunswick moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

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

Representative **BROOKS**: Mr. Speaker, Men and Women of the House. Nee-how Mr. Speaker. For those of you who aren't absolutely certain, the Speaker Pro Tem and myself and many others in the House, about 20 of us ending up visiting China. That is a greeting in Chinese, Nee how.

I have got to say right off the bat that this has been quite a ride. When I introduced originally the returnable cigarette tobacco bill and it was greeted by a lot of joking and name calling, it was an interesting beginning. I think it was one of the longest rides that I have taken as a member of this body. It is the longest ride that I think I have heard about that a lot of people have had. It has traveled and it has covered a great

distance. Let me say that I am really sorry that we are starting this thing at 11:15 today because I think that there will be a fair amount of discussion or debate on the floor. Perhaps some of us might even be prevented from having a cigarette.

Last night, I spent a fair amount of time with a gentleman or trying to catch up with a gentleman from the State of Hawaii. It appears that the Legislature there or at least the government is thinking about banning cigarettes on Waikiki Beach. Instead of doing that and damaging or threatening their tourist dollars, they called and wanted to know if we could send them some material on returnable cigarette butts. This morning, I have faxed to the State of Alabama a 16-page fax, which included our bill and also an awful lot of information about what the bill would do and the potential revenue that the state's fiscal office has projected. They also are looking at this bill. I have talked to legislators in California, Florida and a number of other states in between. This is a unique approach. There is no question about that. I have spent a considerable amount of time with the media and that is why I call this quite a ride. Twice on the BBC in London staying up late at night until the talk show was on. I can't tell you the number of time in this country and in Canada, there is a significant amount of interest in Maine's proposal for returnable cigarette butts.

Last week I had one of the people who works in this building, not as a legislator, but works in this building, suggest to me that we go down and take a picture of the north entrance. I think it is north, if I got my directions correctly. The one that is down here opposite the Blaine Mansion. As the snow and ice began to recede, it uncovered the winter's deposit of cigarette butts. I went down to take a look. We didn't take a picture. We have other pictures around this complex and other complexes that made that particular view pale by comparison. I had a conversation yesterday with a gentleman who was standing down by the south entrance guarding, if you will, a yellow container that has a very long neck that apparently is suggested that you put your cigarette butts in there. If you take that some point in time when this bill passes, not if, but when, it may not be this year, but it will be sometime. You might be able to put your kid through college if we have a 5-cent return on cigarette butts.

Why all this interest? Why are people in the State of Maine sending me tons of e-mails and giving me tons of phone calls and messages and letters? Most, by the way, support it, most, not all. Perhaps it is because in the State of Maine alone the cigarette manufacturers sell 2.3 billion cigarettes. We estimate that more than 10 percent of those end up on the streets, at the doorway, walkways or sidewalks. This is a little bill. Let's not make any mistakes about that. There are some people who think that perhaps this is a health bill. We have talked about health care with regard to cigarettes and we feel very strongly about that. There may be, I am sure, some side affects of returnable cigarettes that will discourage the sale of cigarettes in Maine. This is a litter control bill.

For those of you who have immediately reacted in the past as saying, yuck, who would want to pick up these things? Let me just point out to you that it is already happening. I have heard from people who work at state and national parks who spend the first half hour of their day in the summertime going around picking up cigarette butts. That is true. That is what is happening currently.

I have heard from the Maine Hotel, Motel and Innkeepers Association and other businesses of the like, including restaurants that employees are required to be outside picking up cigarette butts and cleaning up the environment. It is true. It is already happening. The people are required to go out and pick these things up. How do we stop that? Where do we begin? Several times before I put this legislation in with representatives

of the Maine Innkeepers Association, the prime driving force behind this, we talked about it. The first natural reaction to that is let's jack up the litter fines. Let's make them \$200, \$300, \$400 or \$500. How are you going to get anybody to enforce that? Who is going to follow a vehicle around and stop them when they flick a butt out the window? By the way, when you do that, how dangerous is it. There are 60 forest fires in Maine every year and 10 percent caused by illegally disposed of cigarette butts. You can't enforce that law. It is almost impossible. What municipality would turn to its police force and say you have got to do this instead of investigating that major crime that is taking place and go follow somebody around and when they drop their butt on the ground, nail them. You can't do that. We all but discarded the idea that enforcing the litter laws was something that would work.

The only other way that I can think of is to turn the clock back and take a look at what happened with the trash that used to cover our highways, the returnable containers. Was that effective? Take a look. Look at all the redemption centers that are out there. They are people who deserve a phenomenal amount of credit for the work they do in redeeming these containers. It is very true that they are back again saying that they do not have enough money and I don't think that much has changed in that regard over the years. We probably do need to take a look at that. Some have said that they thought it would be somewhat disgusting to handle cigarette butts. I don't agree. I don't think that handling a plastic bag filled with 20 used cigarette butts is any more disgusting than picking up a beer can that has been laying in a gutter crawling with ants and bugs and all that for a long time. Many of the redemption centers when we tell them the kind of revenue base that we are talking about here for them and for us, instantly change their minds.

It has been estimated that if this bill were to go into effect, it has the potential to raise as much as \$20 million. Some of that, of course, would be returned. We would hope that the goal of this would be to have people who smoke come back in and return their cigarette butts so that we can redeem them and give them their nickel back. If they put them in a plastic bag with 20 of them, we will give them a buck back. It sounds pretty easy for me to be able to handle that. What do the redemptions centers get out of it, it is estimated that a medium sized redemption center, I don't know how you determine a medium size, but we can figure that out, might pick up an additional \$50,000 a year. The larger ones could pick up as much as \$100,000, enough to hire a couple of people to deal with returnable cigarettes.

It has been estimated by our own Fiscal and Program Review office that as much as \$45 million in one year will be generated by this bill. The cost is somewhat minimal. Even if 70 percent of the people conform to this and return their cigarette butts and even with all the administrative costs that would be necessary to find the people or to hire the people to dispose of the cigarettes properly, we still get well over \$35 million in two years for the General Fund or specifically through this bill to help with those kinds of programs that we are already trying to help with from cessation to prevention. It is there, ladies and gentlemen. It is an opportunity for us to comply with the wishes of the general public that have said, at least to me, through all the phone calls and through all the interest nationwide that this is a bill whose time has come. I recognize that there are still some concerns about how you manage such a program, even though modeled after the successful returnable container program, I understand that there are some concerns. There may be following this another piece of legislation, which will set up a study commission. I am totally supportive of that. Absolutely. If this doesn't pass today or doesn't pass in this body and in the other body in this session, then let's not let go of it. Let's continue to

pursue it. The State Planning Office organizes with volunteers, Coastal Clean Up Week. The number one culprit in littering is what? The plastic rings that hold the six-pack together, the damaged lobster traps that float ashore, the parts of boats, the bottles, the cans, the paper trash, no, none of those by a margin of 3 to 4 to 5 to 1. It is the cigarette butt again. It is that little one inch piece of plastic that protects the smoker from the carcinogens that are in the cigarette, the tar, the nicotine.

As an aside to all of that, I think I would be remiss if I didn't point out that 10 percent of the smokers seem to be willing to flick those things anywhere. Nobody really seems, other than those of us who go around and pick them up and try to clean up our yards and our businesses, to be concerned about that little one inch piece of plastic. Now we are looking at it and realizing that there 2.3 billion of them sold in Maine and many of the millions of them landing on the streets and thinking of picking them up and disposing of them properly, the aggregate pounds of these things now are becoming a concern. During the campaign for this, some people said that when you bring that many together and you try to burn them, you generate dioxin. Who wants that in the air? How are you going to dispose of them? Bury them, what will happen to the groundwater. Now we are beginning to get a little concerned about cigarettes and cigarette butts in the aggregate. The one butt doesn't seem to bother anybody, but when you bring them together and there are a million of them, it bothers a lot of people. Why don't we think about that?

Kathleen Register, Executive Director of the Clean Virginia Waterways, has done extensive research confirming that chemicals leached from discarded cigarette butts holds a threat to aquatic life. Fish, birds and other animals routinely eat the cigarette butts and may die as a result. State Fire Marshall's Office and Maine Fire Chiefs tell us the cigarettes are the leading cause of fatal fires in the United States and in the State of Maine. I have received letters from Fire Chiefs who say, what a great idea. They are the culprit and they do cause fires. The support is somewhat endless. Millions and millions of dollars are spent by private industry and by the State of Maine cleaning up the cigarettes. What are we going to do about it?

I think it is time for us to take a look at this and pass this bill, which will set in motion a mechanism for collecting these cigarette butts. If you want, I could go into this in great detail. I won't this morning except to tell you that it is a very simple process and it isn't any more in cumbering, time consuming or difficult than taking your bottles and cans back to the redemption center. I know we all do that. I do it. Maybe once every two or three weeks, I take the garbage bag filled with these bottles and cans back to the redemption center and at the same time all the cigarette butts that I find on the land around my house, not from me because I don't smoke, but from others who are going by and recklessly just flip them out onto my lawn or my driveway, I am going to put 20 in a plastic bag and I am going to take them to the same redemption center. When I get them there, I am going to collect them and they are ultimately going to send them on and we can weigh them and they will get reimbursed one or two cents for each one that they handle and pick up \$50,000 to \$100,000 in additional revenue. They will then be sent onto the state where we will dispose of them properly. We will pick up somewhere between \$11 and \$16 million a year. That doesn't have to be the case if people are willing to buy their cigarettes and pay their \$1 deposit per pack and then bring them back and they get redeemed. That is the goal of his legislation.

I think that we don't need to wait another year. We don't need to study this. What kind of conclusion are we going to get? It is true that two of the major cigarette manufacturers came to the public hearing and talked about their willingness to

participate. They may even join the study committee. I hope that they do if the study committee becomes a reality. Their contention is they are working with states all over the country under the Teach America or Clean Up America or some kind of program. I don't believe they started that in the State of Maine until this bill came forward and I hope that they will. That 3,000 miles of coastline right now in the State of Maine is littered with cigarette butts that haven't been cleaned up yet. If you don't believe it, go to the State Planning Office and talk to them and they will tell you that it is. There are thousands of them.

It is a bill whose time has come. Let's take a look at this very seriously. Let's move this bill and not accept the motion that is currently on the floor of Ought Not to Pass. Let's reject that motion so that we can go to the other proposal, which is Ought to Pass as Amended. There are three members of the committee who saw fit to do that. I hope that you will join with them in saying that Maine can lead the nation again, one more time. Maine, for that matter, can lead the world. What started out as a joke and what started out as being funny, never from us the sponsors, never from the Maine Innkeepers Association, never from a man named Danny Lafayette who has been featured in a number of the newspapers from the *Boston Globe* to the Bangor news, because he has been looking at this for years and trying to figure out a way to resolve this issue. We never thought it was funny, but we went along with the joke until it got some credibility of its own. Now it is time for it to happen. I hope that you will join with me in voting against the Ought Not to Pass so that we can get to the other report.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Topsham, Representative Lessard.

Representative LESSARD: Mr. Speaker, Members of the House. I think it is appropriate that I read this e-mail that I received at my home. It is in tune with the debate today, I believe. The constituent writes, "Recently I chaperoned a fourth grade class trip from the Williams Cohen School to the State House and was appalled at the site of hundreds upon hundreds of cigarette butts on the grass. I am not sure that this site impressed any of these fourth graders, but I can tell you that it didn't leave a good first impression on me. I am not an anti-smoking nazi, but come on, these steps lead to the House of the people of Maine. It is not a pretty sight. May I suggest with all the educated minds running around that place that someone would put out a butt can and keep the grass a greener place for all, students, residents and legislators alike." Thank you Mr. Speaker.

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

Representative BAKER: Mr. Speaker, Men and Women of the House. When Representative Brooks asked if I would like to sign onto his bill weeks ago, I looked at it quickly and laughed and handed it back to him. The following weekend I was down on Mt. Desert Island at a gathering where people began coming up to me and talking about this amazing, wonderful bill. It turned out to be the bill that I had refused to sign on. Ever since that, I have regretted my shortsightedness and my failure to immediately understand the brilliance of this bill.

This is a smart bill. This is the kind of bill we need. It was driven home to me forcefully one day as I was leaving the State House. I believe it was the south entrance. One of our custodians was down on the ground, the snow had just begun to recede, laboriously picking up cigarette butts. He said to me, "I sure hope you pass that bill." I asked him why he was doing that. He said, "Because it looks so awful." He does not get paid anymore to do this dirty work. When you hear people say, yuck, people would have to dig them up, folks, people are picking them up. People are picking them up who are not paid any more to do

this work. A few days later, I encountered the same sight with a custodian coming out of my college entrance in Bangor. He said, "I sure hope you pass that bill." I said, "What bill?" He went on to explain that if we would pass the butt bill, he would not only get his minimum wage pay, but he would get 5 cents for every butt he picked up. This guy had figured out that there was something in this, finally, for him. I think it is important to understand, Representative Brooks says this is an anti-litter bill. I would say this is an environmental bill. Those butts affect our groundwater. If they are burned, they affect our air. The chemicals leach into our aquatic life.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Hallowell, Representative Cowger. For what reason does the Representative rise.

Representative COWGER: Thank you Mr. Speaker. I suggest the absence of a quorum.

Representative COWGER of Hallowell inquired if a quorum was present.

The Chair declared a Quorum present.

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

Representative BAKER: Mr. Speaker, Men and Women of the House. As I was saying, this is an environmental bill. This is going to help us clean up our state. I would like to think of Maine as a clean state. I would like to think of Maine as an environmental leader. I can think of no better way to enhance our reputation than getting rid, safely, of that inch of plastic that is non-biodegradable. We shouldn't burn it. We shouldn't bury it. It shouldn't be rained on so the chemicals leach into our drinking water and our streams. It is a wonderful environmental bill, but this is a tourism bill. How much more pleasant will our fabulous beaches be if we don't have to pick our way through cigarette butts with our bare feet on the sand? How much more beautiful with the paths of our glorious mountains be if we don't have to have the view marred when we look down and find cigarette butts. This will definitely enhance our reputation as a state that doesn't allow unsightly billboards in the air and doesn't allow this mess at our feet.

I love this bill because I think it will build character. It is a responsibility building bill. It will help people understand that, yes, we actually do have to be responsible for our own trash. We cannot expect someone else to pick it up. From the early ages, this will help us establish character. The best thing about it is it is really easy. Colleagues, besides the bottle bill, this bill is a snap. Every week or two weeks as I lug out that big blue container with all those bottles and cans, that is hard work, but when I pick up those cigarette butts in my front yard now that the snow has melted, I will actually be rewarded for my efforts. I can get 5 cents a piece for each one. At the same time, I can be contributing to our redemption centers. I can be contributing to the General Fund, if I choose. I just see this bill as a win win. I have to apologize to Representative Brooks for not understanding immediately the wisdom of this act. I think that we will be in Maine a leader for the rest of the state. Our motto, Dirigo, means I lead. I hope that we can take the lead in this wonderful endeavor. Mr. Speaker, I would like to request a roll call.

Representative BAKER of Bangor 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 acceptance of the Majority Ought Not to Pass Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 68

YEA - Andrews, Annis, Belanger, Berry DP, Berry RL, Blanchette, Bouffard, Bowles, Brannigan, Bruno, Bryant, Buck, Bumps, Bunker, Carr, Chase, Chick, Clark, Clough, Colwell, Cote, Crabtree, Cressey, Cummings, Daigle, Dudley, Dunlap, Duprey, Etnier, Fisher, Foster, Fuller, Glynn, Gooley, Green, Haskell, Hatch, Hawes, Heidrich, Honey, Jacobs, Jodrey, Kane, Kasprzak, Labrecque, Landry, LaVerdiere, Laverriere-Boucher, Ledwin, Lemoine, Lundeen, MacDougall, Madore, Mailhot, Matthews, Mayo, McDonough, McGlocklin, McGowan, McKee, McKenney, McLaughlin, McNeil, Mendros, Michael, Morrison, Murphy E, Murphy T, Muse C, Muse K, Nass, Norbert, Norton, Nutting, O'Brien JA, O'Neil, Patrick, Perry, Pineau, Povich, Quint, Richardson, Rosen, Savage, Schneider, Sherman, Shields, Simpson, Skoglund, Snowe-Mello, Stanley, Sullivan, Tarazewich, Tessier, Tobin D, Tobin J, Tracy, Trahan, Treadwell, Tuttle, Waterhouse, Watson, Weston, Wheeler EM, Wheeler GJ, Winsor, Young.

NAY - Ash, Baker, Bliss, Brooks, Bull, Canavan, Chizmar, Collins, Cowger, Desmond, Dorr, Dugay, Duplessie, Estes, Gagne, Hall, Hutton, Jones, Lessard, Marley, Marrache, Michaud, O'Brien LL, Paradis, Richard, Rines, Smith, Twomey, Volenik.

ABSENT - Bagley, Davis, Duncan, Gerzofsky, Goodwin, Koffman, Lovett, Mitchell, Peavey, Perkins, Pinkham, Stedman, Thomas, Usher, Mr. Speaker.

Yes, 107; No, 29; Absent, 15; Excused, 0.

107 having voted in the affirmative and 29 voted in the negative, with 15 being absent, and accordingly the Majority Ought Not to Pass Report was ACCEPTED and sent for concurrence.

Majority Report of the Committee on EDUCATION AND CULTURAL AFFAIRS reporting Ought to Pass as Amended by Committee Amendment "A" (H-211) on Bill "An Act to Change the Truancy Laws"

(H.P. 560) (L.D. 715)

Signed:

Senators:

MITCHELL of Penobscot
NUTTING of Androscoggin

Representatives:

RICHARD of Madison
DESMOND of Mapleton
CUMMINGS of Portland
STEDMAN of Hartland
ANDREWS of York
WESTON of Montville
LEDWIN of Holden

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

Signed:

Senator:

ROTUNDO of Androscoggin

Representatives:

SKOGLUND of St. George
WATSON of Farmingdale

READ.

Representative RICHARD of Madison 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.

Majority Report of the Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought Not to Pass** on Bill "An Act to Protect Occupants from Diesel Exhaust Emitted by School Buses"

(H.P. 744) (L.D. 963)

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-189)** 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.

Majority Report of the Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought Not to Pass** on Bill "An Act to Reduce Tuition at Postsecondary Education Institutions of the State for Students Who Maintain a 3.0 Grade Point Average in High School"

(H.P. 758) (L.D. 977)

Signed:

Senators:

- MITCHELL of Penobscot
- NUTTING of Androscoggin
- ROTUNDO of Androscoggin

Representatives:

- RICHARD of Madison
- DESMOND of Mapleton
- 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-210)** 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.

Majority Report of the Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought Not to Pass** on Bill "An Act to Promote Abstinence in Sex Education and through Public Education"

(H.P. 947) (L.D. 1261)

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
- ANDREWS of York
- LEDWIN of Holden

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-208)** on same Bill.

Signed:

Representatives:

- STEDMAN of Hartland
- WESTON of Montville

READ.

Representative RICHARD of Madison moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

On further motion of the same Representative, **TABLED** pending her motion to **ACCEPT** the Majority **Ought Not to Pass** 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 Permit the Ten Commandments to be Posted in Public Schools"

(H.P. 1112) (L.D. 1481)

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
- ANDREWS of York
- LEDWIN of Holden

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-209)** on same Bill.

Signed:

Representatives:

- STEDMAN of Hartland
- WESTON of Montville

READ.

Representative RICHARD of Madison moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

On further motion of the same Representative, **TABLED** pending her motion to **ACCEPT** the Majority **Ought Not to Pass** 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 Protect Children from Internet Pornography" (H.P. 1156) (L.D. 1556)

Signed:

Senators:

MITCHELL of Penobscot
ROTUNDO of Androscoggin

Representatives:

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

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

Signed:

Senator:

NUTTING of Androscoggin

Representatives:

STEDMAN of Hartland
ANDREWS of York
LEDWIN of Holden

READ.

Representative RICHARD of Madison moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

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

Majority Report of the Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought Not to Pass** on Bill "An Act to Require that a Residential Facility for the Elderly Have an Automatic Door at the Main Entrance" (H.P. 548) (L.D. 703)

Signed:

Senators:

LONGLEY of Waldo
MARTIN of Aroostook
TURNER of Cumberland

Representatives:

FULLER of Manchester
BROOKS of Winterport
DUDLEY of Portland
NUTTING of Oakland
KANE of Saco
O'BRIEN of Augusta
SHIELDS of Auburn

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

Signed:

Representative:

LAVERRIERE-BOUCHER of Biddeford

READ.

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

Majority Report of the Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought Not to Pass** on Bill "An Act to Adopt the Charitable Choice Provision in this State"

(H.P. 942) (L.D. 1256)

Signed:

Senators:

LONGLEY of Waldo
MARTIN of Aroostook
TURNER of Cumberland

Representatives:

FULLER of Manchester
BROOKS of Winterport
DUDLEY of Portland
LAVERRIERE-BOUCHER of Biddeford
DUGAY of Cherryfield
KANE of Saco
LOVETT of Scarborough
O'BRIEN of Augusta
NUTTING of Oakland

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

Signed:

Representative:

SHIELDS of Auburn

READ.

Representative KANE of Saco moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

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

Representative **MACDOUGALL**: Mr. Speaker, Ladies and Gentlemen of the House. What this bill would do if it were enacted, it would put into state law the charitable choice provisions of the federal Personal Responsibility and Work Opportunity and Reconciliation Act of 1996. A major feature of the federal welfare legislation that was signed by President Clinton in August 1996 has as its main tenant encouraging state cooperation with faith based organizations to serve a wide array of social needs in the community. This landmark legislation is called the Personal Responsibility Work Opportunity Reconciliation Act, which is a lot of words. The noble purpose of the act was to place implementation authority of welfare delivery to the state within a structure composed of several basic guidelines. One of the more promising provisions from these guidelines is called charitable choice.

There are three goals associated with this provision. First, the states have to promote and encourage faith based and community organizations to participate in the various issues and problems against poverty and other social ills. Second, it protects the religious integrity and character of any of the faith based organizations that would accept government funds to serve the impoverished of the community and to provide services to the needy. Third, it ensures protection of religious freedom for all beneficiaries who would want to take advantage of a state service for those who would desire services from a faith based organization. It is protection for the service provider and protection for the clients.

Furthermore, the guidelines in the federal legislation clarify and codify the constitutional requirements for government interaction with faith based social service providers. In Section 104 of the law contains the United States Supreme Court

Presidents and governmental neutrality in attaining the balance and appropriate assessment of secular providers and faith based providers. This protects both the religious property of the organization and the religious liberty of the beneficiary.

Some of the reasons why I thought it would be a good idea for Maine to consider this. First, as you know, Maine is a rural state and paradoxically we are a very large state and yet very small in many ways. Human resources are limited and when available difficult for many citizens to easily partake. If the faith based community were included as an additional component to current service infrastructure in the state, our ability to provide services could grow significantly. As we all know, budgetary constraints are a constant with additional players available in this system awarding contracts or vouchers would be more competitive and could save money. Additionally this would increase the quantity of providers and increase competition and thereby would render improvement to the quality of services as well.

The second reason is the ramifications and high reaching problems that many of our citizens face daily require new pyridines, creative solutions and wisdom that can result from a cooperative partnership that charitable choice affords. In other words, we do learn from one another. The world around us employs this strategy all the time with wonderful results. Third, attaining long lasting solutions to some of our social ills is greatly enhanced with a spiritual linkage that faith based groups could and would bring to the effort. Many faith traditions have a long history of demonstrated abilities serving the needy and the poor.

Again, not every recipient may want this, nor would they have to accept it, nor would any particular faith based organization want to participate either. It would simply be choice. The charitable choice provides safeguards for those who want a secular based service. For those who may want a faith based approach, charitable choice would provide this option.

For further consideration, you may recall that the in Chief Executive's State of the State Address, he expounded the theme of community. As a theme that is a wonderful theme that we can all rally around. Of course, the difficulty is the transition from the abstract into the every day. Charitable choice could be one of those bridges. Charitable choice offers us an opportunity to harness more of our local resources, neighbors and friends into the implementation of serving the needs of our citizens. It is like a shoehorn easing the foot into the shoe. It is a nice, easy and comfortable fit. According to a study by a woman named Amy L. Sherman, she is a senior fellow at the Hudson Institute, cooperative relationships that have been discussing between state governments and the faith community have been forged in 23 different states under the charitable choice provisions. That is almost half the states. One of the things that it does offer is the ability to use all our resources, treat each other as allies.

The committee has many things on its plate, the Health and Human Services Committee, not the least of which is foster care. I believe that the committee themselves feel that these proposals have some merit, but their plate is full. Candidly, there are many issues to sit through to become more comfortable as we navigate our way through the challenging issues that we have here. It is, however, an incredible opportunity and two of the words in that big long title you mentioned earlier are opportunity and reconciliation. If we learn to reconcile the different spheres of our society that have been too long departmentalized, we can gain the opportunity to advance the cause of serving the under served and the most disengaged of our state by orchestrating all resources to what is the common effort.

In our discussion in caucus, it was mentioned that the bill may be ahead of its time. I present it to you this morning because I don't think it will go away presuming it doesn't pass

this morning. I am sure it will be back. Mr. Speaker, I thank you for listening and I would request a roll call.

Representative MacDOUGALL of North Berwick **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

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

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

Representative **KANE**: Mr. Speaker, Men and Women of the House. The State of Maine already has a long-standing practice of contracting for social services with faith based organizations. It appears to our committee that this kind of bill, as well intended as it may be, is not needed and does contain, in fact, some potential flaws. There are some constitutional questions. There is the potential for discrimination in employment practices. There is the provision for incorporation of religious content in the delivery of services. It can tread very closely to the quicksand of separation of church and state. There is no compelling need for legislation at this point in time. Hence, the very strong Majority **Ought Not to Pass** Report of the committee.

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

Representative **HALL**: Mr. Speaker, Ladies and Gentlemen of the House. For the past five years I have had the honor and the privilege of serving on the board of the Maine Council of Churches. I do not speak for that organization today, nor would it be proper for me to do so. I can speak from my years of experience of working with a wide variety of faith based communities in this state. I can tell you that the mainstream churches in Maine do not seek to have this bill passed into law. They do not seek any extension of the existing mechanisms whereby they have arms length organizations, which administer social services under contract. They are fearful of any laws that would place them, the churches of this state, in the position of being the people who decide who may and may not receive food stamps or other social services. I do urge you to vote **Ought Not to Pass** on this report. Thank you.

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

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

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

Representative **WATERHOUSE**: Mr. Speaker, Ladies and Gentlemen of the House. To the good Representative from Saco that just made a comment that this bill would have potential discrimination. Seems how the bill is tracking the federal provisions of the Personal Responsibility and Work Reconciliation Act of 1996, is he referring that that act in itself may have some discriminatory flaws in it?

The **SPEAKER PRO TEM**: The Representative from Bridgton, Representative Waterhouse has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Poland, Representative Snowe-Mello.

Representative **SNOWE-MELLO**: Mr. Speaker, Men and Women of the House. Through my testimony I will answer a lot of these questions. This question in particular. I would really like to be able to speak. I stand here today as a cosponsor of the charitable choice legislation. I did so because I really believe that putting this into affect will greatly help the churches and our constituents of this state. I think that is what we would all like to do.

Several years ago I was introduced to charitable choice, which is part of Title V Welfare Reform of 1996. I served on the Health and Human Service Committee at the time when this state tackled welfare reform. Our committee is touted as doing welfare reform as best in the nation. One area we did not tackle and did not delve into was charitable choice.

Arizona State Representative Mark Anderson was prime sponsor of a bill that they passed in 1999. This bill was called charitable choice. It sets up the ground rules for churches and faith based organizations to contract with the state to provide services. The federal welfare reform legislation of 1996, as I mentioned, included Section 104, that became known as charitable choice. Congress included this section because they wanted to reach out to churches and faith based organizations and enlist their help in moving forward from dependency to self-sufficiency. Often churches and faith based groups do an excellent job of helping the poor with very little resources. However, in the past the churches have been reluctant to work with the state due to the fear of government intrusion into their faith and activities, which was mentioned before. With charitable choice, the integrity, the religious organization is protected. That is the beauty of it. The religious freedom of the clients is also protected. These guidelines have been in place now since 1996 and have not even been challenged in court because they are clear and fair.

The State of Arizona felt it was important to adopt similar language and to show the faith community that we want to have and they wanted to have them come to the table and do even more to help the poor and disadvantaged in their communities. The Catholic Church is a good example of a church offering programs that enhance state programs.

As word of charitable choice legislation spreads in churches and synagogues, a greater spirit of cooperation can be expected, if we pass this legislation, which will allow more low income and needy Mainers to be to be helped. Isn't that what we all want here. I believe this is a great program for the State of Maine to adopt.

Let me give you some prime examples. I used to belong to High Street Congregational Church and I chaired the church and community board. We sponsored many different types of programs that benefited the community. As time went by, we found more and more of the accounts that we used to do for good works were drying out. Large amounts of our endowment were no longer being set up, because we were no longer receiving monies from those members of our church who had passed away and donated to our church. The young families who are members of our church just did not have the income to tithe, as they would like to have. So, because of this the church community board was not able to continue with programs such as, the Latchkey Program and the caregiver's luncheon. The caregiver's luncheon is a wonderful service. It got different providers who took care of poor people. They would get together monthly and have a discussion on how best they can serve the community. The food kitchen and the Transportation Programs we had. Remember under charitable choice, religious groups accepting government money are permitted, this is really, really important to remember, to maintain their religious mission, preserve religious atmosphere in their facilities and discriminate on the basis of religion and their hiring practices. The reason they do that is because they want like-minded people to be working for them and to better serve the people.

There was a recent survey taken, forgive me for this long debate, but I think it is important to get the facts out. There was a recent survey taken across the country on church attendance and volunteerism in the US. The City of Lewiston was one of the

cities cited. Lewiston was shown to have a decline in church attendance, but an increase of volunteerism. I believe that charitable choice will help to improve those numbers. I hope that we give them the chance to do that. I also believe that our society is far better off when the people of our community are active members of a church of their choice or a faith based organization.

Charitable choice provision was to encourage faith based organizations to expand their involvement in the welfare reform effort by providing assurances that their religious integrity would be protected. This is constitutional. I would like to make that very clear. I sincerely hope that you will look carefully at charitable choice and take it seriously and realize that it can be a great tool in the design of welfare reform.

The key area of charitable choice are as follows. It encourages states to obtain services from non-governmental organizations. It requires states that do not do so to not discriminate against faith based groups. It obligates states to respect the religious integrity of groups that take public money. It protects the right of recipients to receive help without religious coercion.

The welfare funds are intended to help families become independent and not to promote religion. It is simply to help our people. Ministries need a good plan of action, adequate staff, to succeed. They may not discriminate because of the client's religion. Clients have the right to sit out religious or to choose another provider. There is that choice issue again.

If the services are funded by a government contract, then the money may not be used for worship services, doctrinal instruction or proselytization. This makes it clear government is not endorsing any particular religion. By contrast, when clients bring a voucher to pay for a service, there is no religious restriction on the provider's program.

I certainly hope you will to against the committee report and support the Minority Report. This is a good bill. It would be good for this state. Thank you.

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

Representative NUTTING: Mr. Speaker, Colleagues of the House. I rise to echo the comments of the good House Chair of our committee, the Representative from Saco, Representative Kane. It is true that our committee does have a huge number of bills with some backlog, but the truth is we looked at this bill just as carefully as we look at all the bills that we have. We are not really overworked, under paid maybe, but overworked, no. This was a 12 to 1 committee vote. The majority of the committee felt that this bill wasn't needed and that, in fact, besides not being needed, it might actually make the workings of the federal law, it might be a hindrance to the federal law. I would ask that you would accept the Majority Ought Not to Pass Report. Thank you.

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

Representative WATERHOUSE: Mr. Speaker, Ladies and Gentlemen of the House. I want to thank the good Representative from Poland for all that very informative information, but I still didn't get a response to my question so I am going to ask it again. The good Representative who I think is no longer in the chambers, but to anybody on the committee who may answer a question to something the good Representative from Saco said, that this law, the federal law, if applied to the state would be discriminatory. Is there anyone on the committee who feels as through the federal law is discriminatory?

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. 69

YEA - Annis, Ash, Baker, Belanger, Berry RL, Blanchette, Bliss, Bouffard, Brannigan, Bruno, Bryant, Bull, Bumps, Canavan, Chase, Chick, Chizmar, Clark, Clough, Colwell, Cote, Cowger, Cummings, Daigle, Desmond, Dorr, Dudley, Dugay, Duncan, Dunlap, Duplessie, Estes, Etnier, Fisher, Fuller, Gagne, Gerzofsky, Gooley, Green, Hall, Hatch, Hawes, Honey, Hutton, Jacobs, Jodrey, Jones, Kane, Labrecque, Landry, LaVerdiere, Laverriere-Boucher, Lemoine, Lessard, Lovett, Lundeen, Mailhot, Marley, Marrache, Matthews, Mayo, McDonough, McGlocklin, McGowan, McKee, McLaughlin, Mitchell, Morrison, Murphy E, Murphy T, Muse C, Muse K, Norbert, Norton, Nutting, O'Brien JA, O'Brien LL, O'Neil, Paradis, Patrick, Perkins, Perry, Pineau, Povich, Quint, Richard, Richardson, Rines, Rosen, Savage, Schneider, Sherman, Simpson, Skoglund, Smith, Stanley, Sullivan, Tarazewich, Tessier, Tobin D, Tobin J, Tracy, Tuttle, Twomey, Usher, Volenik, Watson, Wheeler EM, Wheeler GJ, Winsor, Mr. Speaker.

NAY - Andrews, Berry DP, Bowles, Buck, Carr, Collins, Crabtree, Cressey, Duprey, Foster, Glynn, Haskell, Heidrich, Kasprzak, Ledwin, MacDougall, McKenney, McNeil, Mendros, Michael, Nass, Pinkham, Shields, Snowe-Mello, Trahan, Treadwell, Waterhouse, Weston, Young.

ABSENT - Bagley, Brooks, Bunker, Davis, Goodwin, Koffman, Madore, Michaud, Peavey, Stedman, Thomas.

Yes, 111; No, 29; Absent, 11; Excused, 0.

111 having voted in the affirmative and 29 voted in the negative, with 11 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

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

Majority Report of the Committee on **TRANSPORTATION** reporting **Ought Not to Pass** on Bill "An Act to Prohibit Roadblocks for the Purpose of Enforcing the Seat Belt Law for Adults" (EMERGENCY)

(H.P. 1064) (L.D. 1427)

Signed:

Senators:

- SAVAGE of Knox
- O'GARA of Cumberland
- GAGNON of Kennebec

Representatives:

- FISHER of Brewer
- BOUFFARD of Lewiston
- WHEELER of Eliot
- BUNKER of Kossuth Township
- MARLEY of Portland
- PARADIS of Frenchville
- WHEELER of Bridgewater
- COLLINS of Wells
- McNEIL of Rockland

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

Signed:

Representative:

- McKENNEY of Cumberland

READ.

Representative FISHER of Brewer moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

Representative MENDROS of Lewiston **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**: 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. 70

YEA - Annis, Ash, Baker, Berry DP, Berry RL, Blanchette, Bliss, Bouffard, Bowles, Brannigan, Bruno, Bull, Bumps, Canavan, Carr, Chick, Collins, Colwell, Cote, Cowger, Cummings, Daigle, Desmond, Dorr, Dudley, Dunlap, Duplessie, Estes, Etnier, Fisher, Fuller, Gerzofsky, Green, Hall, Hatch, Hutton, Jodrey, Kane, Labrecque, Ledwin, Lemoine, Lessard, Lundeen, Mailhot, Marley, Marrache, Matthews, McDonough, McGowan, McKee, McLaughlin, McNeil, Michaud, Mitchell, Murphy E, Muse C, Muse K, Nass, Norbert, Norton, O'Neil, Patrick, Perry, Pineau, Povich, Quint, Richard, Richardson, Rines, Savage, Schneider, Shields, Simpson, Skoglund, Smith, Stanley, Sullivan, Tarazewich, Tessier, Tobin J, Tuttle, Usher, Volenik, Watson, Weston, Wheeler EM, Wheeler GJ, Young, Mr. Speaker.

NAY - Andrews, Bryant, Buck, Chase, Chizmar, Clark, Clough, Crabtree, Cressey, Dugay, Duncan, Duprey, Foster, Gagne, Glynn, Gooley, Haskell, Hawes, Heidrich, Honey, Jacobs, Jones, Kasprzak, Landry, LaVerdiere, Lovett, MacDougall, Madore, Mayo, McGlocklin, McKenney, Mendros, Michael, Morrison, Murphy T, Nutting, O'Brien JA, O'Brien LL, Perkins, Pinkham, Rosen, Sherman, Snowe-Mello, Tobin D, Tracy, Trahan, Treadwell, Twomey, Waterhouse, Winsor.

ABSENT - Bagley, Belanger, Brooks, Bunker, Davis, Goodwin, Koffman, Laverriere-Boucher, Paradis, Peavey, Stedman, Thomas.

Yes, 89; No, 50; Absent, 12; Excused, 0.

89 having voted in the affirmative and 50 voted in the negative, with 12 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

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

CONSENT CALENDAR

First Day

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

(S.P. 239) (L.D. 807) Bill "An Act to Provide for Plenary Proceedings in Actions for Forcible Entry and Detainer" Committee on **JUDICIARY** reporting **Ought to Pass**

(S.P. 515) (L.D. 1634) Bill "An Act to Amend the Laws Pertaining to the Maine Small Business Commission" Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass**

(S.P. 524) (L.D. 1647) Bill "An Act to Allow Averaging of Unallocated Balances Over 3% for School Budgets" Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass**

(S.P. 21) (L.D. 37) Bill "An Act to Amend the Law Governing the Child Care Advisory Council and to Gather Data on Child Care Services in the State" (EMERGENCY) Committee on

HEALTH AND HUMAN SERVICES reporting Ought to Pass as Amended by Committee Amendment "A" (S-92)

(S.P. 286) (L.D. 997) Resolve, to Enhance Economic Development in Eastern Maine (EMERGENCY) Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-87)**

(S.P. 511) (L.D. 1630) Bill "An Act to Permit the Issuance of Certain Types of Consumer Credit Insurance" Committee on **BANKING AND INSURANCE** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-89)**

(S.P. 518) (L.D. 1637) Bill "An Act to Amend the Revised Maine Securities Act" Committee on **BANKING AND INSURANCE** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-88)**

(H.P. 406) (L.D. 527) Bill "An Act to Amend Certain Laws Administered by the Department of Environmental Protection" Committee on **NATURAL RESOURCES** reporting **Ought to Pass**

(H.P. 95) (L.D. 99) Resolve, to Name Route 302 the 10th Mountain Division Highway Committee on **TRANSPORTATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-219)**

(H.P. 168) (L.D. 179) Bill "An Act to Protect Sensitive Geologic Areas from Oil Contamination" Committee on **NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-224)**

(H.P. 200) (L.D. 230) Bill "An Act to Amend the Laws Regarding the Fee Paid When Purchasing a New Tire or Battery" Committee on **NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-225)**

(H.P. 214) (L.D. 249) Bill "An Act to Amend the Rule-making Process Regarding the State's Plumbing Code" (EMERGENCY) Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-222)**

(H.P. 395) (L.D. 516) Bill "An Act Regarding Prehistoric and Historic Archaeological Work Performed in the Shoreland Zone" Committee on **NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-226)**

(H.P. 429) (L.D. 550) Resolve, to Amend the National Guard Education Assistance Pilot Program (EMERGENCY) Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-232)**

(H.P. 439) (L.D. 560) Bill "An Act to Establish the Maine Cave Protection Act" Committee on **NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-227)**

(H.P. 657) (L.D. 857) Bill "An Act to Strengthen the Ground Water Oil Clean-up Fund" Committee on **NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-229)**

(H.P. 751) (L.D. 970) Bill "An Act to Limit the Use of Property Taxes to Fund Education" Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-216)**

(H.P. 767) (L.D. 986) Resolve, to Establish the Commission to Study Ownership Patterns in Maine (EMERGENCY) Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-223)**

(H.P. 808) (L.D. 1063) Bill "An Act to Exempt Maine State Retirement System Employee Contributions from State Income

Tax" Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-215)**

(H.P. 974) (L.D. 1298) Bill "An Act Providing for Enhancements to the Maine Seed Capital Tax Credit Program" Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-217)**

(H.P. 985) (L.D. 1322) Bill "An Act to Increase the Borrowing Capacity of the Topsham Sewer District" (EMERGENCY) Committee on **UTILITIES AND ENERGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-228)**

(H.P. 1066) (L.D. 1429) Resolve, to Assess the Consequences of Climate Change in the State Committee on **NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-230)**

(H.P. 1191) (L.D. 1614) Bill "An Act to Implement the Recommendations of the Secretary of State and the Maine State Police Regarding Low-speed Vehicles" Committee on **TRANSPORTATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-220)**

(H.P. 1238) (L.D. 1683) Bill "An Act to Implement the Recommendations of the Veterans Commemorative Decal Task Force" Committee on **TRANSPORTATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-221)**

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

There being no objection, the Senate Papers were **PASSED TO BE ENGROSSED** or **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. 413) (L.D. 1357) Resolve, to Study the Statutes Pertaining to Funeral Homes, Crematories and Cemeteries Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-86)**

On motion of Representative RICHARDSON of Brunswick, was **REMOVED** from the First Day Consent Calendar.

The Committee Report was **READ** and **ACCEPTED**. The Resolve was **READ ONCE**. **Committee Amendment "A" (S-86)** was **READ** by the Clerk.

On further motion of the same Representative, **TABLED** pending **ADOPTION** of **Committee Amendment "A" (S-86)** and later today assigned.

ENACTORS
Emergency Measure

An Act to Allow the Awarding of High School Diplomas to Veterans of World War II and the Korean Conflict

(H.P. 21) (L.D. 21)
(C. "A" H-124)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 127 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Increase the Limit on Earnings for Beneficiaries of Disability Retirement Benefits

(H.P. 94) (L.D. 98)
(C. "A" H-133)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 127 voted in favor of the same and 1 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Clarify Access to Private Lines in a Public Way

(H.P. 252) (L.D. 288)
(C. "A" H-142)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 130 voted in favor of the same and 2 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Authorize the Town of Bar Harbor to Acquire the Bar Harbor Water Company

(S.P. 159) (L.D. 503)
(C. "A" S-45)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 117 voted in favor of the same and 14 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Permit Grievance Mediation by the Panel of Mediators

(H.P. 392) (L.D. 513)
(C. "A" H-120)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 130 voted in favor of the same and 1 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Remove State Road Signs with Offensive Names from Interstate Route 95 and the Maine Turnpike

(H.P. 478) (L.D. 618)
(C. "A" H-122)

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

On motion of Representative COLWELL of Gardiner, **TABLED** pending **PASSAGE TO BE ENACTED** and later today assigned.

Emergency Measure

An Act to Clarify when Reduced Speed Limits are in Effect in School Zones

(H.P. 643) (L.D. 843)
(C. "A" H-179)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 128 voted in favor of the same and 2 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Establish a Sales Tax Exemption for Certain Incorporated, Nonprofit Memorial Foundations

(H.P. 645) (L.D. 845)
(C. "A" H-138)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 123 voted in favor of the same and 8 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Enhance Participation in the Agricultural Marketing Loan Fund

(S.P. 250) (L.D. 882)
(C. "A" S-70)

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

Emergency Measure

An Act to Provide for the Security of Certain Utility Information

(H.P. 716) (L.D. 931)
(C. "A" H-130)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 126 voted in favor of the same and 7 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Ensure Proper Funding of the Public Utilities Commission

(H.P. 973) (L.D. 1297)
(C. "A" H-121)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 112 voted in favor of the same and 19 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Create the Boothbay Region Water District
(S.P. 440) (L.D. 1442)
(C. "A" S-66)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 126 voted in favor of the same and 5 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Streamline the Administration of the Potato Marketing Improvement Fund
(S.P. 451) (L.D. 1505)
(C. "A" S-50; H. "A" H-152)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 131 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Establish Municipal Cost Components for Unorganized Territory Services to be Rendered in Fiscal Year 2001-2002
(H.P. 1206) (L.D. 1628)
(C. "A" H-139)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 125 voted in favor of the same and 3 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Provide for the 2001 and 2002 Allocations of the State Ceiling on Private Activity Bonds
(H.P. 1233) (L.D. 1680)

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

Emergency Measure

Resolve, Regarding Legislative Review of Chapter 125.17D: Regulations Governing Timeout Rooms, Therapeutic Restraints and Aversives in Public Schools and Approved Private Schools, a Major Substantive Rule of the Department of Education
(H.P. 22) (L.D. 22)
(C. "A" H-125)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 117 voted in favor of the same and

11 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

Emergency Measure

Resolve, Directing a Study of the Creation of a Fire and Emergency Services Academy
(S.P. 271) (L.D. 936)
(C. "A" S-74)

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

On motion of Representative NORBERT of Portland, **TABLED** pending **FINAL PASSAGE** and later today assigned.

Emergency Measure

Resolve, to Assess the Condition of Historical Records in Maine Historical Records Repositories
(H.P. 776) (L.D. 1020)
(C. "A" H-126)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 127 voted in favor of the same and 4 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

Emergency Mandate

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
(H.P. 1220) (L.D. 1661)
(C. "A" H-166)

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

On motion of Representative NORBERT of Portland, **TABLED** pending **PASSAGE TO BE ENACTED** and later today assigned.

Emergency Mandate

An Act to Revise the Salaries of Certain Kennebec County Officers
(H.P. 1310) (L.D. 1773)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. In accordance with the provisions of Section 21 of Article IX of the Constitution, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 107 voted in favor of the same and 21 against, and accordingly the Mandate was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Mandate

An Act to Change the Fiscal Year of Sagadahoc County
(H.P. 206) (L.D. 241)
(C. "A" H-116)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. In accordance with the provisions of Section 21 of Article IX of the Constitution, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 123 voted in favor of the same and 4 against, and accordingly the Mandate was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Acts

- An Act to Expand Eligibility for the Veterans' Property Tax Exemption
(H.P. 26) (L.D. 26)
(C. "A" H-119)
- An Act Regarding Civil Actions Involving Insurance Coverage
(H.P. 40) (L.D. 49)
(C. "A" H-18)
- An Act to Protect the Academic Integrity of Maine's Public Institutions of Higher Education
(H.P. 136) (L.D. 147)
(C. "A" H-129)
- An Act to Clarify the Use of 2-sided Ballots
(H.P. 195) (L.D. 206)
(C. "A" H-117)
- 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)
- An Act Concerning Eligibility Requirements for State Employees, Teachers and Participating Local District Employees to Purchase Military Service Credit
(S.P. 66) (L.D. 237)
(C. "A" S-61)
- An Act to Amend the Standards Regarding the Endangerment of the Welfare of a Dependent Person
(S.P. 71) (L.D. 277)
(C. "A" S-75)
- An Act to Modernize the Laws Regarding Bicycle Safety
(H.P. 263) (L.D. 312)
(C. "A" H-177)
- An Act to Eliminate the 3 Advisory Members of the Somerset County Budget Committee
(S.P. 100) (L.D. 326)
(C. "A" S-65)
- An Act to Extend the Repeal of the Lobster Trap Tag Freeze
(H.P. 266) (L.D. 344)
(C. "A" H-171)
- An Act to Revise Maine Laws Governing Aquaculture
(H.P. 288) (L.D. 366)
(C. "A" H-157)
- An Act to Implement the Recommendations of the Judicial Compensation Commission Regarding Per Diem Compensation
(S.P. 124) (L.D. 400)
(C. "A" S-55)
- An Act to Require the Department of Audit to Conduct Random Audits of State Programs
(H.P. 331) (L.D. 421)
(C. "A" H-101)
- An Act to Encourage Equity Equivalent Loans or Investments in Nonprofit Community Economic Development and Affordable Housing Organizations
(H.P. 340) (L.D. 430)
(C. "A" H-156)
- An Act to Limit Nuisance Claims Against Commercial Fishing Operations and Activities
(S.P. 158) (L.D. 502)
(C. "A" S-68)
- An Act to Appropriate Funds to the Maine Technical College System for the Programs and Operation of the Bath Higher Education Center
(H.P. 411) (L.D. 532)
(C. "A" H-128)
- An Act to Increase Instruction for Legally Blind Children
(S.P. 175) (L.D. 603)
- An Act Concerning the Administration of Medications in County Jails
(H.P. 502) (L.D. 642)
(C. "A" H-161)
- An Act to Remove Barriers to Providing Natural Gas Services
(S.P. 190) (L.D. 662)
(C. "A" S-64)
- An Act to Allow a Person with a Disability to Ride in Vehicles Being Towed
(H.P. 530) (L.D. 685)
- An Act Concerning Commercial Driver License Certification
(H.P. 553) (L.D. 708)
(C. "A" H-134)
- An Act to Exempt Organized Veterans Groups from Motor Vehicle Registration of Ceremonial Vehicles
(H.P. 557) (L.D. 712)
(C. "A" H-178)
- An Act to Require That Wolf Hybrids be Permanently Identified and to Establish Penalties for Releasing Wolf Hybrids from Captivity
(H.P. 584) (L.D. 739)
(C. "A" H-150)
- An Act to Exempt Certain Temporary Placement and Adoption Services Organizations from the Sales Tax
(H.P. 591) (L.D. 746)
(C. "A" H-137)
- An Act to Prohibit Cyberstalking
(H.P. 594) (L.D. 749)
(C. "A" H-160)
- An Act to Change the Job Title of County Administrator to County Manager for York County
(S.P. 204) (L.D. 769)
- An Act to Authorize the Department of Transportation to Use the Design-Build Method of Project Delivery
(S.P. 211) (L.D. 776)
(C. "A" S-54)
- An Act to Exempt Medical Devices and Assistive Devices Used by Individuals with Disabilities from the Sales Tax
(H.P. 677) (L.D. 877)
(C. "A" H-141)
- An Act to Amend the Public Drinking Law
(H.P. 703) (L.D. 918)
- An Act to Amend the Supervised Community Confinement Law
(H.P. 714) (L.D. 929)
(C. "A" H-163)
- An Act to Eliminate the Fees Imposed on Purple Heart Recipients for Special Registration Plates
(H.P. 730) (L.D. 950)
(C. "A" H-180)
- An Act to Amend the Civil Court Procedure as it Pertains to Execution Liens
(H.P. 774) (L.D. 1018)
(C. "A" H-112)
- An Act to Exempt Bottled Water from State Sales Tax
(H.P. 800) (L.D. 1044)
(C. "A" H-155)
- An Act to Establish the Maine Firefighter Training Fund
(H.P. 804) (L.D. 1048)
(C. "A" H-159)
- An Act to Allow Victims of Crimes More Access to Inmate Records
(S.P. 303) (L.D. 1050)
(C. "A" S-73)

An Act to Authorize State Agencies to Arrange for Direct Billing of Hotel Rooms for State Business (S.P. 315) (L.D. 1083)

An Act Concerning the Lobster Management Fund (S.P. 323) (L.D. 1091) (C. "A" S-67)

An Act to Allow Flexibility in Regulation of Telephone Utilities (H.P. 849) (L.D. 1121) (C. "A" H-165)

An Act to Allow Members, Managers and Authorized Employees to Appear in Court for a Limited Liability Company (S.P. 336) (L.D. 1143) (C. "A" S-56)

An Act to Direct that a Percentage of Revenue That the State Receives Be Allocated to Community Forestry (S.P. 362) (L.D. 1200) (C. "A" S-62)

An Act for Voluntary Testing for Hepatitis-C of Adult Prisoners in the Maine Correctional System (H.P. 968) (L.D. 1292) (C. "A" H-164)

An Act to Modify Municipal Shellfish Ordinances (H.P. 997) (L.D. 1334)

An Act to Allow Flexibility in Payment of School Year Employee Wages (H.P. 1110) (L.D. 1479) (C. "A" H-170)

An Act to Clarify and Make Technical Corrections to Retirement Laws (S.P. 456) (L.D. 1509)

An Act to Increase Business Opportunities at the Port of Eastport (S.P. 538) (L.D. 1669) (C. "A" S-58)

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

Resolves

Resolve, Authorizing the Commissioner of Administrative and Financial Services to Sell or Lease the Interests of the State in 6 Parcels of Land, One with a Building, Held by the Department of Education and Located in the Unorganized Territories (S.P. 65) (L.D. 236) (C. "A" S-59)

Resolve, to Regulate the Harvesting of Horseshoe Crabs (H.P. 259) (L.D. 308) (C. "A" H-158)

Resolve, Requiring an Evaluation and Reform of the Tax Expenditure Review Process (S.P. 179) (L.D. 607) (C. "A" S-72)

Resolve, Authorizing the Transfer of Land from the State to School Administrative District No. 16 (H.P. 656) (L.D. 856) (C. "A" H-131)

Resolve, Extending the Reporting Deadline for the Maine Millennium Commission on Hunger and Food Security (H.P. 777) (L.D. 1021) (C. "A" H-147)

Resolve, Requiring the Maine Arts Commission to Review the Feasibility of Establishing a Performing Artist Subsidy Program for Fairs

(H.P. 861) (L.D. 1133) (C. "A" H-143)

Resolve, Authorizing the Commissioner of Administrative and Financial Services to Sell or Lease the Interests of the State in the Jacob Abbott House Property Located at the Stevens School Campus in Hallowell (S.P. 338) (L.D. 1145) (C. "A" S-60)

Resolve, to Authorize the Development of a New Railroad Bridge on the Union Branch Railroad Line over Back Cove in Portland (H.P. 1053) (L.D. 1416)

Resolve, to Establish the Blue Ribbon Commission to Review Special Education Laws (H.P. 1118) (L.D. 1487) (C. "A" H-127)

Resolve, Authorizing the State Tax Assessor to Convey the Interest of the State in Certain Real Estate in the Unorganized Territory (H.P. 1171) (L.D. 1571) (C. "A" H-140)

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

An Act to Create a Mandatory Automobile Insurance Premium Discount for Safe, Mature Drivers (H.P. 34) (L.D. 43) (C. "A" H-19)

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

On motion of Representative KASPRZAK of Newport, was **SET ASIDE**.

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

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

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

ROLL CALL NO. 71

YEA - Andrews, Annis, Ash, Baker, Berry DP, Berry RL, Blanchette, Bliss, Bouffard, Bowles, Brannigan, Bruno, Buck, Bull, Bumps, Bunker, Canavan, Carr, Chick, Chizmar, Clark, Clough, Collins, Colwell, Cote, Cowger, Cummings, Daigle, Desmond, Dorr, Dugay, Duncan, Dunlap, Duplessie, Estes, Etner, Fisher, Fuller, Gagne, Gerzofsky, Glynn, Goodwin, Green, Hatch, Hawes, Heidrich, Honey, Hutton, Jacobs, Jodrey, Jones, Kane, Landry, LaVerdiere, Laverriere-Boucher, Lessard, Lovett, Lundeen, MacDougall, Madore, Mailhot, Marley, Marrache, Matthews, Mayo, McDonough, McGlocklin, McGowan, McKee, McKenney, McLaughlin, McNeil, Mendros, Michael, Michaud, Mitchell, Murphy E, Murphy T, Muse C, Muse K, Nass, Norbert, Norton, O'Brien JA, O'Brien LL, Paradis, Perkins, Perry, Pineau, Povich, Quint, Richard, Richardson, Rosen, Savage, Schneider, Sherman, Shields, Simpson, Skoglund, Snowe-Mello, Stanley, Sullivan, Tarazewich, Tobin D, Tobin J, Tracy, Trahan, Treadwell, Tuttle, Twomey, Usher, Waterhouse, Watson, Weston, Wheeler EM, Winsor, Young, Mr. Speaker.

NAY - Bryant, Chase, Crabtree, Cressey, Dudley, Duprey, Foster, Gooley, Haskell, Kasprzak, Labrecque, Ledwin, Lemoine, Nutting, O'Neil, Patrick, Pinkham, Rines, Smith, Volenik.

ABSENT - Bagley, Belanger, Brooks, Davis, Hall, Koffman, Morrison, Peavey, Stedman, Tessier, Thomas, Wheeler GJ.

Yes, 119; No, 20; Absent, 12; Excused, 0.

119 having voted in the affirmative and 20 voted in the negative, with 12 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

An Act to Require the State to Pay Medicare Costs for Retired Employees, Retired Teachers and Retirees in Participating Local Districts

(H.P. 141) (L.D. 152)
(C. "A" H-132)

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

On motion of Representative COLWELL of Gardiner, was **SET ASIDE**.

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

An Act to Discourage Underage Consumption of Alcohol by a Minor

(H.P. 222) (L.D. 257)
(C. "A" H-167)

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

On motion of Representative CHIZMAR of Lisbon, was **SET ASIDE**.

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

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

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

ROLL CALL NO. 72

YEA - Andrews, Annis, Ash, Baker, Berry DP, Berry RL, Blanchette, Bouffard, Bowles, Brannigan, Bruno, Bryant, Buck, Bumps, Bunker, Canavan, Carr, Chase, Chick, Chizmar, Clark, Clough, Collins, Colwell, Cote, Cowger, Crabtree, Cressey, Cummings, Daigle, Desmond, Dorr, Dudley, Duncan, Dunlap, Duplessie, Duprey, Estes, Etnier, Fisher, Foster, Fuller, Gagne, Gerzofsky, Glynn, Goodwin, Gooley, Green, Haskell, Hatch, Hawes, Heidrich, Honey, Hutton, Jacobs, Jodrey, Jones, Kane, Kasprzak, Labrecque, Landry, LaVerdiere, Laverriere-Boucher, Ledwin, Lemoine, Lessard, Lovett, Lundeen, MacDougall, Madore, Mailhot, Marley, Marrache, Matthews, Mayo, McDonough, McGlocklin, McGowan, McKee, McLaughlin, McNeil, Michaud, Murphy E, Murphy T, Muse C, Muse K, Nass, Norbert, Norton, Nutting, O'Brien JA, O'Brien LL, O'Neil, Paradis, Patrick, Perry, Pineau, Povich, Richard, Richardson, Rines, Rosen, Savage, Schneider, Sherman, Shields, Simpson, Skoglund, Smith, Stanley, Sullivan, Tarazewich, Tobin D, Tobin J, Trahan, Treadwell, Tuttle, Usher, Volenik, Waterhouse, Watson, Weston, Wheeler EM, Winsor, Young, Mr. Speaker.

NAY - Bliss, Bull, Dugay, McKenney, Mendros, Michael, Mitchell, Perkins, Pinkham, Quint, Tracy, Twomey.

ABSENT - Bagley, Belanger, Brooks, Davis, Hall, Koffman, Morrison, Peavey, Snowe-Mello, Stedman, Tessier, Thomas, Wheeler GJ.

Yes, 126; No, 12; Absent, 13; Excused, 0.

126 having voted in the affirmative and 12 voted in the negative, with 13 being absent, and accordingly the Bill was

PASSED TO BE ENACTED, signed by the Speaker and sent to the Senate.

An Act to Promote Efficiency in the Provision of Administrative Services for Child Care Providers

(H.P. 328) (L.D. 418)
(C. "A" H-148)

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

On motion of Representative KASPRZAK of Newport, was **SET ASIDE**.

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

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

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

ROLL CALL NO. 73

YEA - Andrews, Annis, Ash, Baker, Berry DP, Berry RL, Blanchette, Bliss, Bouffard, Bowles, Brannigan, Bruno, Bryant, Buck, Bull, Bumps, Bunker, Canavan, Carr, Chase, Chick, Chizmar, Clark, Collins, Colwell, Cote, Cowger, Crabtree, Cummings, Daigle, Desmond, Dorr, Dudley, Dugay, Duncan, Dunlap, Duplessie, Estes, Etnier, Fisher, Foster, Fuller, Gagne, Gerzofsky, Glynn, Goodwin, Gooley, Green, Haskell, Hatch, Hawes, Heidrich, Honey, Hutton, Jacobs, Jodrey, Jones, Kane, Labrecque, Landry, LaVerdiere, Laverriere-Boucher, Ledwin, Lemoine, Lessard, Lovett, Lundeen, MacDougall, Madore, Mailhot, Marley, Marrache, Matthews, Mayo, McDonough, McGlocklin, McGowan, McKee, McKenney, McLaughlin, McNeil, Michaud, Mitchell, Murphy E, Murphy T, Muse C, Muse K, Nass, Norbert, Norton, Nutting, O'Brien JA, O'Brien LL, O'Neil, Paradis, Patrick, Perry, Pineau, Pinkham, Povich, Quint, Richard, Richardson, Rines, Rosen, Savage, Schneider, Sherman, Shields, Simpson, Skoglund, Smith, Stanley, Sullivan, Tarazewich, Tobin D, Tobin J, Tracy, Trahan, Treadwell, Tuttle, Twomey, Usher, Volenik, Waterhouse, Watson, Weston, Wheeler EM, Winsor, Young, Mr. Speaker.

NAY - Clough, Cressey, Duprey, Kasprzak.

ABSENT - Bagley, Belanger, Brooks, Davis, Hall, Koffman, Mendros, Michael, Morrison, Peavey, Snowe-Mello, Stedman, Tessier, Thomas, Wheeler GJ.

Yes, 132; No, 4; Absent, 15; Excused, 0.

132 having voted in the affirmative and 4 voted in the negative, with 15 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

An Act to Eliminate the Use of Tobacco in Maine Schools and on School Grounds

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

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

On motion of Representative SKOGLUND of St. George, was **SET ASIDE**.

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

On further motion of the same Representative, **TABLED** pending his motion to **INDEFINITELY POSTPONE** the Bill and all accompanying papers and later today assigned.

An Act to Establish the Maine Regulatory Fairness Board
(S.P. 279) (L.D. 990)
(C. "A" S-57)

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

On motion of Representative COLWELL of Gardiner, was **SET ASIDE**.

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

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

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

ROLL CALL NO. 74

YEA - Andrews, Annis, Ash, Baker, Berry DP, Berry RL, Blanchette, Bliss, Bouffard, Bowles, Brannigan, Bruno, Bryant, Buck, Bull, Bumps, Bunker, Canavan, Carr, Chase, Chick, Chizmar, Clark, Clough, Collins, Colwell, Cote, Cowger, Crabtree, Cummings, Daigle, Desmond, Dorr, Dudley, Dugay, Duncan, Dunlap, Duplessie, Duprey, Estes, Etnier, Fisher, Foster, Fuller, Gagne, Gerzofsky, Glynn, Goodwin, Gooley, Green, Haskell, Hatch, Hawes, Heidrich, Honey, Hutton, Jacobs, Jodrey, Jones, Kane, Kasprzak, Labrecque, Landry, LaVerdiere, Laverriere-Boucher, Ledwin, Lemoine, Lessard, Lovett, Lundeen, MacDougall, Madore, Mailhot, Marley, Marrache, Matthews, Mayo, McDonough, McGlocklin, McGowan, McKee, McKenney, McLaughlin, McNeil, Michaud, Mitchell, Murphy E, Murphy T, Muse C, Muse K, Nass, Norbert, Norton, Nutting, O'Brien JA, O'Brien LL, O'Neil, Paradis, Patrick, Pineau, Pinkham, Povich, Quint, Richard, Richardson, Rines, Rosen, Savage, Schneider, Sherman, Shields, Simpson, Skoglund, Smith, Snowe-Mello, Stanley, Sullivan, Tarazewich, Tobin D, Tobin J, Tracy, Trahan, Treadwell, Tuttle, Twomey, Usher, Waterhouse, Watson, Weston, Wheeler EM, Winsor, Young, Mr. Speaker.

NAY - Cressey, Perkins, Volenik.

ABSENT - Bagley, Belanger, Brooks, Davis, Hall, Koffman, Mendros, Michael, Morrison, Peavey, Perry, Stedman, Tessier, Thomas, Wheeler GJ.

Yes, 133; No, 3; Absent, 15; Excused, 0.

133 having voted in the affirmative and 3 voted in the negative, with 15 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

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

(H.P. 827) (L.D. 1081)
(C. "A" H-162)

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

On motion of Representative COLWELL of Gardiner, was **SET ASIDE**.

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

An Act to Require the State to Purchase the Initial Flags That are Required for Veterans' Grave Sites

(H.P. 884) (L.D. 1176)
(C. "A" H-146)

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

On motion of Representative COLWELL of Gardiner, was **SET ASIDE**.

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

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

Representative **DUPLESSIE**: Mr. Speaker, Men and Women of the House. In reference to the following three roll calls today on the following LDs. On LD 606, I would have voted yes if I was present. LD 587, I would have voted no. LD 439, I would have voted yes. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Fort Kent, Representative Michaud who wishes to address the House on the record.

Representative **MICHAUD**: Mr. Speaker, Men and Women of the House. In reference to roll call vote on LD 1256, if I had been present, I would have voted yea. Thank you Mr. Speaker.

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

The House recessed until 5:00 p.m.

(After Recess)

The House was called to order by the Speaker.

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

CONSENT CALENDAR

First Day

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

(S.P. 272) (L.D. 937) Bill "An Act to Improve Washington County's Economy by Promoting Natural, Historical and Cultural Tourism" Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** reporting **Ought to Pass**

(S.P. 335) (L.D. 1142) Bill "An Act to Provide Annual Support to the Maine Rural Development Council and its Community Capacity Building Work in Distressed Areas of the State" Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** reporting **Ought to Pass**

(S.P. 523) (L.D. 1646) Bill "An Act to Provide Statewide Access for Schools and Libraries to On-line Reference Materials and Periodicals" Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** reporting **Ought to Pass**

(S.P. 131) (L.D. 455) Bill "An Act to Increase Reimbursement Rates for Maine's Bottle Redemption Businesses" Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-105)**

(S.P. 133) (L.D. 457) Bill "An Act to Clarify that the Sales Tax Exemption for Purchase of Manufacturing Equipment Applies Equitably" Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-100)**

(S.P. 189) (L.D. 661) Bill "An Act to Make An Owner Responsible for a Person's Injuries Caused by a Dog" Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-98)**

(S.P. 192) (L.D. 664) Bill "An Act to Amend the Employment Tax Increment Financing Program" Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-102)**

(S.P. 234) (L.D. 803) Bill "An Act to Implement the Recommendations of the Joint Standing Committee on Taxation Resulting from Its Review of Income Tax Expenditures Pursuant to the Maine Revised Statutes, Title 36, chapter 9" Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-101)**

(S.P. 247) (L.D. 815) Bill "An Act to Foster the Survival of Maine Small Businesses in Snowmobile and ATV Sales" Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-104)**

(S.P. 284) (L.D. 995) Bill "An Act to Change the Dates for Licensing of Agricultural Fairs and Exhibitions" Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-99)**

(S.P. 324) (L.D. 1092) Bill "An Act to Prohibit Negative Option Sales Without a Consumer's Express Agreement" Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-106)**

(S.P. 513) (L.D. 1632) Resolve, Directing the Maine Science and Technology Foundation to Determine the Physical Condition of Information Technology Infrastructure in the State (EMERGENCY) Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-107)**

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

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

BILLS IN THE SECOND READING

Senate As Amended

Bill "An Act to Clarify Laws Pertaining to Nuisance Wildlife" (S.P. 168) (L.D. 587) (C. "A" S-84)

House As Amended

Bill "An Act to Define and Ensure Coverage of Basic Health Services by Health Maintenance Organizations" (H.P. 749) (L.D. 968) (C. "A" H-200)

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

(S.P. 410) (L.D. 1354) Bill "An Act to Restrict the Use of the Term 'Maine Water' to Water From Maine" Committee on **NATURAL RESOURCES** reporting **Ought to Pass**

(H.P. 531) (L.D. 686) Resolve, Directing the Bureau of Health to Develop a Comprehensive Plan for the Detection and Treatment of Hepatitis C Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass**

(H.P. 404) (L.D. 525) Bill "An Act to Improve Access to Residential Care in Rural Maine" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-240)**

(H.P. 419) (L.D. 540) Resolve, to Coordinate and Improve Access To Health Care for Women Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-242)**

(H.P. 465) (L.D. 593) Bill "An Act to Establish the Office of Securities within the Department of Professional and Financial Regulation" Committee on **BANKING AND INSURANCE** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-238)**

(H.P. 961) (L.D. 1274) Bill "An Act to Increase the Dedicated Wild Blueberry Tax" Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-243)**

(H.P. 1044) (L.D. 1401) Bill "An Act to Amend the Health Care Facility Immunization Laws" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-241)**

(H.P. 1045) (L.D. 1402) Bill "An Act to Clarify and Update the Security Requirements for Employers Self-insured for Workers' Compensation Liabilities" Committee on **BANKING AND INSURANCE** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-246)**

(H.P. 1271) (L.D. 1729) Bill "An Act to Amend the Maine Banking Code" Committee on **BANKING AND INSURANCE** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-247)**

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

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

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **JUDICIARY** reporting **Ought Not to Pass** on Bill "An Act to Ban Partial Birth Abortion in the 3rd Trimester Except to Save the Life of the Mother" (H.P. 115) (L.D. 119)

Signed:

Senators:

RAND of Cumberland
McALEVEY of York

Representatives:

LaVERDIERE of Wilton
BULL of Freeport
JACOBS of Turner
MITCHELL of Vassalboro

MUSE of South Portland
SIMPSON of Auburn

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

Signed:

Senator:

FERGUSON of Oxford

Representatives:

MADORE of Augusta

WATERHOUSE of Bridgton

SHERMAN of Hodgdon

MENDROS of Lewiston

READ.

Representative LaVERDIERE of Wilton moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

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

Representative DAVIS: Mr. Speaker, Men and Women of the House. I ask for your support of LD 119, "An Act to Ban Partial-Birth Abortion in the Third Trimester Except to Save the Life of the Mother." This bill prohibits a physician from performing a partial-birth abortion during a mother's third trimester of pregnancy unless it is necessary to preserve the life of the mother. The partial-birth abortion procedure is defined in the bill and a civil penalty of up to \$5,000 is specified.

In Roe v. Wade in 1973, Justice Harry Blackman wrote the majority opinion for the Supreme Court of the United States. Justice Blackman's opinion divided pregnancy into trimesters. He wrote that in the first trimester the woman had an essentially unrestricted right to choose abortion in consultation with her physician. During the second trimester, states could regulate abortion to protect her health. He said that only in the third trimester was the state's interest in protecting the potential life of the fetus great enough to warrant severe restrictions on abortion, and even then, states must permit abortions to save the mother's life. We must conclude that Roe v. Wade invites regulation in the third trimester of pregnancy.

A few days ago, I testified before the Judiciary Committee on LD 119. The circumstances and setting of that testimony will forever be etched in my mind. On both sides of the Augusta Armory were children carrying slogans, one group with pro-life banners and the other group with pro-choice banners. I felt very bad to see children being manipulated in this way. Being a teacher, I feel that we should unite children, not divide them. There were also three armed policemen in attendance to assure an orderly procedure. I was reminded of Plato's famous story about people chained to a wall in a cave. All they could see were shadows on the walls. Their reality was distorted.

Three years ago I saw a sonogram of my unborn grandson, Gerald William John Davis, in his mother's womb at 21 weeks. It was a profound experience in my life. My grandson's facial features looked like those of his sister who was 6 years old at the time. Now Jerry is 3 years old and still looks like his sister.

Sometimes, the head and the heart are in conflict. I believe Americans have such a conflict with abortion. Surely, my friends in the 120th Legislature, we should do what Roe v. Wade invites us to do, regulate abortion in the third trimester.

Life is the most precious thing we pass on to the next generation. Please join me to take one small step for life and vote for LD 119.

Representative MATTHEWS of Winslow **REQUESTED** a division on the motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

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

Representative MADORE of Augusta **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 Dexter, Representative Tobin.

Representative TOBIN: Mr. Speaker, Ladies and Gentlemen of the House. A couple of years ago we voted on this bill and the House voted in favor to pass the ban on partial-birth abortion. I will be brief, but I have two reasons why I want you to vote against the pending motion. First of all is a philosophical reason. If you studied philosophy, man is made up of three different substances, his ability to reason, his ability to show emotion and his appetite. I want to speak just briefly about the third one about our appetite, government's appetite. Our appetite is for control. I believe if there were two ants running across the floor to reach a cupcake, we would introduce legislation to measure the length of their legs to make sure that one wouldn't go faster than the other. We have an unquenchable thirst for total control. We don't have total control. This morning we saw a gavel go in every which direction. I am sure the intent wasn't to break it. We have no control. This ban on partial-birth abortion is reality. It is life. We do not have total control. There are four great philosophical conflicts, man v. man, pretty easy to understand. Man v. beast, easy to understand. Man v. nature, we would like to be able to control the weather, we can't control the weather. The final one is man v. himself. This is a prime example of man v. himself. We are our own worst enemies. The other reason is medical. December 27th, I had fairly serious surgery. Being very honest, I was scared, very scared. I said to my surgeon, what are the chances of my having cancer? He said, "Jim, 20 years ago, you would have had one chance of three with this surgical procedure that you would have cancer. Today, Jim, we know that 999 times out of 1,000, whether you have cancer or not before we operate? Thank God, I didn't have it.

There is no medical reason outside of the saving of the mother for partial-birth abortion. Today with modern medicine they usually know within the first 90 days if there is a problem with that child. Thank you Mr. Speaker.

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

Representative SCHNEIDER: Mr. Speaker, Men and Women of the House. It pains me to speak in opposition to LD 119, because it was a bill that was introduced by a good friend of mine, the Representative from Falmouth, Representative Davis. I feel that I must and I must urge you to vote for the pending motion and against this bill. This bill is unnecessary. It is unconstitutional and it is undesirable. It is unnecessary because current law already prohibits abortions after viability except to preserve the life or the health of the mother. It enforces that prohibition with criminal penalties. LD 119 does the same except that it provides no health exception for the mother. It is unconstitutional after the US Supreme Court ruled in June 2000 in a case essentially to LD 119 was in violation of the United States Constitution. I have a lot of personal regard and respect for the United States Constitution. I would not want to enact a law that is obviously in violation of it.

It is undesirable, as we have seen just this last fall in the referendum, 56 percent of the people of Maine voted against a similar ban and this has been turned down by the people of Maine several times already. Ladies and gentlemen, I urge you to vote for the pending motion and against this bill. Thank you very much.

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

Representative **WATERHOUSE**: Mr. Speaker, Ladies and Gentlemen of the House. The points just mentioned by the good Representative from Durham are compelling, but they are not convincing to me, anyway, and I hope to a lot of people here. The first one is the health exception and if you look at the health exception and this argument that has been put forward in this and all abortion issues. For all practical purposes with the health exception, there is no exception. It could be anything from emotional, how the person is feeling that day or whatever. This is one of the big arguments made for not having a health exception in there. There is no restriction on abortion when you do that. The other one is the citizen's referendum issue and I talked to a great many people in my district after the vote on that issue. A lot of them considered that language confusing to say the least. When I explained to them what the process or procedure was and what the reason was for having this restriction on partial-birth abortion, a lot of the very same people who voted against that ban in the referendum said that if they had had it explained to them the way I did and other people have since then, they would have voted differently.

The final one is the Supreme Court decision. As my good friend, the Representative from Winslow has said and many people in this body have said before on other issues, policy issues that I don't necessarily agree with them as far as the policy goes, the one that comes to mind is the strikebreaker replacement bill. How many times have we had that bill before this body and all the information we received on it said that it is unconstitutional, but again and again we see the same policy issue addressed because even though I disagree with the Representative from Winslow, he feels very strongly and emotionally and so does a lot of people in this body that the Supreme Court has got it wrong. We keep coming back with this law through legislation. We are a separate branch of government and we feel as through we should take a stand on this issue just as the Representative from Winslow and others take a stand on the strikebreaker replacement issue. We want to keep putting this up for public forum and public debate because we consider it the right thing to do. Let's put it up there until the Supreme Court gets it right. I feel just as strongly on this issue that we should have this debate. We should take these votes and bodies such as this to a separate branch of government and send the message to the Supreme Court or any court to take the position that this is unconstitutional saying that the people want this to happen. They want to restrict this type of barbaric procedure and let's send a message.

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. 75

YEA - Berry RL, Blanchette, Bliss, Bruno, Bryant, Bull, Canavan, Chizmar, Colwell, Cowger, Crabtree, Cummings, Daigle, Dorr, Dudley, Dunlap, Duplessie, Estes, Etnier, Fisher, Fuller, Gagne, Gerzofsky, Gooley, Green, Hall, Hatch, Hawes, Hutton, Jacobs, Jodrey, Jones, Kane, Koffman, Labrecque, LaVerdiere, Laverriere-Boucher, Ledwin, Lessard, Lovett, Mailhot, Marley, Mayo, McDonough, McGlocklin, McKee, McLaughlin, Mitchell, Muse C, Muse K, Norbert, Norton, Nutting, O'Brien LL, O'Neil, Peavey, Povich, Quint, Richardson, Rines, Rosen, Savage, Schneider, Simpson, Skoglund, Smith, Sullivan, Tarazewich, Tessier, Thomas, Tobin D, Tracy, Twomey, Volenik, Watson, Wheeler GJ, Mr. Speaker.

NAY - Andrews, Annis, Belanger, Berry DP, Bouffard, Bowles, Buck, Bumps, Carr, Chase, Chick, Clark, Clough, Collins, Cote, Cressey, Davis, Desmond, Duncan, Duprey, Foster, Glynn, Haskell, Heidrich, Honey, Kasprzak, Lemoine, Lundeen, MacDougall, Madore, Matthews, McKenney, McNeil, Mendros, Michael, Michaud, Morrison, Murphy T, Nass, O'Brien JA, Paradis, Patrick, Perkins, Perry, Pineau, Pinkham, Richard, Sherman, Shields, Snowe-Mello, Stanley, Tobin J, Trahan, Treadwell, Tuttle, Usher, Waterhouse, Weston, Wheeler EM, Winsor, Young.

ABSENT - Ash, Bagley, Baker, Brannigan, Brooks, Bunker, Dugay, Goodwin, Landry, Marrache, McGowan, Murphy E, Stedman.

Yes, 77; No, 61; Absent, 13; Excused, 0.

77 having voted in the affirmative and 61 voted in the negative, with 13 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

Majority Report of the Committee on **JUDICIARY** reporting **Ought Not to Pass** on Bill "An Act to Preserve the Life and Health of Women"

(S.P. 366) (L.D. 1204)

Signed:

Senators:

RAND of Cumberland
McALEVEY of York
FERGUSON of Oxford

Representatives:

LaVERDIERE of Wilton
BULL of Freeport
JACOBS of Turner
MITCHELL of Vassalboro
MUSE of South Portland
SIMPSON of Auburn
SHERMAN of Hodgdon

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

Signed:

Representatives:

MADORE of Augusta
WATERHOUSE of Bridgton
MENDROS of Lewiston

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

READ.

Representative LaVERDIERE of Wilton moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

Representative KASPRZAK of Newport **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**: 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. 76

YEA - Belanger, Berry RL, Blanchette, Bliss, Bruno, Bryant, Bull, Canavan, Chizmar, Collins, Colwell, Cowger, Crabtree, Cummings, Daigle, Dorr, Dudley, Dunlap, Duplessie, Estes, Etnier, Fisher, Fuller, Gagne, Gerzofsky, Gooley, Green, Hall, Hatch, Hawes, Heidrich, Honey, Hutton, Jacobs, Jodrey, Jones, Kane, Koffman, Labrecque, LaVerdiere, Laverriere-Boucher,

Ledwin, Lemoine, Lessard, Lovett, Mailhot, Marley, Mayo, McDonough, McGlocklin, McKee, McKenney, McLaughlin, McNeil, Mitchell, Murphy T, Muse C, Muse K, Nass, Norbert, Norton, Nutting, O'Brien LL, O'Neil, Peavey, Perkins, Povich, Quint, Richard, Richardson, Rines, Rosen, Savage, Schneider, Sherman, Simpson, Skoglund, Smith, Sullivan, Tarazewich, Tessier, Thomas, Tobin D, Tracy, Twomey, Usher, Volenik, Watson, Wheeler GJ, Mr. Speaker.

NAY - Andrews, Annis, Berry DP, Bouffard, Bowles, Buck, Bumps, Carr, Chase, Chick, Clark, Clough, Cote, Cressey, Davis, Desmond, Duncan, Duprey, Foster, Glynn, Haskell, Kasprzak, Lundeen, MacDougall, Madore, Matthews, Mendros, Michael, Michaud, Morrison, O'Brien JA, Paradis, Patrick, Perry, Pineau, Pinkham, Shields, Snowe-Mello, Stanley, Tobin J, Trahan, Treadwell, Tuttle, Waterhouse, Weston, Wheeler EM, Winsor, Young.

ABSENT - Ash, Bagley, Baker, Brannigan, Brooks, Bunker, Dugay, Goodwin, Landry, Marrache, McGowan, Murphy E, Stedman.

Yes, 90; No, 48; Absent, 13; Excused, 0.

90 having voted in the affirmative and 48 voted in the negative, with 13 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** in concurrence.

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

Majority Report of the Committee on **JUDICIARY** reporting **Ought Not to Pass** on Bill "An Act to Ensure Safety and Health Standards in Outpatient Medical or Surgical Facilities" (H.P. 1034) (L.D. 1391)

Signed:

Senators:

RAND of Cumberland
McALEVEY of York
FERGUSON of Oxford

Representatives:

LaVERDIERE of Wilton
BULL of Freeport
JACOBS of Turner
MITCHELL of Vassalboro
MUSE of South Portland
SIMPSON of Auburn

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-233)** on same Bill.

Signed:

Representatives:

MADORE of Augusta
WATERHOUSE of Bridgton
SHERMAN of Hodgdon
MENDROS of Lewiston

READ.

Representative LaVERDIERE of Wilton moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

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

Representative **KASPRZAK**: Mr. Speaker, Ladies and Gentlemen of the House. I would request, first of all, that we get a roll call when the vote is taken. I hope that all of you have taken out this bill and actually read it, LD 1391. It simply says that a facility, not part of a hospital in which abortions are performed, is an ambulatory surgical facility as defined in Section

303 and subject to all licensing and inspection requirement and standards applicable to ambulatory surgical facilities. Presently, places that perform abortions are not subject to health and safety standards the same as other facilities, which perform medical procedures. I know, you are as amazed as I am.

There is a portion of the statute that exempts abortion facilities. My question is, after my many years of hearing the pro-abortion side of the argument is that we pro-life people want to throw women back out into the alleys to have their abortions with a coat hanger where it is dirty and unsafe and there is no one to rescue them should there be an emergency. Ladies and gentlemen, I submit that the same thing can go on right here in Maine under the sanctioning of the state. If pro-abortion people really want women to be safe, then it occurs to me that this would be a no brainer. Obviously, we would want the best for the women of the State of Maine to have this procedure, which at present is legal, much to my dismay, but it is so. If they are to have the procedure, then certainly it ought to be in the safest way possible.

You will receive a lot of paperwork on your desk tonight and I am sure that many of you have been accosted by lobbyists in the hall for the last couple of days. I have seen them everywhere talking to women about why this bill is unnecessary. They said in testimony before the Judiciary Committee on the day this public hearing took place that the main reason for not supporting this bill is because it will cost too much money. That is it. Ladies and gentlemen, there is a fiscal note on this bill and there is no money attached. There is no reason that women shouldn't be receiving safe abortions. They have called it a financial attack. It is a trap. Don't fall into it. They just don't want women to have abortions and this is their way of preventing it. This won't prevent one abortion in the State of Maine. Ladies and gentlemen, it will simply keep them as safe as they can possibly be. It is not the safest procedure in the world. There are complications. I would like to keep those complications to a minimum.

Family planning said in their testimony that while claiming to make the abortion procedure safe for the reality of LD is that the additional regulations will do nothing to enhance the standard of care for women. What they will do is single out abortion providers for more stringent and costly regulations than currently applied to other comparable medical procedures. My question is, what are those comparable medical procedures? Secondly, legal abortion is one of the safest surgical procedures in this country. Less than 1 percent result in complication. That comes from some pro-abortion survey across the United States. I wonder how we fit into that average. Secondly, I would say, how do we know since we don't keep accurate abortion statistics in the State of Maine currently, which I hope you will vote to change later on.

The Maine Medical Association says and has said in their testimony before the Judiciary Committee that the determination of the medical need for an effectiveness of a particular medical procedure must be left to the patient and her physician acting in conformity with standards of good medical care. My question is for them, then why not support this wonderful LD?

Ladies and gentlemen, I would just plead with you tonight to make a very honest vote and support this LD that will simply ensure health and safety standards in abortion clinics for the women of the State of Maine.

Representative **KASPRZAK** of Newport **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 Lewiston, Representative O'Brien.

Representative **O'BRIEN**: Mr. Speaker, Men and Women of the House. This is not a bill to help women. This is a bill to make it more complicated for women to get the regular medical procedure of abortion. Abortion providers are already provided with very strong regulations from the federal level, the county level and the city level. This is a harmful bill. It will be harmful because although abortion is legal, what this bill will do is limiting the providers. It is like if I say to you, go out and buy a new Chevy, however, I think there is somebody selling them in the State of Maine, but I am not sure. You would say to me, well, in fact, it is almost impossible for me to get a new Chevy. This is a similar bill that would limit the number of abortion providers. What it will also do, and believe me this is extremely harmful, it would be providing information on the abortion providers themselves. It is just like putting a red light in front of those areas, like come here, come here. I would say to you that this is not going to be helpful to women who need this legal procedure. It would limit them being able to get it. The other thing that happens when there is this negative connotation towards this approved medical procedure is that women will delay going for the procedure. Additionally, by putting in these new standards, it will up the cost for them to receive the procedure. I hope any of you that are either 20, 30 or 40 years old would realize, not like myself who is past the time, that this is an absolutely bad bill. Thank you.

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

Representative **FULLER**: Mr. Speaker, Ladies and Gentlemen of the House. I want people to understand that I am not pro-abortion, but I am pro-choice. There is a difference in the meaning of those terms. This bill, LD 1391, does attempt to license all offices where abortions are performed as ambulatory surgical facilities. This is an attempt to further inhibit physicians from offering abortion services, thereby restricting access to abortions for many Maine women. Physician's offices already provide a variety of surgical procedures. They do vasectomies, sigmoidectomies with biopsy, breast biopsies, circumscisions and a variety of other surgical procedures. The physicians are licensed by their medical boards. The physician's offices are clearly, by statute, exempt from being ambulatory surgical facilities. I submit that places where abortions are performed are also considered as physician's offices and are not subject to the requirement for ambulatory surgery facilities.

If the bill was passed, the physician would have to determine whether or not he needed a CON to be an ambulatory care facility in the first place and then they would have to provide all kinds of equipment that is not necessary for these procedures, cardiac defibrillation, tracheotomy, a recovery room and a waiting area separate from the room in which the procedure is done. There are a whole bunch of application processes and annual inspections. The regulator burdens, as required by this bill are unnecessary and appear to only serve the purpose of inhibiting physicians from abortions to their patients. We already have very few counties in Maine that provide abortion services. It is causing some serious access problems for many women in the State of Maine. Almost half of the women having abortions beyond 15 weeks say they were delayed because of problems affording, finding or getting access to abortion services. The medical risks associated with abortion increase significantly after 16 weeks. As was already noted by the previous speaker, LD 1391, will identify abortion providers through the certificate of need and annual inspection processes and places them at risk for anti-choice extremist attacks. Medical professions who

provide abortion services already do so at the risk of their safety and to the safety of their families.

Ladies and gentlemen, I urge you to support the pending motion Ought Not to Pass. Thank you.

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

Representative **KASPRZAK**: Mr. Speaker, Ladies and Gentlemen of the House. I just have to address a few things before we go ahead and vote. Many pro-choice, I consider myself pro-choice because I believe a woman has the ability to make a choice, it just comes before the abortion, have accepted the fact that abortion is legal in the State of Maine. Many of us have gone ahead and done what we could do on side of things to make things easier for women. Many of us, including myself, have worked in crisis pregnancy centers where we are able to give the woman a pregnancy test and if she chooses to keep her child, then we help her out with baby clothes and furniture and babysitting and the list goes on. It is almost endless. Many pro-lifers raise funds for these clinics. Many pro-lifers do what they can for prematurely born babies in comforting them in their entrance into this world. We understand that abortion at this point is legal in the State of Maine.

I have a couple of questions. What price is safety? In many, many occasions this body has determined that workers must be safe. Children must be safe. People riding bikes must be safe. Why shouldn't a woman entering an abortion clinic be safe when she goes through the procedure, which can bring catastrophe on her life? Women have suffered complications from abortion, believe it or not. They have suffered hemorrhaging. They have suffered their womb being pierced. They have suffered death even. Why not keep them as safe as we can as long as this procedure is legal? I don't understand. I guess the question or the comment about this setting abortion providers up for somehow harassment. All this bill will do is set the same health and safety standards as all other ambulatory medical facilities. Some of those safety nets are that the facility must have a procedure, which helps them to get the patient who is injured to an emergency place where she can be attended to. Is that a bad idea? I don't think so. It says that they must be inspected by the state like everybody else. Is that a bad idea? I don't think so. It says that the people performing the procedure have to be medical people. Is that a bad idea? I don't think so. I hope you don't think so as well. I hope that you will support this bill. Thank you very much.

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. 77

YEA - Belanger, Berry RL, Blanchette, Bliss, Brooks, Bruno, Bryant, Buck, Bull, Bumps, Canavan, Collins, Colwell, Cowger, Crabtree, Cummings, Daigle, Desmond, Dorr, Dudley, Dugay, Dunlap, Duplessie, Estes, Etnier, Fuller, Gagne, Gerzofsky, Gooley, Green, Hall, Hatch, Hawes, Honey, Jacobs, Jodrey, Jones, Kane, Koffman, Labrecque, LaVerdiere, Laverriere-Boucher, Ledwin, Lemoine, Lessard, Lovett, Mailhot, Marley, Mayo, McDonough, McGlocklin, McGowan, McKee, McKenney, McLaughlin, McNeil, Michael, Michaud, Mitchell, Murphy T, Muse C, Muse K, Nass, Norbert, Norton, Nutting, O'Brien LL, O'Neil, Patrick, Peavey, Perkins, Povich, Quint, Richard, Richardson, Rines, Rosen, Savage, Schneider, Shields, Simpson, Skoglund, Smith, Sullivan, Tarazewich, Tessier, Thomas, Tobin D, Tracy, Twomey, Volenik, Watson, Wheeler GJ, Mr. Speaker.

NAY - Andrews, Annis, Berry DP, Bouffard, Bowles, Carr, Chase, Chick, Chizmar, Clark, Clough, Cote, Cressey, Davis, Duncan, Duprey, Foster, Glynn, Haskell, Heidrich, Kasprzak, Lundeen, MacDougall, Madore, Matthews, Mendros, Morrison,

O'Brien JA, Paradis, Perry, Pineau, Pinkham, Sherman, Snowe-Mello, Stanley, Tobin J, Trahan, Treadwell, Tuttle, Usher, Waterhouse, Weston, Wheeler EM, Winsor, Young.

ABSENT - Ash, Bagley, Baker, Brannigan, Bunker, Fisher, Goodwin, Hutton, Landry, Marrache, Murphy E, Stedman.

Yes, 94; No, 45; Absent, 12; Excused, 0.

94 having voted in the affirmative and 45 voted in the negative, with 12 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

Majority Report of the Committee on **JUDICIARY** reporting **Ought Not to Pass** on Bill "An Act to Require Parental Notification of Abortion"

(H.P. 1125) (L.D. 1494)

Signed:

Senators:

RAND of Cumberland

McALEVEY of York

FERGUSON of Oxford

Representatives:

LaVERDIERE of Wilton

BULL of Freeport

JACOBS of Turner

MITCHELL of Vassalboro

MUSE of South Portland

SIMPSON of Auburn

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-234)** on same Bill.

Signed:

Representatives:

MADORE of Augusta

WATERHOUSE of Bridgton

SHERMAN of Hodgdon

MENDROS of Lewiston

READ.

Representative LaVERDIERE of Wilton moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

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

Representative **MACDOUGALL**: Mr. Speaker, Ladies and Gentlemen of the House. As most of you know, I have been married for several years to my wife Pat and we have raised five children. In fact, at the end of June, my youngest will be graduating from high school. As you know, the challenges of parenting are many, but one of the most important qualities we teach our children is the ability to make informed ethically based and balanced decisions. Willing to perceive the consequences of decisions and the following actions they propagate, both good and bad is imperative if they are to participate affectively in the world. Some common examples of this are found in how they spend their money, manage their time for school, activities and work and how they plan for their post high school years. Not all decisions are equal in importance, nor are all decisions appropriate for children to make by themselves. This bill is a reasonable measure that is designed to put someone in the position of proper authority in a minor girl's life so they can help her navigate through what will be the biggest decision of her young life. If this bill were to pass, the parent, relative or judge cannot prevent this young lady from having an abortion. It merely provides an opportunity for a sometimes scared, uncertain young lady to have guidance from those who care the most about her.

There are several reasons I would like to deposit to the body tonight for passing this. First, there is the inconsistency in our laws. She cannot be given an aspirin at school without parental approval. She cannot be dismissed from class without parental approval. There are report cards and other assessment tools provided to the parent with knowledge of her academic progress. She cannot go on a field trip without written permission from a parent. Additionally, labor law is very stringently drafted to protect children from harm. If they work too many hours, their schoolwork will suffer, their health will be impacted and the chance of injury on the job increases. These decisions are made for young people because they are not mature enough to make proper judgment in all things and that is the way it should be.

Second, minor girls who have secret abortions are, in actuality, having a surgical procedure performed. If complications arise, they cannot receive treatment for these complications without parental approval. This is incredible. A minor girl can get an abortion without parental knowledge, but cannot receive medical treatment for the complications that may arise without parental approval. Why should a minor girl be able to have this particular surgical procedure performed without parental notification when virtually all other medical arenas require parental approval?

Third, when young people make the large decisions in their life, i.e., what college to attend, what job to take, how many hours for extracurricular activities and work, etc., it is normal for their parents to guide, direct and suggest appropriate responses to these challenges. If there is a mistake made in these areas, there is usually room to learn from that and make a correction or change direction. In the case of a minor girl's unplanned pregnancy, however, the importance of parental knowledge is exponentially increased. This can be a time of crisis for the girl. She may be frightened and not see any alternative to her problem or she may be unaware of better alternatives if she acts unilaterally. Without the opportunity for parental guidance, her decision will be made without the benefit of their wisdom. Unlike a decision she could regret from choosing the wrong college or job, this decision lasts forever. The life inside her will be gone forever. She is at higher risk of emotional damage because of the lack of emotional support of her parents at the most critical time of her life.

I received an e-mail some time ago from a physician some in Maine. I would like to read it to you. "Dear Representative, When it comes to abortion, many legislators do not want to interfere with the relationship between a woman and her doctor. As a physician, I know that abortionists have no relationship with their victims. They often do not talk to them or look them in the eye. They will never see their patient again. As a family physician, I see the aftermath. Abortionists have abandoned every principle that we went to medical school for. Abortion is not a medical decision. It is a social decision. I did not receive any classes or training in medical school on the indications for an abortion. There are none. The abortion industry continues to use medical terms and fictitious scenarios to convince us that legal abortion is necessary.

Terms like woman's health, reproductive rights and pro-choice say nothing about what is at stake. These terms are misleading and false. What is at stake is the life of a child.

I have dedicated my life to preserving human life. Human life begins at conception. The tiny group of cells in a woman's womb is a living, feeling, growing human being!

Abortion poses a serious threat to such a woman's well being. There are many possible medical complications such as uterine perforation, infection, serious bleeding, infertility and missed fetal tissue. These are not that uncommon even in the most careful settings. Abortion increases a woman's chance of

developing breast cancer by 50 percent. She also has a 30 percent increased rise of premature delivery in her next pregnancy. This is due to the weakening of the uterine cervix. Prematurity is devastating for a newborn.

The most feared complication of abortion is the well-known, post-abortion syndrome. This is a mental illness similar to post traumatic stress disorder where the woman will have recurring nightmares and obsessive thoughts relating to the abortion. She becomes depressed, anxious and often loses the ability to maintain intimate relationships. She often turns to substance abuse. Someone very close to me is suffering from this disorder, 18 years after her abortion."

I know, ladies and gentlemen, some of us disagree on the issue of abortion. What this bill does is it simply says that we are going to inform, not have parental permission, parental notification in what is the most serious issue and time in a young lady's life. If the young lady wants to have her ear's pierced, she cannot do so without one of her parent's permission. Again, the reason is to protect her and keep her out of harm's way. If piercing the body part is considered invasive, medically speaking, then why isn't the surgical procedure of abortion considered invasive, thereby requiring the minimal requirement of parental notification? Thank you.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Laverriere-Boucher.

Representative **LAVERRIERE-BOUCHER**: Mr. Speaker, Ladies and Gentlemen of the House. The present law already addresses the requirement of an informed written consent of the minor and one parent, guardian, adult family member or counseling by an approved counselor.

I do not agree with the wording of LD 1494 because it requires notification as opposed to informed written consent from a parent. I am not comfortable with this wording because it fails to initiate a dialogue. This bill also limits the choice of an adult or relative to be notified.

Also, this bill requires that a pregnant girl who is underage go to court to testify against her parents if she believes they have been abusive to her. This would be the avenue she would need to choose if she did not feel safe telling her parents. I find this requirement abusive in itself. This could cause a strain or sever the girl and her parent's relationship still further. The present law allows the girl to choose an adult without going through the court system.

An example of where LD 1494 may not be appropriate is if a pregnant girl is living in foster care or a group home and remains in the custody of her biological parents. Putting a pregnant girl through this court process could be very harmful and not in her best interest and not needed under the present law. This pregnant girl would have to criminalize her parents to be given permission to talk to another family member that she probably has no relationship with. Her comfort lies with her foster parent or her group home worker.

Please vote against LD 1494. It criminalizes pregnant girls who do not have a safe family life. Thank you.

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

Representative **WATERHOUSE**: Mr. Speaker, Ladies and Gentlemen of the House. Number one, the bill does not require parental consent, just parental notification. The three issues that were mentioned in previous bills that we heard really as we started this evening's session was the Constitution, the people and a woman's choice. This bill, of all the bills, we will hear tonight dealing with abortion issues, to me, is the most straightforward and the easiest one for anyone to support whether they are pro-life or pro-choice.

Number one, it is entirely constitutional. There are a number of states that require, not just parental notification, but actually require parental consent. The world is not coming to an end in those states. The people, there have been polls taken on this for those who watch polls. Over three quarters of the people, even whatever state you look at, a national poll or a state poll, vastly support parental notification. Again, we are talking about parental notification, not parental consent. Then we get down to a woman's choice. We are not talking about women. We are talking about minors. We are talking about children, in a lot of cases. We are talking about the present law and how sufficient it is. I argue that case. I think it is very inefficient. All the young minor needs is an adult accompanying them and a counselor. We had a debate in previous terms that I have served up here, we had this bill in front of us, where you could actually have the case where the boyfriend, who was an adult who got the minor pregnant could be one of those adults that accompanied the young minor for the abortion and that would be entirely sufficient under the present law.

We are talking about parental involvement. We are talking about parental rights. We are talking about your right as a parent with a young daughter to know, not to give your consent to have the daughter do something like this and the good Representative from North Berwick listed a litany of things that right now you have parental consent required for a minor to have certain things done that would be a lot less intrusive and dangerous than an abortion on a minor.

Let's put this in a personal context if we can. Imagine yourself with a young daughter, you are not abusing that young daughter, you have a loving relationship with that daughter, but that young daughter has great respect of you. You raised her with some moral standards and for whatever reason, she feels as though she has fallen short of those moral standards. She doesn't want to embarrass you. She doesn't want you to be ashamed of her. She has her boyfriend or her counselor, whoever that is, take her in for an abortion. We are not talking about a woman. We are talking about a young minor, a young girl who has to live with that decision for the rest of her life. At some point, the parent is going to find out about it. It may be you. You might sit here and say it would never happen to me, either you don't have a daughter or your daughter is old and married now or you have a young daughter, but she would never do that. You feel confident with your relationship with her that she would come to you. What if she was in that situation where she didn't want to embarrass you or be ashamed and you found out later that she had one of these people accompanying her to have an abortion and you found out she didn't come to you and if she had, your grandchild would be alive instead of dead.

This is not one of those far out in the fringe issues. This is right in the mainstream of public opinion. It doesn't seem to be up here. I guarantee you that if this issue got out of here in a referendum or a citizen initiative, it would pass with flying colors, because the parents, by enlarge, want to know what is happening to their children. Thank you.

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

Representative **WATSON**: Mr. Speaker, Men and Women of the House. I am rising this evening to support the Ought Not to Pass on LD 1494. Although we would all ideally like to believe that parents should be involved and some of us do believe that they should be involved in a minor's decision to terminate a pregnancy. In fact, most minors do include their parents in that decision. Statistics are showing that predominately the younger the young woman is, the more likely she is to include her parents. We know that there are some circumstances, such as incestuous or abusive homes, obviously, when telling a parent

that the teenage daughter is pregnant could clearly put her in danger.

I would like to also point out that there are even more instances when a good daughter would be in fear of telling her parents, who have extremely high expectations and standards or whose own personal beliefs around abortion, may conflict with the daughters own decisions.

In 1989, the 114th Legislature faced this issue. At that time, Representatives from both sides of choice issue worked tirelessly to come up with a law that everyone could live with. Hence, the Adult Involvement Law came to be. The Adult Involvement Law is actually a parental consent law. However, for those young women who are not able to talk to their parents about these matters, the Adult Involvement Law allows them to seek permission from another adult family member, a judge or to receive options and counseling from a certified counselor. The counselor must be a physician, an RN, a nurse practitioner, etc. and it is spelled out that the counselor must address very specific issues with the minor, to have an abortion or to carry the pregnancy to term. The minor may withdraw her decision to have an abortion at any time before the abortion is performed or that she may reconsider a decision not to have an abortion at any time within the time period during which an abortion may be legally performed. The counselor must fully explore with the minor the alternative choices that she has for managing her pregnancy, including the pregnancy to term and keeping the child, carrying the pregnancy to term and placing the child with a relative or with another family through foster care or the possibility of adoption and provide a list of agencies available to help her with economic and other assistance for those options including the elements of prenatal and postnatal care and also having an abortion. The counselor must also explain that public and private agencies are available to provide her with birth control information and a list of those agencies and services are available for each and will be provided at her request. The counselor must discuss the possibility of involving the minor's parents, guardians or other adult family members in the minor's decision making process concerning her pregnancy and explore whether or not the minor feels that such involvement would be in her best interest. The counselor must also provide adequate opportunity for the minor to ask questions concerning her pregnancy, abortion, child care, adoption and provide her with the information she seeks or if the information cannot be provided, where the minor can receive such information.

This law has become a model for the rest of the country. With Connecticut's Legislature adopting a very similar law shortly after Maine's passed. The law clearly serves to protect the best interest of the minor. To change the law that LD 1494 proposes by excluding the counseling bypass would only serve to potentially harm minors who are already facing a scary and difficult situation.

As a lawmaker, I feel strongly that the laws must be designed to protect the health and welfare of our citizens. Maine's Adult Involvement Law does just that. The current law provides support and counseling to vulnerable teens who cannot, for whatever reason, talk to their parents about this difficult issue. If we passed LD 1494 and mandatory parental notification, we would be placing teens at further risk than they already are. States that have passed similar laws have seen the number of second trimester abortions increase. The number of teens traveling, often alone, long distances to other states who do not have such restrictive laws has increased also. The health and psychological risks of mandatory parental notification consent laws are great. For that reason, the American Medical Association, the American Academy of Pediatrics, the American Public Health Association, the American College of Obstetricians

and Gynecologists and a number of other health organizations oppose laws that attempt to mandate family communication. For these reasons, I will vote in support of the Ought Not to Pass of LD 1494. Thank you.

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

Representative **SNOWE-MELLO**: Mr. Speaker, Ladies and Gentlemen of the House. I stand here today to please ask you to not support the Majority Report. Some of the points that have come up here, I just cannot believe. First of all, parents are the natural guardians of their children and have the strongest interest in doing what is best for their minor daughter. Remember, the child is a minor. I get tired with this. There is another Representative that says that a lot. I get tired. I get really tired of hearing about the few bad parents that are not the best parents, but you know what, there is a majority of good, decent, loving, wonderful parents out there that deserve the right and deserve and have the rights of their own to include the right to know if medical procedures are to be performed on their children.

Let me give you this scenario. What if there is a complication in this abortion and this child winds up in the hospital? Then we are going to notify that parent. You think that is the best time for a parent to know. Another point that was brought up, in fact, was a guardian can make that choice. Maybe the child feels uncomfortable talking with their parents. Guess what! Kids have always usually felt uncomfortable talking with their parents, but they might be very surprised to know that in a crisis, an emergency, mom and dad are going to be there for them through thick or thin they will be there for them. I feel this is so important to give our parents a chance to know about what has happened to their child and let them make that decision with their daughter. They are the parents. We have taken so much away from that roll. Someone said to me in jest, why don't we just lower the age from 18 to 10 or 11? That is what it seems to me that we are doing here. These kids have all this power. Kids are kids. They often do not know what is best for them, but parents do. Let's give the good parents out there the chance to be involved with their children. Please support the Minority Report. Thank you.

The SPEAKER: The Chair recognizes the Representative from Frenchville, Representative Paradis.

Representative **PARADIS**: Mr. Speaker, Men and Women of the House. I have been waiting for the opportune time to weigh in on this issue and I think this is as good as any. I think this is a forthright bill that does consider the family, the family unit and the importance of the parents. It also provides, if there is fear of physical, sexual or emotional abuse from the parent, that the pregnant girl may also consult a grandparent, step-parent, sister or brother who is 21 years of age or older. I think that is important also. The bill also provides alternative procedures whereby the minor may seek court approval for the proposed abortion and establishes the procedures for a judicial review and appeals.

I would also like to mention that I come from an area where most Democrats are very pro-life. I speak not only for myself, but for those people as well. In fact, most of Aroostook County is pro-life Democrats or Republicans. Many years ago we used to, the Democratic Party, used to man a booth at the northern Maine fair, a pro-life booth. We had many reactions for young women over there going by the booth and seeing the exhibits that a lot of them broke down. It was clear that many had made a bad decision that they were very evidentially regretting. I think maybe some of them had not talked to their parents about this and if they had, you know the results might have been very different. I think times have changed a lot. The parents, by enlarge, are much more understanding about unwanted

pregnancies. As a schoolteacher, I have seen it. I have seen parents come in and weigh very heavily for life. They chose for life where their daughter also chose for life for the good of everybody. I would urge you to vote with the Minority Ought to Pass Report. Thank you.

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

Representative **DUPREY**: Mr. Speaker, Men and Women of the House. I would like to first thank my mother for not aborting me. She was a teenager faced with a tough decision. I am thankful there wasn't a Legislature in the state she was in who has a law similar to this because I would have got sucked into a sink for sure. She was able to go to her parents to make a choice. The choice was to have me and I thank her and thank God for that. I hear talking about these are young women. These are little girls. They are young women. We want to think women and little girls can just walk away from this responsibility of parenting by simply aborting. Unfortunately, this is not true. Sucking your baby into a sink can lead to a big time mental problem. You see, I am pro-life, but I really care about women. I am on the board of directors of a pregnancy center. We provide counseling for women who have post-abortion stress syndrome. I could tell you story after story what these women go through. It breaks my heart. The women who have had abortions as minors, it is a far reaching impact. I just cannot believe what these people go through. You see when you have no parent to turn to, the mental problems set in. They have this abortion and no parent to talk to because the parent is unaware when these mental problems start setting in leading to depression and suicide. How many teenage girls have committed suicide because they had an abortion and had no parent to talk to about the situation. Guess what, we will never know because it is not reported. There are no medical records kept on which girls had abortions because we wouldn't allow that. That one family member, adult counselor, the person who knocked the girl up, whoever it was that gave the permission, that person . . .

The **SPEAKER**: Will the Representative please defer? The Chair recognizes that this is an emotional debate, but would ask members to restrict their remarks to the pending motion and to the bill before us first. Second of all, try as best they can to remove extraneous or inappropriate remarks based on the actions and the motives of others or the things, which might be considered incendiary from their remarks. The Representative may proceed.

Representative **DUPREY**: Mr. Speaker, Men and Women of the House. My apologies Mr. Speaker, but I have no idea what you are talking about. I will continue on and I am almost done. In my opinion, I was just telling the truth. Sometimes the truth hurts. We don't want to accept the truth in here.

I will close with this until I get ruled out of order. The reason I am so passionate about this is, I can't really go on about it, but I have two children that we were told to abort because of medical problems. I know this isn't the question at hand, but now you know why I am so passionate. We decided to have them because that is the right thing to do. Neither one of them were born with medical problems. Now you know why I am so passionate. Thank you.

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

Representative **SHIELDS**: Mr. Speaker, Ladies and Gentlemen of the House. I am going to speak to you, not as a physician, although there are medical issues involved here. I will speak to you as a parent. I think the current motion is unthinkable if you have a daughter. I have two of them. When a minor child, a daughter gets in trouble, she needs help and support. She doesn't need to turn to strangers who may

manipulate her. She needs good guidance and to avoid the psychological problems that will not occur later. Children can be misguided. Parents need to know what is going on. There are anecdotal evidences of peculiar circumstances, which might make you think that perhaps everybody ought to be on their own. I say, don't interfere with the family. Most families are very good. Their relationships are fine. I would urge you to vote against the current motion. Thank you.

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

Representative **CUMMINGS**: Mr. Speaker, Ladies and Gentlemen of the House. One of the great joys of being a Maine high school teacher for almost a decade and a half has been to see young men and women of this state, with the support of their families grow into mature adults and make our state proud. One of the sad parts of being a high school teacher is acknowledging that many of our children are not so blessed. This proposal, I wish that we lived in a world where this proposal was good public policy. Unfortunately, it is not. The government cannot mandate good communication between parent and child or even a safe relationship, sadly enough, between parent and child. For those who have been sexually abused, it is quite accurate as is heard here today that not all are and others are abused in other ways as well. For those who are, only 16 percent of sexually abuse survivors tell anyone about the incident. To force a victim to negotiate with attorneys and judges when the situation is that complex, where a crisis has occurred, is not good public policy and may be even deemed cruel. Because we live in less than ideal world, the Legislature passed in 1989, Maine's Adult Involvement Law, it is a reasonable and balanced approach, which assures that the good parents may be involved, but that some adult will definitely be involved. This has worked well in Maine and has been, as you have heard, for other states. I urge you today to support the Ought Not to Pass on this proposal.

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

Representative **TWOMEY**: Mr. Speaker, Men and Women of the House. I would like to speak about a perfect world that we are not living in and the responsibility that I have as a parent to my two sons, two boys who are growing up in my home and in the perfect world asked and sat down with my two sons and talked about abstinence and talked about the preferred method, which would have been abstinence, but in the real world and having worked at the high school with students, I know what can happen. My responsibility to my two sons was to talk about safe sex, not to promote it, but to talk about protection and responsibility and about love, about how beautiful love can be when you find that right person. They took me very seriously, to the point that we had open communication. That is good parenting. That isn't with everyone. It isn't a perfect world and there are young women who don't have that kind of upbringing and young men who don't have that kind of upbringing. That is what this is about. Please vote Ought Not to Pass thank you.

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

Representative **DAIGLE**: Mr. Speaker, Ladies and Gentlemen of the House. I am sure when many of us began our legislative service we realized that we hardly knew enough to really do this job responsibly and may have looked to the wisdom of others. That was certainly my pattern. I found this quote that I have kept with me. It reads as follows. "You do not examine legislation in the light of the benefits it will convey if properly administered. In the light of the wrong it would do and the harm it would cause if improperly administered." That is the philosophy I see applied in the forest now. I know that we cannot legislate a proper relationship between a child and their parent. I

know a perfect world is not available to us. I understand the frustrations we feel when we wish that our daughters would come to us. I know mine didn't. I know that I could not find in a series of nouns and verbs that would have made it any better. I don't think this bill before us today would have made it any better either. It is very difficult for me to say this, but I urge all of us to support the pending majority opinion because the harm it would convey outweigh the benefits it might not.

Representative SAXL of Portland **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**: 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. 78

YEA - Berry RL, Blanchette, Bliss, Brooks, Bruno, Bull, Canavan, Chizmar, Colwell, Cowger, Crabtree, Cummings, Daigle, Dorr, Dudley, Dugay, Dunlap, Duplessie, Estes, Etnier, Fisher, Fuller, Gagne, Gerzofsky, Green, Hall, Hatch, Hawes, Jacobs, Jodrey, Jones, Kane, Koffman, Labrecque, LaVerdiere, Laverriere-Boucher, Ledwin, Lemoine, Lessard, Mailhot, Marley, Mayo, McDonough, McGlocklin, McGowan, McKee, McLaughlin, Michaud, Mitchell, Murphy T, Muse C, Muse K, Norbert, Norton, Nutting, O'Brien LL, O'Neil, Peavey, Perkins, Povich, Quint, Richard, Richardson, Rines, Rosen, Savage, Schneider, Simpson, Skoglund, Sullivan, Tarazewich, Tessier, Thomas, Tracy, Twomey, Usher, Volenik, Watson, Wheeler GJ, Mr. Speaker.

NAY - Andrews, Annis, Belanger, Berry DP, Bouffard, Bowles, Bryant, Buck, Bumps, Carr, Chase, Chick, Clark, Clough, Collins, Cote, Cressey, Davis, Desmond, Duncan, Duprey, Foster, Glynn, Gooley, Haskell, Heidrich, Honey, Kasprzak, Lovett, Lundeen, MacDougall, Madore, Matthews, McKenney, McNeil, Mendros, Michael, Morrison, Nass, O'Brien JA, Paradis, Patrick, Perry, Pineau, Pinkham, Sherman, Shields, Smith, Snowe-Mello, Stanley, Tobin D, Tobin J, Trahan, Treadwell, Tuttle, Waterhouse, Weston, Wheeler EM, Winsor, Young.

ABSENT - Ash, Bagley, Baker, Brannigan, Bunker, Goodwin, Hutton, Landry, Marrache, Murphy E, Stedman.

Yes, 80; No, 60; Absent, 11; Excused, 0.

80 having voted in the affirmative and 60 voted in the negative, with 11 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

The **SPEAKER**: On the record. The Chair would take a point of parliamentary procedure in Mason's Legislative Manual. My intention in interrupting the previous debate was not to embarrass any member, but to maintain the order of the House. Under Mason's rule 123, there are nine separate items discussing disorderly words used in debate. In Section 121, it discusses the nature of debate and how you should proceed in a debate. I understand from speaking from the chair that this is a very emotional debate where many folks have very emotional ties. I expect that to inform this debate. What I ask the members to do, I think you have done an excellent job thus far, is as you debate this difficult matter to consider the Order of the House as a whole and to try your best to pace yourself through your remarks through the rest of this evening's debate.

Majority Report of the Committee on **JUDICIARY** reporting **Ought Not to Pass** on Bill "An Act to Amend the State's Abortion Reporting Law"

(S.P. 543) (L.D. 1689)

Signed:

Senators:

RAND of Cumberland
McALEVEY of York
FERGUSON of Oxford

Representatives:

LaVERDIERE of Wilton
BULL of Freeport
JACOBS of Turner
MITCHELL of Vassalboro
MUSE of South Portland
SIMPSON of Auburn

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (S-103)** on same Bill.

Signed:

Representatives:

MADORE of Augusta
WATERHOUSE of Bridgton
SHERMAN of Hodgdon
MENDROS of Lewiston

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

READ.

Representative LaVERDIERE of Wilton moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

Representative WATERHOUSE of Bridgton **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**: 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. 79

YEA - Belanger, Berry RL, Blanchette, Bliss, Bouffard, Brooks, Bruno, Bryant, Bull, Bumps, Canavan, Chizmar, Collins, Colwell, Cote, Cowger, Crabtree, Cummings, Daigle, Dorr, Dudley, Dugay, Dunlap, Duplessie, Estes, Etnier, Fisher, Fuller, Gagne, Gerzofsky, Gooley, Green, Hall, Hatch, Hawes, Honey, Jacobs, Jodrey, Jones, Kane, Koffman, Labrecque, LaVerdiere, Laverriere-Boucher, Ledwin, Lemoine, Lessard, Lovett, Mailhot, Marley, Mayo, McDonough, McGlocklin, McGowan, McKee, McKenney, McLaughlin, McNeil, Michael, Michaud, Mitchell, Murphy T, Muse C, Muse K, Nass, Norbert, Norton, Nutting, O'Brien JA, O'Brien LL, O'Neil, Peavey, Perkins, Povich, Quint, Richard, Richardson, Rines, Rosen, Savage, Schneider, Shields, Simpson, Skoglund, Smith, Sullivan, Tarazewich, Tessier, Thomas, Tracy, Trahan, Twomey, Usher, Volenik, Watson, Wheeler GJ, Mr. Speaker.

NAY - Andrews, Annis, Berry DP, Bowles, Buck, Carr, Chick, Clark, Clough, Cressey, Davis, Desmond, Duncan, Duprey, Foster, Glynn, Haskell, Heidrich, Kasprzak, Lundeen, MacDougall, Madore, Matthews, Mendros, Morrison, Paradis, Patrick, Perry, Pineau, Pinkham, Sherman, Snowe-Mello, Stanley, Tobin D, Tobin J, Treadwell, Tuttle, Waterhouse, Weston, Wheeler EM, Winsor, Young.

ABSENT - Ash, Bagley, Baker, Brannigan, Bunker, Chase, Goodwin, Hutton, Landry, Marrache, Murphy E, Stedman.

Yes, 97; No, 42; Absent, 12; Excused, 0.

97 having voted in the affirmative and 42 voted in the negative, with 12 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** in concurrence.

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

Majority Report of the Committee on **JUDICIARY** reporting **Ought Not to Pass** on Bill "An Act Creating Offenses Against Unborn Children"

(H.P. 1049) (L.D. 1406)

Signed:

Senators:

RAND of Cumberland
McALEVEY of York
FERGUSON of Oxford

Representatives:

LaVERDIERE of Wilton
BULL of Freeport
JACOBS of Turner
MITCHELL of Vassalboro
MUSE of South Portland
SIMPSON of Auburn
SHERMAN of Hodgdon

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-235)** on same Bill.

Signed:

Representatives:

MADORE of Augusta
WATERHOUSE of Bridgton
MENDROS of Lewiston

READ.

Representative LaVERDIERE of Wilton moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

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

Representative **ANDREWS**: Mr. Speaker, Ladies and Gentlemen of the House. I am going to ask you to vote against the Majority Ought Not to Pass Report. This is my bill. This is a bill about life. This bill creates new crimes against unborn children for knowingly causing the death of an unborn child. For some reason, this bill has been locked in with the abortion bills. If you fully read the summary of this bill, the last paragraph says, "These crimes do not apply to an abortion to which the pregnant person has consented, nor do they apply to acts committed pursuant to usual and customary standards of medical practice during diagnostic or therapeutic treatment. These crimes do not apply to pregnant women. Twenty-four states have already enacted unborn victim laws. This is a bill about life. It is about a life that is often desperately wanted. These are women who want these children and some have gone to great lengths to bear this child. The loss of this child, even though it perhaps has not been born, is just as strong and just as traumatic as if that woman had had that child for a number of years.

I find it rather hypocritical that on one hand if you shoot a child being held in the hands of its mother, that is murder. If you shoot the mother and knowingly causing the death of that unborn child, this is not a crime. I leave it to your judgment. When the vote is taken, I ask for the yeas and nays. Thank you.

Representative ANDREWS of York **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 Ellsworth, Representative Povich.

Representative **POVICH**: Mr. Speaker, Men and Women of the House. Regarding LD 1406, this afternoon I checked on the current Maine law and general sentencing provisions. I believe that current Maine law and general sentencing provisions take into account the situation contemplated in this bill. For example, under Section 17A, Section 208 aggravated assault such circumstances as the observable physical condition of the victim. Aggravated assault is a class B crime with a 10-year sentence possible.

For example, under Section 1151 of general sentencing provisions Part five allows the judge to under 8B the selection of the defendant of the person against whom the crime was committed affected by the crimes. And under 1252 subsection 2, the sentencing factors include the effect of the offense on the victim. I believe that this bill is unnecessary and the egregious conduct can be covered under current Maine law. Thank you.

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

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

The SPEAKER: The Representative may pose her question.

Representative **KASPRZAK**: Mr. Speaker, Men and Women of the House. I would ask the good Representative from Ellsworth or anyone else who might answer the question, how long have these laws been on the books?

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

Representative **POVICH**: Mr. Speaker, Men and Women of the House. I can't give you a specific date, but it pre-dates me, so at least seven years, I believe.

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

Representative **KASPRZAK**: Mr. Speaker, Men and Women of the House. I guess I am a little bit confused. I know the last time we passed this legislation in this House and in the other body and it made it all the way to the Appropriations Table and was killed off in the wee hours of the night that I had brought up the fact that the good judge, Judge Wathen, had been quoted as saying that he didn't have any statutes on the books that could support him judging an assault against an unborn child and protecting the mother.

The SPEAKER: The Chair recognizes the Representative from Augusta, Representative Madore.

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

The SPEAKER: The Representative may pose his question.

Representative **MADORE**: Mr. Speaker, Men and Women of the House. To the good Representative from Ellsworth, if the good Representative could answer this. In his research, did you find any actual court cases where these statutes were applied and how were they applied in the court cases?

The **SPEAKER**: The Representative from Augusta, Representative Madore has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Ellsworth, Representative Povich.

Representative **POVICH**: Mr. Speaker, Men and Women of the House. You flatter me. I am not an attorney. I did check. My source book was the Maine Criminal Statutes, the Ferdico Book, current edition. I did not check the case law. Thank you.

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

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

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

Representative **TRAHAN**: Mr. Speaker, Men and Women of the House. To the Representative from Ellsworth, my question is, when the mitigating circumstances were considered, were the penalties then applied as if it were a homicide or was it applied as though it was a lesser penalty of aggravated assault?

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

Representative **WATERHOUSE**: Mr. Speaker, Ladies and Gentlemen of the House. If you noticed on the handout that you have on your desk, the pink one, it says support the Majority Report, Ought Not to Pass. The interesting thing is one of the items on there says that these bills threaten reproductive freedom. It mentions LD 1406, which we are dealing with right now. It says it seeks to separate the woman from her fetus in the eyes of the law. Said separation is merely the first step towards eroding a woman's right to determine the fate of her own pregnancy and to direct the course of her own health. We are not talking about a woman's right to determine the fate of her own pregnancy, we are talking about an outside influence on that determination and that choice. We are not talking about a woman's right to direct the course of her own health. We are talking about an assault. As far as eroding those rights, there are a number of states that have had these laws on the books for many years. In my research when we had this bill before us before, one state that had this law on the books for 25 years and abortion rights are alive and well in that state. Thank you.

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

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

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

Representative **ANDREWS**: Mr. Speaker, Men and Women of the House. Could you tell me whether it is mandatory that they consider those circumstances or they may consider those circumstances?

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. 80

YEA - Berry RL, Blanchette, Bliss, Bouffard, Brooks, Bruno, Bryant, Bull, Canavan, Chizmar, Collins, Colwell, Cote, Cowger, Crabtree, Cummings, Daigle, Dorr, Dudley, Dugay, Dunlap, Duplessie, Estes, Etnier, Fisher, Fuller, Gagne, Gerzofsky, Green, Hall, Hatch, Hawes, Jacobs, Jodrey, Jones, Kane, Koffman, Labrecque, LaVerdiere, Laverriere-Boucher, Ledwin, Lemoine, Lessard, Lovett, Mailhot, Marley, Mayo, McDonough, McGlocklin, McGowan, McKee, McKenney, McLaughlin, McNeil, Michaud, Mitchell, Murphy T, Muse C, Muse K, Nass, Norbert,

Norton, Nutting, O'Brien LL, O'Neil, Peavey, Perkins, Povich, Quint, Richardson, Rines, Rosen, Savage, Schneider, Simpson, Skoglund, Smith, Sullivan, Tarazewich, Tessier, Thomas, Tracy, Twomey, Usher, Volenik, Watson, Wheeler GJ, Mr. Speaker.

NAY - Andrews, Annis, Belanger, Berry DP, Bowles, Buck, Bumps, Carr, Chase, Chick, Clark, Clough, Cressey, Davis, Desmond, Duncan, Duprey, Foster, Glynn, Gooley, Haskell, Heidrich, Honey, Kasprzak, Lundeen, MacDougall, Madore, Matthews, Mendros, Michael, Morrison, O'Brien JA, Paradis, Patrick, Perry, Pineau, Pinkham, Richard, Sherman, Shields, Snowe-Mello, Stanley, Tobin D, Tobin J, Trahan, Treadwell, Tuttle, Waterhouse, Weston, Wheeler EM, Winsor, Young.

ABSENT - Ash, Bagley, Baker, Brannigan, Bunker, Goodwin, Hutton, Landry, Marrache, Murphy E, Stedman.

Yes, 88; No, 52; Absent, 11; Excused, 0.

88 having voted in the affirmative and 52 voted in the negative, with 11 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

Majority Report of the Committee on **JUDICIARY** reporting **Ought Not to Pass** on Bill "An Act to Prevent Violence Against Pregnant Mothers"

(H.P. 1179) (L.D. 1602)

Signed:

Senators:

RAND of Cumberland
McALEVEY of York
FERGUSON of Oxford

Representatives:

LaVERDIERE of Wilton
BULL of Freeport
JACOBS of Turner
MITCHELL of Vassalboro
MUSE of South Portland
SIMPSON of Auburn
MADORE of Augusta
WATERHOUSE of Bridgton
SHERMAN of Hodgdon

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-236)** on same Bill.

Signed:

Representative:

MENDROS of Lewiston

READ.

Representative LaVERDIERE of Wilton moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

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

Representative **MENDROS**: Mr. Speaker, Ladies and Gentlemen of the House. This bill has absolutely nothing to do with abortions. This bill makes it a crime to beat a pregnant woman and cause her to miscarry. What were the notices you got from people who were telling you to vote against this bill says from the MCEDB, they oppose these bills because they do not protect women who are victims of violence. The bill diverts attention from violence against women and fails to recognize the best way to protect the fetus is to better protect the woman. This Minority Report protects the woman. If you beat a pregnant woman with the intent to cause her to miscarry and she miscarries, it is a class A elevated aggravated assault. If you beat her with that intent and she doesn't miscarry, it is a class B aggravated assault. To quote Gloria Feld, President of Planned

Parenthood, she says, "Violence against woman, in particular, pregnant woman continues to be a significant problem in this country and begs for protective legislation. It is imperative that state and federal Legislatures address the issue of domestic violence as a serious crime and offer women full protection under the law. Planned Parenthood recognizes the devastating loss to a woman that occurs from the loss of a pregnancy and supports penalty enhancements to punish these terrible acts of violence against women."

We had a woman, a friend of mine from Lewiston, who came and testified before our committee. She was pregnant. Her boyfriend and her were broken up and her boyfriend said to her and she said to our committee and I quote. He called her up and he said, "If you don't have an abortion, I will throw you down and kick you in the stomach until that baby is good and dead." According to Maine law, that would be a misdemeanor. The judge can enhance the penalty, but it is not mandated. If you are walking down the street and a woman is walking down the street and is thrown down in the street and beaten and her purse is stolen, it is theft along with assault and that is an automatic penalty enhancement, but if somebody takes her wanted baby away from her, there is no requirement to enhance that penalty. Yes, I am pro-life. I voted for life. This has nothing to do with that. This woman was a friend of mine. This is a terrible act. We have to say as a Legislature, no, some thug can't come beat up a woman because he wants her to have an abortion and threaten her and beat her until she has it. Ray Karuth who hired someone to kill his girlfriend so he wouldn't have to pay child support, that should not happen in the State of Maine. Maryland did a study on this issue and Maryland found that pregnant women are three times more likely to die in domestic violence assaults than non-pregnant women. They are targets. It is power. I urge you to support the Minority Report.

I leave you with one final thought. We can find common ground here, whether we are pro-life or pro-choice. We all support the right of a woman who chooses to have her baby to be able to do it safely. Thank you.

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

Representative **POVICH**: Mr. Speaker, Men and Women of the House. If I dare to get up, it is like a tee shirt, I am a native Mainer, I live here and I don't answer any questions.

I am glad the good speaker from Lewiston mentions elevated aggravated assault, which is a bill that I probably sponsored up to seven years ago. Again, ditto on the previous bill about current Maine law. Elevated aggravated assault is a bill that is a class A crime. That is up to 20 years. That is serious stuff. That is if a person engages in conduct that manifests a depraved indifference to the value of human life and that, in fact, causes bodily injury to another person with the use of a dangerous weapon.

We have plenty of law, folks. It is not mandatory. I was remiss in not responding to Representative Andrews question. I am of the position that I want the DAs to DA. I want the judges to judge. I want to the lawyers to lawyer and we will get the sentences of this conduct takes place. I would like to ask for a roll call vote, Mr. Speaker.

Representative **POVICH** of Ellsworth **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 Bridgton, Representative Waterhouse.

Representative **WATERHOUSE**: Mr. Speaker, Ladies and Gentlemen of the House. I think it is very important when people

look at divided reports that they know the thoughts behind the people that are on the committees that are voting. As you can see, my name is listed in the Majority Ought Not to Pass Report. That is because I did not have this amendment before me in committee to take a look at. I will be voting for this amendment. 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. 81

YEA - Berry RL, Blanchette, Bliss, Bouffard, Brooks, Bruno, Bryant, Bull, Bumps, Canavan, Collins, Colwell, Cote, Cowger, Crabtree, Cummings, Daigle, Dorr, Dudley, Dugay, Dunlap, Duplessie, Estes, Etnier, Fisher, Fuller, Gagne, Gerzofsky, Green, Hall, Hatch, Hawes, Honey, Jacobs, Jones, Kane, Koffman, Labrecque, LaVerdiere, Laverriere-Boucher, Ledwin, Lemoine, Lessard, Lovett, Mailhot, Marley, Mayo, McDonough, McGlocklin, McGowan, McKee, McKenney, McLaughlin, McNeil, Michaud, Mitchell, Murphy T, Muse C, Muse K, Nass, Norbert, Norton, Nutting, O'Brien LL, O'Neil, Peavey, Perkins, Povich, Quint, Richard, Richardson, Rines, Rosen, Savage, Schneider, Simpson, Skoglund, Smith, Sullivan, Tarazewich, Tessier, Thomas, Tracy, Twomey, Usher, Volenik, Watson, Wheeler GJ, Mr. Speaker.

NAY - Andrews, Annis, Belanger, Berry DP, Bowles, Buck, Carr, Chase, Chick, Chizmar, Clark, Clough, Cressey, Davis, Desmond, Duncan, Duprey, Foster, Glynn, Gooley, Haskell, Heidrich, Jodrey, Kasprzak, Lundeen, MacDougall, Madore, Matthews, Mendros, Michael, Morrison, O'Brien JA, Paradis, Patrick, Perry, Pineau, Pinkham, Sherman, Shields, Snowe-Mello, Stanley, Tobin D, Tobin J, Trahan, Treadwell, Tuttle, Waterhouse, Weston, Wheeler EM, Winsor, Young.

ABSENT - Ash, Bagley, Baker, Brannigan, Bunker, Goodwin, Hutton, Landry, Marrache, Murphy E, Stedman.

Yes, 89; No, 51; Absent, 11; Excused, 0.

89 having voted in the affirmative and 51 voted in the negative, with 11 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

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

MATTER PENDING RULING

Bill "An Act to Allow a Legislator to Opt Out of the Partisan Staff System"

(H.P. 1076) (L.D. 1445)

(Committee on **STATE AND LOCAL GOVERNMENT** suggested) **TABLED** - April 12, 2001 by Speaker SAXL of Portland.

PENDING - RULING OF THE CHAIR.

The SPEAKER: The Chair has considered the question of the Representative from Wilton, Representative LaVerdiere, as to the propriety of LD 1445 under Rule 107 of the House Rules of the 120th Legislature. The rules of the proceedings of the House in ordinary legislative matters, specifically House Rule 104 which charges House leadership with determining partisan staffing patterns, are implicated by LD 1445 to the extent that it would permit a Legislator to decline the services of partisan staff and receive a pro rata share of the budgeted costs of the partisan offices.

House Rule 107 states, "A member may question the appropriateness of a bill that attempts to establish proceedings of the House in statute. Such legislation may be ruled not

properly before the House by the Speaker." House Rule 107 is based upon the Maine Constitution, Article IV, Part Third, Section 4, which reads in part, "Each House may determine the rules of its proceedings." The Preamble to the House Rules elaborates upon this constitutional pronouncement, stating "These rules take precedence over the Joint Rules, statutes enacted by a prior Legislature relating to the proceedings of the House and other rules used in Legislative assemblies. These rules govern the proceedings of the House in all matters, subject only to the requirements of the Constitution of Maine." Subsection 1 of Section 4 of Mason's Manual of Legislative Procedure agrees, stating, "Rules of procedure passed by one legislature or statutory provisions governing the legislative process are not binding on a subsequent legislature."

By permitting a Legislator to decline the services of partisan staff, this Act seeks to promulgate a policy that will affect not only this Legislature, but another Legislature, as well. When an Act seeks such a purpose, it must seek to amend (in order of superiority) the Constitution of Maine or the House and/or Senate Rules, not Maine statute. All of these have precedence over statute. The appropriate forum to bring such a request is before either the House Standing Committee on Rules and Business of the House or the Joint Select Committee on Joint Rules.

Therefore, this Act cannot proceed in such a form as to amend Maine statute and is not properly before the House.

Subsequently, the Chair **RULED** the Bill was not properly before the body pursuant to House Rule 107.

On motion of Representative COLWELL of Gardiner, the House **RECONSIDERED** its action whereby An Act to Direct that a Percentage of Revenue That the State Receives Be Allocated to Community Forestry

(S.P. 362) (L.D.

1200)

(C. "A" S-62)

Was **PASSED TO BE ENACTED**.

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

On motion of Representative SIMPSON of Auburn, the House adjourned at 7:16 p.m., until 9:00 a.m., Wednesday, May 2, 2001.