

MAINE STATE LEGISLATURE

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

Volume I

First Regular Session

December 6, 2000 – May 17, 2001

Pages 1-889

ONE HUNDRED AND TWENTIETH LEGISLATURE
FIRST REGULAR SESSION
42nd Legislative Day
Thursday, May 3, 2001

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

Prayer by Reverend George Darling, United Methodist Church, Lisbon Falls.

National Anthem by Greely High School Madrigal Singers, Cumberland Center.

Pledge of Allegiance.

The Journal of yesterday was read and approved.

SENATE PAPERS

Bill "An Act to Amend the Review Criteria for Submerged Leases of Coastal Waters" (EMERGENCY)

(S.P. 610) (L.D. 1786)

Came from the Senate, **REFERRED** to the Committee on **MARINE RESOURCES** and ordered printed.

REFERRED to the Committee on **MARINE RESOURCES** in concurrence.

ORDERS

On motion of Representative **BUNKER** of Kossuth Township, the following Joint Resolution: (H.P. 1329) (Under suspension of the rules, cosponsored by Senator **EDMONDS** of Cumberland and Representatives: **ANNIS** of Dover-Foxcroft, **BAGLEY** of Machias, **BRYANT** of Dixfield, **CARR** of Lincoln, **CLOUGH** of Scarborough, **COTE** of Lewiston, **COWGER** of Hallowell, **CRESSEY** of Baldwin, **DAVIS** of Falmouth, **DUGAY** of Cherryfield, **ESTES** of Kittery, **ETNIER** of Harpswell, **FULLER** of Manchester, **GLYNN** of South Portland, **HUTTON** of Bowdoinham, **JACOBS** of Turner, **JONES** of Greenville, **KOFFMAN** of Bar Harbor, **LaVERDIERE** of Wilton, **MacDOUGALL** of North Berwick, **MARLEY** of Portland, **MATTHEWS** of Winslow, **McGLOCKLIN** of Embden, **McGOWAN** of Pittsfield, **MURPHY** of Berwick, **MUSE** of South Portland, **NASS** of Acton, **NORTON** of Bangor, **O'BRIEN** of Lewiston, **PERKINS** of Penobscot, **PINEAU** of Jay, **POVICH** of Ellsworth, **QUINT** of Portland, **RICHARD** of Madison, **RICHARDSON** of Brunswick, **RINES** of Wiscasset, Speaker **SAXL** of Portland, **SIMPSON** of Auburn, **SMITH** of Van Buren, **STANLEY** of Medway, **SULLIVAN** of Biddeford, **TARAZEWICH** of Waterboro, **TOBIN** of Dexter, **TRACY** of Rome, **TREADWELL** of Carmel, Senators: **BROMLEY** of Cumberland, **CATHCART** of Penobscot, **DAGGETT** of Kennebec, **DOUGLASS** of Androscoggin, **GAGNON** of Kennebec, **KILKELLY** of Lincoln, **LONGLEY** of Waldo, **McALEVEY** of York, President **MICHAUD** of Penobscot, **MILLS** of Somerset, **NUTTING** of Androscoggin, **O'GARA** of Cumberland, **RAND** of Cumberland, **ROTUNDO** of Androscoggin, **TREAT** of Kennebec, **TURNER** of Cumberland) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 214)

JOINT RESOLUTION MEMORIALIZING THE PRESIDENT AND CONGRESS OF THE UNITED STATES TO SUPPORT THE REFORM OF THE GOVERNMENT PENSION OFFSET AND WINDFALL ELIMINATION PROVISION REQUIREMENTS

WE, your Memorialists, the Members of the One Hundred and Twentieth Legislature of the State of Maine now assembled in the First Regular Session, most respectfully present and petition the President of the United States and the United States Congress, as follows:

WHEREAS, 2 provisions of federal law, the Government Pension Offset and the Windfall Elimination Provision, result in the reduction of Social Security benefits of certain state and local government retirees who worked for government units and were not covered by Social Security during that employment; and

WHEREAS, the Government Pension Offset requires a reduction in the spousal benefit received under Social Security equal to 2/3 of the surviving spouse's benefit under another government pension plan; and

WHEREAS, the Windfall Elimination Provision reduces by a formula the Social Security benefit of a person who is also receiving a pension from a public employer that does not participate in Social Security; and

WHEREAS, the Government Pension Offset and the Windfall Elimination Provision were intended to prevent "double dipping" by government retirees collecting benefits under both Social Security and another public pension plan, but, due to the way they operate, the provisions are often harmful to certain retirees; and

WHEREAS, the Government Pension Offset and the Windfall Elimination Provision are particularly burdensome on the finances of lower- and moderate-income public service workers such as school teachers, clerical workers and school cafeteria employees whose wages are low to start; and

WHEREAS, the Government Pension Offset and the Windfall Elimination Provision unfairly fail to distinguish between state and local government public servants who earn high non-Social Security pension benefits and those who earn low non-Social Security pension benefits as the reductions apply to everyone; and

WHEREAS, since many lower-paying public service jobs are held by women, the Government Pension Offset and the Windfall Elimination Provision have a disproportionately adverse impact on them; and

WHEREAS, critical public employees such as teachers, police officers and firefighters who often retire from government service early and attain Social Security eligibility through covered service after retirement are particularly adversely affected by the Windfall Elimination Provision; and

WHEREAS, in some cases, additional support in the form of income, housing, heating, prescription drug and other safety net assistance from state and local governments is needed to make up for the reductions imposed at the federal level; and

WHEREAS, applying the Government Pension Offset to state and local government retirees is unfair because no similar reductions are applied to the Social Security benefits of surviving spouses receiving private pensions; now, therefore, be it

RESOLVED: That, We, your Memorialists, request that the President of the United States and the United States Congress work together to support reform proposals that include at least the following protections for low- and moderate-income government retirees:

1. Permitting retention of an adequate combined public pension or Social Security benefit level before any reductions are applied under the Government Pension Offset and Windfall Elimination Provision;

2. Permanently protecting that level of benefits by indexing it to inflation; and

3. Ensuring that no current recipient's benefit is reduced by the reform legislation; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Honorable George W. Bush, President of the United States; the President of the United States Senate; the Speaker of the House of Representatives of the United States; and each Member of the Maine Congressional Delegation.

READ and ADOPTED.
Sent for concurrence.

On motion of Representative KOFFMAN of Bar Harbor, the following Joint Order: (H.P. 1330) (Cosponsored by Senator MARTIN of Aroostook and Representatives: COWGER of Hallowell, DAIGLE of Arundel, ETNIER of Harpswell, FOSTER of Gray, LEMOINE of Old Orchard Beach, McLAUGHLIN of Cape Elizabeth, NASS of Acton, President Pro Tem BENNETT of Oxford)

ORDERED, the Senate concurring, that the Joint Study Committee to Study Growth Management is established as follows.

1. Committee established. The Joint Study Committee to Study Growth Management, referred to in this order as the "committee," is established.

2. Membership. The committee consists of 13 members appointed as follows. The President of the Senate shall appoint 3 members from the Senate and the Speaker of the House shall appoint 10 members from the House of Representatives. Of these members, at least 3 must be members of the Joint Standing Committee on Natural Resources and the remaining members must be members of the Joint Standing Committee on Transportation, the Joint Standing Committee on Agriculture, Conservation and Forestry, the Joint Standing Committee on Taxation, the Joint Standing Committee on State and Local Government, the Joint Standing Committee on Appropriations and Financial Affairs and the Joint Standing Committee on Inland Fisheries and Wildlife.

3. Committee chairs. The first named Senator is the Senate chair of the committee and the first named member of the House is the House chair of the committee.

4. Appointments; convening of committee. All appointments must be made no later than 30 days following the effective date of this order. The appointing authorities shall notify the Executive Director of the Legislative Council once all appointments have been made. When the appointment of all members has been completed, the chairs of the committee shall call and convene the first meeting of the committee, which must be no later than August 1, 2001.

5. Duties. The committee shall study issues related to sprawl and growth management in Maine, including, but not limited to, the issues addressed in L.D. 1478, "An Act to Amend Maine's Growth Management Law and Related Laws"; L.D. 1643, "An Act to Provide Criteria for the Municipal Use of Rate of Growth Ordinances"; L.D. 1693, "An Act to Amend the Comprehensive Planning and Land Use Regulation Laws"; and L.D. 1444, "An Act to Enhance Local Accountability."

6. Staff assistance. Upon approval of the Legislative Council, the Office of Policy and Legal Analysis shall provide necessary staffing services to the committee.

7. Compensation. Members of the committee are entitled to receive the legislative per diem, as defined in the Maine Revised Statutes, Title 3, section 2, and reimbursement for travel and other necessary expenses for attendance at authorized meetings of the committee.

8. Report. The committee shall submit its report that includes its findings and recommendations, including suggested legislation, to the Second Regular Session of the 120th Legislature no later than December 5, 2001. The committee is authorized to introduce legislation related to its report to the Second Regular Session of the 120th Legislature at the time of submission of its report.

9. Extension. If the committee requires a limited extension of time to complete its study and make its report, it may apply to the Legislative Council, which may grant an extension. Upon submission of its required report, the committee terminates.

10. Committee budget. The chairs of the committee, with assistance from the committee staff, shall administer the committee's budget. Within 10 days after its first meeting, the committee shall present a work plan and proposed budget to the Legislative Council for its approval. The committee may not incur expenses that would result in the committee's exceeding its approved budget. Upon request from the committee, the Executive Director of the Legislative Council or the executive director's designee shall provide the committee chairs and staff with a status report on the committee's budget, expenditures incurred and paid and available funds.

Committee on **NATURAL RESOURCES** suggested.

READ and REFERRED to the Committee on **NATURAL RESOURCES.**

Sent for concurrence.

On motion of Representative TUTTLE of Sanford, the following Joint Order: (H.P. 1332)

ORDERED, the Senate concurring, that the Joint Standing Committee on Legal and Veterans Affairs report out, to the House, a bill regarding the use of tokens for games of chance at agricultural fairs.

READ and PASSED.

Sent for concurrence.

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

REPORTS OF COMMITTEE

Refer to the Committee on Marine Resources Pursuant to Joint Order

Representative LEMOINE from the Committee on **MARINE RESOURCES** on Bill "An Act to Allow Marine Patrol Officers to Hold Elected Positions"

(H.P. 1331) (L.D. 1788)

Reporting that it be **REFERRED** to the Committee on **MARINE RESOURCES** pursuant to Joint Order (H.P. 1325).

Report was **READ and ACCEPTED** and the Bill **REFERRED** to the Committee on **MARINE RESOURCES.**

Sent for concurrence.

Ought to Pass Pursuant to Joint Order

Report of the Committee on **INLAND FISHERIES AND WILDLIFE** on Bill "An Act Concerning Disabled Hunters, Trappers and Anglers"

(S.P. 609) (L.D. 1785)

Reporting **Ought to Pass** pursuant to Joint Order (S.P. 55).

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

Report was **READ and ACCEPTED.**

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

Divided Report

Majority Report of the Committee on **UTILITIES AND ENERGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-115)** on Bill "An Act to Provide Opportunity for Affordable House Lot Development"

(S.P. 263) (L.D. 910)

Signed:

Senators:

FERGUSON of Oxford
TREAT of Kennebec
CARPENTER of York

Representatives:

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

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

Signed:

Representative:

GOODWIN of Pembroke

Came from the Senate with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-115)**.

READ.

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

The Bill was **READ ONCE**. **Committee Amendment "A" (S-115)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** later in today's session.

CONSENT CALENDAR

First Day

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

(S.P. 154) (L.D. 498) Bill "An Act to Increase the Bond Ceiling of the University of Maine System" Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** reporting **Ought to Pass**

(S.P. 537) (L.D. 1668) Bill "An Act to Expand Research and Development Facilities within the University of Maine System" Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** reporting **Ought to Pass**

(S.P. 561) (L.D. 1723) Bill "An Act to Amend the Maine Athletic Commission Laws" (EMERGENCY) Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass**

(S.P. 50) (L.D. 218) Bill "An Act to Ensure Statewide Assistance to Maine's Homeless Youth" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-110)**

(S.P. 110) (L.D. 336) Bill "An Act to Protect the Privacy of Maine Physicians" Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-118)**

(S.P. 281) (L.D. 992) Bill "An Act to Permit the Department of Inland Fisheries and Wildlife to Accept Gifts for the Benefit of Wildlife Protection and Conservation" Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-117)**

(S.P. 301) (L.D. 1012) Bill "An Act to Safeguard Production of Groundwater" (EMERGENCY) Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-119)**

(S.P. 375) (L.D. 1213) Bill "An Act to Amend the Hunting Laws Relating to Blaze Orange" Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-116)**

(S.P. 404) (L.D. 1320) Bill "An Act Relating to the Office of Substance Abuse and the Licensing of Substance Abuse Personnel" Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-120)**

(S.P. 489) (L.D. 1578) Bill "An Act to Clarify the Laws Governing Employment by the State" Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-109)**

(S.P. 552) (L.D. 1710) Bill "An Act to Clarify the Maine Biomedical Research Program" Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-121)**

(S.P. 576) (L.D. 1754) Bill "An Act to Amend the Laws of the Maine State Retirement System" (EMERGENCY) Committee on **LABOR** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-113)**

(H.P. 194) (L.D. 205) Bill "An Act to Provide Continued Funding for the Maine Airs Program" Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-268)**

(H.P. 285) (L.D. 363) Bill "An Act to Clarify the Law Regarding Name Changes" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-280)**

(H.P. 289) (L.D. 367) Bill "An Act to Support Requests for Jobs for Maine's Graduates Programs in Maine Communities" Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-267)**

(H.P. 864) (L.D. 1136) Bill "An Act to Treat All Children with Dignity" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-281)**

(H.P. 1213) (L.D. 1645) Bill "An Act to Address Confidentiality of Records in the Medical Examiner Act" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-282)**

(H.P. 1258) (L.D. 1705) Bill "An Act to Make Certain Technical and Clarifying Changes to the Medical Examiner Act" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-283)**

(H.P. 1275) (L.D. 1735) Bill "An Act to Amend the Charter of the Vinalhaven Water District" (EMERGENCY) Committee on **UTILITIES AND ENERGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-269)**

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 as Amended** and sent for concurrence.

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

BILLS IN THE SECOND READING
Senate As Amended

Resolve, to Study the Statutes Pertaining to Funeral Homes, Crematories and Cemeteries

(S.P. 413) (L.D. 1357)
(H. "A" H-248 to C. "A" S-86)

House As Amended

Resolve, to Study the Benefits and Costs for Increasing Access to Family and Medical Leave for Maine Families

(H.P. 1097) (L.D. 1466)
(C. "A" H-245)

Bill "An Act to Ensure Adequate Funding for School Construction Costs"

(H.P. 1241) (L.D. 1684)
(H. "A" H-258 to C. "A" H-193)

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 non-concurrence and sent for concurrence and the House Papers were **PASSED TO BE ENGROSSED AS AMENDED** and sent for concurrence.

Resolve, to Create a State-run Pharmacy Benefits Manager
(H.P. 706) (L.D. 921)
(C. "A" H-251)

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

On motion of Representative BRUNO of Raymond, was **SET ASIDE**.

The same Representative asked leave of the House to be excused from voting on L.D. 921 pursuant to House Rule 401.12. The Chair granted the request.

Representative NUTTING of Oakland asked leave of the House to be excused from voting on L.D. 921 pursuant to House Rule 401.12.

The Chair granted the request.

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

ENACTORS

Emergency Measure

An Act Concerning Closed Periods for Lobstering
(H.P. 490) (L.D. 630)
(C. "A" H-203)

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 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 Extend the Youth in Need of Services Oversight Committee

(H.P. 780) (L.D. 1024)
(C. "A" H-207)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 113 voted in favor of the same and 5 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

At this point, the fire alarm sounded and the House was evacuated.

(After the fire alarm)

The House was called to order by the Speaker.

Emergency Measure

Resolve, to Establish a Fatherhood Issues Study Commission

(H.P. 370) (L.D. 472)
(C. "A" H-87)

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

Representative COLWELL of Gardiner **REQUESTED** a roll call on **FINAL PASSAGE**.

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

On motion of the same Representative, **TABLED** pending **FINAL PASSAGE** and later today assigned. (Roll Call Ordered)

Acts

An Act to Eliminate the Fee for Veterans Registration Plates
(S.P. 14) (L.D. 31)
(C. "A" S-81)

An Act to Lower In-state Phone Costs for Rural Maine
(S.P. 17) (L.D. 33)
(C. "A" S-76)

An Act to Provide an Extra Hunting Opportunity for Junior License Holders
(H.P. 46) (L.D. 55)
(C. "A" H-183)

An Act to Ensure that Fishways on Inland Waters are Working
(H.P. 140) (L.D. 151)
(C. "A" H-182)

An Act to Amend the Laws Governing Building Permits in the Unorganized Territories
(H.P. 239) (L.D. 276)
(C. "A" H-185)

An Act to Amend the Time the Registrar is Required to be at a Municipal Caucus
(H.P. 243) (L.D. 279)
(C. "A" H-168)

An Act Regarding Statute of Limitations for Attorneys
(H.P. 260) (L.D. 309)
(C. "A" H-196)

An Act to Include Whole Scallops in the Shellfish Sanitation Program
(H.P. 267) (L.D. 345)
(C. "A" H-204)

An Act to Modify the Bureau of Insurance Complaint Ratios and to Increase the Amount of Penalties Assessed Against Violators of the Maine Insurance Code
(H.P. 338) (L.D. 428)
(C. "A" H-199)

An Act to Provide a Local Option on Display of the United States and State Flags
(H.P. 369) (L.D. 471)
(C. "A" H-145)

An Act Concerning the State Board of Funeral Service
(H.P. 378) (L.D. 480)
(C. "A" H-187)

An Act to Allow the Agencies of the Department of Professional and Financial Regulation to Revoke Professional and Occupational Licenses
(H.P. 385) (L.D. 487)
(C. "A" H-206)

An Act to Implement the Maine Agricultural Internship and Training Program
(S.P. 227) (L.D. 792)
(C. "A" S-79)

An Act to Revise the Charter of the Ogunquit Sewer District
(S.P. 252) (L.D. 884)
(C. "A" S-77)

An Act to Amend the Protection from Abuse and Protection from Harassment Laws
(H.P. 734) (L.D. 954)

An Act to Waive Immunization Requirements for Students Participating in Distance Programs
(H.P. 748) (L.D. 967)
(C. "A" H-192)

An Act to Amend the Laws Governing the Maine Potato Board
(S.P. 285) (L.D. 996)
(C. "A" S-78)

An Act to Amend the Covered Load Laws
(S.P. 293) (L.D. 1004)
(C. "A" S-83)

An Act to Prohibit the Exclusion of Legal Counsel as a Condition of Settlement
(H.P. 817) (L.D. 1071)

An Act Conforming Maine Digital Signature Law to Federal Law
(H.P. 908) (L.D. 1222)
(C. "A" H-195)

An Act to Allow the Maine Turnpike Authority to Levy an Administrative Fee against Toll Evaders
(S.P. 417) (L.D. 1361)
(C. "A" S-82)

An Act to Enhance the Professional Skills of Maine's Educational Technicians
(H.P. 1036) (L.D. 1393)
(C. "A" H-190)

An Act to Amend the Maine Criminal Code to Reduce the Incentive to Commit Theft
(H.P. 1071) (L.D. 1434)
(C. "A" H-202)

An Act to Revise the Maine Science and Technology Foundation's Charter and Revise the Charter of the Centers for Innovation

(H.P. 1094) (L.D. 1463)
(C. "A" H-188)

An Act to Create a Digital Library to Meet the Educational, Research, Business and Economic Needs of Maine
(H.P. 1102) (L.D. 1471)
(C. "A" H-194)

An Act to Restructure the Kennebec County Advisory Budget Committee
(H.P. 1226) (L.D. 1673)

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

Resolves

Resolve, to Study the Feasibility of a 4-year Vocational Educational Program
(H.P. 599) (L.D. 754)
(C. "A" H-191)

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 Require Elevators Installed during New Construction be Large enough to Accommodate Ambulance Stretchers
(H.P. 56) (L.D. 65)
(C. "A" H-105)

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

On motion of Representative SCHNEIDER of Durham, was **SET ASIDE**.

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

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

The **SPEAKER**: The Chair recognizes the Representative from Bridgewater, Representative Wheeler.

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

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

Representative **WHEELER**: Mr. Speaker, Men and Women of the House. Could I have somebody from the committee of jurisdiction to explain the rationale for exempting state and local governments from this law? Thank you.

The **SPEAKER**: The Representative from Bridgewater, Representative Wheeler has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Brunswick, Representative Richardson.

Representative **RICHARDSON**: Mr. Speaker, Ladies and Gentlemen of the House. I would be glad to answer to answer the question, but I just could not hear it. I apologize for not being able to hear the good Representative's question.

The **SPEAKER**: The Chair recognizes the Representative from Bridgewater, Representative Wheeler. Would he please restate his question?

Representative **WHEELER**: Mr. Speaker, Men and Women of the House. I would like to know the rationale for exempting state and local governments from the provision in new construction accommodating ambulance structures?

(H.P. 398) (L.D. 519)
(C. "A" H-186)

The SPEAKER: The Representative from Bridgewater, Representative Wheeler has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Brunswick, Representative Richardson.

Representative RICHARDSON: Mr. Speaker, Men and Women of the House. The reason we did that was to strip the mandate requirement from the bill. We felt because it was a matter of compromise in the committee in order to get a unanimous report that we strip out the state and local aspect. Actually, excuse me, the state is involved in it, but the local is not. We left it up to the local municipalities when dealing with a public building to determine whether or not they were going to make it large enough for access. That is the reason we did it.

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

Representative SCHNEIDER: Mr. Speaker, Men and Women of the House. Just briefly on this bill, I think that if this is a good idea, if we ought to be mandating that elevators be installed large enough to accommodate ambulance stretchers, if it is a good idea for the private sector, if it is a good idea for state government, then it is a good idea for municipal governments. It ought to be done across the board or not at all. Thank you very much.

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. 86

YEA - Andrews, Annis, Ash, Bagley, Berry RL, Blanchette, Bliss, Brannigan, Brooks, Bryant, Bull, Bunker, Canavan, Chick, Chizmar, Clark, Clough, Colwell, Cote, Cowger, Cummings, Daigle, Davis, Desmond, Dorr, Dudley, Duplessie, Duprey, Estes, Etnier, Fisher, Fuller, Gagne, Gerzofsky, Green, Hall, Hatch, Hawes, Hutton, Jacobs, Jones, Kane, Koffman, LaVerdiere, Laverriere-Boucher, Lemoine, Lessard, Lovett, Lundeen, Mailhot, Marley, Marrache, Matthews, McGlocklin, McGowan, McKee, McLaughlin, Michaud, Mitchell, Morrison, Murphy E, Murphy T, Muse C, Muse K, Norton, O'Brien LL, O'Neil, Paradis, Patrick, Perry, Pineau, Povich, Richard, Richardson, Rines, Savage, Simpson, Skoglund, Smith, Stanley, Sullivan, Tarazewich, Tessier, Thomas, Tracy, Tuttle, Twomey, Usher, Volenik, Watson, Mr. Speaker.

NAY - Belanger, Berry DP, Bouffard, Bowles, Bruno, Buck, Bumps, Carr, Chase, Collins, Crabtree, Cressey, Duncan, Dunlap, Foster, Glynn, Gooley, Haskell, Heidrich, Honey, Jodrey, Kasprzak, Labrecque, Landry, Ledwin, MacDougall, Madore, Mayo, McKenney, McNeil, Nass, Nutting, Perkins, Pinkham, Rosen, Schneider, Sherman, Snowe-Mello, Tobin D, Tobin J, Trahan, Treadwell, Waterhouse, Weston, Wheeler EM, Wheeler GJ, Winsor, Young.

ABSENT - Baker, Dugay, Goodwin, McDonough, Mendros, Michael, Norbert, O'Brien JA, Peavey, Quint, Shields, Stedman.

Yes, 91; No, 48; Absent, 12; Excused, 0.

91 having voted in the affirmative and 48 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.

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

An Act to Amend the Licensing Provisions for Private Investigators

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 Fund Sexual Assault and Domestic Violence Intervention and Prevention

(H.P. 403) (L.D. 524)

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.

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

An Act to Eliminate Maine Employers' Mutual Insurance Company Industry and Geographic Divisions and Related Advisory Boards and Other Outdated Provisions

(H.P. 471) (L.D. 599)

(C. "A" H-198)

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

On motion of Representative O'NEIL of Saco, was **SET ASIDE**.

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

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

The same Representative **PRESENTED House Amendment "A" (H-266)** which was **READ** by the Clerk.

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

Representative O'NEIL: Mr. Speaker, Men and Women of the House. This is a technical amendment that corrects an error that we had in drafting that we had voted on and a couple of stylistic changes that make the language more clear. Thank you.

House Amendment "A" (H-266) was **ADOPTED**.

The Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-198) and House Amendment "A" (H-266)** in **NON-CONCURRENCE** and sent for concurrence.

An Act to Eliminate the Requirement that Workers' Compensation Insurers Disclose Certain Cost Breakdowns When Issuing Workers' Compensation Policies

(H.P. 533) (L.D. 688)

(C. "A" H-197)

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

On motion of Representative SCHNEIDER of Durham, 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. 87

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

NAY - Annis, Belanger, Chase, Clough, Cressey, Davis, Duprey, Glynn, Haskell, Heidrich, Landry, MacDougall, Murphy E, Pinkham, Tobin J, Treadwell.

ABSENT - Baker, McDonough, Mendros, Michael, Norbert, O'Brien JA, Peavey, Quint, Shields, Stedman.

Yes, 125; No, 16; Absent, 10; Excused, 0.

125 having voted in the affirmative and 16 voted in the negative, with 10 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

UNFINISHED BUSINESS

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

JOINT ORDER – Relative to Joint Standing on Business and Economic Development reporting out legislation to ensure the statewide television broadcast of state high school basketball championship games

(H.P. 1317)

TABLED – April 25, 2001 (Till Later Today) by of Representative BRYANT of Dixfield.

PENDING – PASSAGE.

Subsequently, the Joint Order was **PASSED** and sent for concurrence. **ORDERED SENT FORTHWITH.**

HOUSE DIVIDED REPORT – Majority (11) **Ought Not to Pass** – Minority (2) **Ought to Pass as Amended by Committee Amendment "A" (H-208)** – Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Promote Abstinence in Sex Education and through Public Education"

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

TABLED – May 1, 2001 (Till Later Today) by Representative RICHARD of Madison.

PENDING – Motion of same Representative to **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. What this bill would do is basically three things. It would allow a curriculum emphasizing abstinence only for sex ed and human sexuality courses to be created along side what currently is in place in the State of Maine. It is a companion to what is already in place. It doesn't usurp what already is in place. That is something that is important to remember during this debate.

It would create the Maine Abstinence Oversight Council whose purpose in the amendment its purpose was changed to increase the number of children in the state who choose to remain abstinent until post-secondary school age or until marriage. That would be the goal of the oversight council. There would be a Maine Abstinence Fund, which could protract federal dollars for the abstinence education effort or funding from private sources or from anywhere else to help support that initiative.

As many of you know, I have been married for many, many years to my wife, Pat. We have raised five children. Those of you who are my age, or thereabouts, you know the challenges of parenting are very many. One of the most important qualities that we try to teach our children is the ability to make informed ethically based and balanced decisions. Learning to perceive the consequences of those decisions and following actions they will provoke, both good and bad.

Refraining from sexual activity is a decision that many might argue is already in place with the current sex ed. Many will point to the fact that Maine's teens, the number of teen pregnancies, have been reduced in the past several years. That is very good. Too many teenage women and teenage men, for that matter, in terms of my argument here, but I am going to focus on teenage women for the moment, have children too soon. Not because they didn't have the knowledge of sexuality. It is not because they didn't know. Very often it is because they didn't have, number one, the strategy to say no when that opportunity to engage in sexual activity occurred and also an authority to support that decision to remain a virgin and will have peers along with them to support that staying a virgin is a good decision and that they could find support in that.

Again, this bill will not replace what is in place. It is a component to what is offered now that would help further, I think, reduce teen pregnancy.

The Committee on Labor, which I serve my fellow members know that I am very concerned about single women, heads of household, and their issues are a great concern to me in terms of the wages they can make in raising their children and the issues of child care and so forth.

There is a young lady where I work that has two children. I believe she just turned 20. She is very bright and articulate young lady. These two children were born by two different men and she is not currently married or in a relationship. She is doing very well in her job, but I can see the balance she tries to have every time one of her children has a sniffle and the daycare becomes an issue and how she has to juggle things so quickly. What she needed, because she is bright and articulate, it isn't that she didn't know about sex, per say, what she needed at the earlier years in her life, the ability to say no and to be able to sustain that decision with the support of adults and her peers alike. So often the current sex ed classes will focus on the techniques and espouse that teen sex, in certain areas, is appropriate as long you take care of yourself and engage safely. For many Maine families, that is not acceptable. It is not good enough. For many Maine families, it is. We are not seeking to

change that. For the many Maine families that want an alternative of abstinence only, this is what this bill would offer.

Several other reasons, as well, to adopt something like this. First, according to the Centers of Disease Control and Prevention, abstinence is the most effective solution to unwanted pregnancy and sexual disease. Many states, including California, Washington, Pennsylvania, Illinois, Indiana and Texas have passed legislation that direct public school sex education programs to be abstinent based. Many of which have produced many positive results. I will just choose one from Washington DC. There is a chapter called Best Friends. Only one out of 400 girls has become pregnant since their program began. The director of that program says that between 20 and 70 pregnancies are common for that size group of 5th to 9th grade girls in the District of Columbia area. It is a program that is very, very effective. Many girls in that program start thinking in terms of saving their virginity until marriage and making certain, at least, that their baby will have a dad who will fulfill his responsibilities.

Interestingly enough, a survey conducted at Emory University, surveyed 1,000 sexually active girls and asked them what they would like most to have learned to reduce teen pregnancy? Eight hundred and forty or 84 percent responded, how to say no without hurting the other person's feelings. An abstinence-based curriculum provides young women and men strategies to articulate these wishes.

The second reason that the distinction between a curriculum that talks about safe sex model and an abstinence only model is it is important to remember the social and financial consequences of engaging in sexual activity too soon because they are particularly egregious, as the young lady where I work is a good example. Adolescent mothers are more likely to drop out of school, remain unemployed, become dependent on state services and the chances of their reaching their potential in life is greatly diminished. Further, the children of these unmarried teenagers are far more likely to fail in school, get into trouble with the law, become drug dependent and indeed have children of their own out of wedlock, thus perpetuating a cycle where the consequences of premature sexual engagement have resulted in premature responsibilities. This then places serious and unnecessary and sometimes even lasting barriers in these young people's lives.

The third reason, in 1994 an important review of sexuality programs in the US was funded by the Center for Disease Control and Prevention. They found that less effective curriculums used the decision making model in which students were implicitly instructed to make their own decisions regarding sex. In contrast, effective curriculums presented a clear stand and emphasized clear behavioral values and norms.

As I mentioned above, not all decisions are equal. Young people benefit greatly when people in authority, parents, teachers, etc, clearly state what is right and what is wrong. Unwanted consequences resulting from sexual activity emerge not only in unwanted pregnancies. They emerge in contracting a sexually transmitted disease and an untold emotional heartache immediately and later in life. There used to be relatively few STDs. When I was young some of the more prominent were venereal disease, gonorrhea and herpes to name a few. Today, along with AIDS, there are dozens of new infections and diseases that can infect our young people. Some of these strains take years to be detected. A young man or woman who engages in premature sexual activity may reek the whirlwind many years later when maybe at that time they are happily married with children and enjoying a great career, perhaps, in the marketplace. The result could be an infected marriage partner and battling a disease that has been benign for years.

A strategy that includes abstinence only as an alternative will reduce the chances that our young people will travel this very painful path to tragedy. Further, there is potential instability that may invade a future marriage where the couple has had previous sexual experiences with other partners. For example, friends may have been intimate with the husband or wife at an earlier time. That may create lingering mistrust with one another. There could be emotional scars that have no apparent basis that result from earlier sexual activity. It could create unnecessary problems and divisions within the family unit. I believe this is one of the major reasons that the divorce rate is so high and families are so broken.

Again, this legislation offers a companion curriculum to what is in place. I would ask for your consideration and your support this morning. Mr. Speaker, when the vote is taken, I 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: The Chair recognizes the Representative from Poland, Representative Snowe-Mello.

Representative SNOWE-MELLO: Mr. Speaker, Ladies and Gentlemen of the House. I rise to speak in favor of LD 1261, "An Act to Promote Abstinence in Sex Education and through Public Education."

I know that there are some who snicker at the thought of this bill coming before this body. However, I assure you, this is not a laughing matter.

Young people today learn what is the norm, what is acceptable, by what they are taught in schools. If the sex education or health education curriculum is taught only as a how to course with instructions on condoms and the like, it sends the message to our young people that this is the norm, this is acceptable behavior.

Mr. Speaker, I believe that there are many parents who desire that their young men and women be taught a better way, a moral way, if you will, that is a perfectly acceptable behavior to abstain from sex until one is married or, at least, mature enough to make a personal decision intelligently and not due to peer pressures or emotional distress.

Too often, the classes deal with techniques and create an atmosphere that teenaged sex is normal, so long as you take care of yourself. That's the wrong message to give young people who suffer enough from immature peer pressures. They should not receive school sanction for this behavior.

Let us look at the facts of what early sexual activity produces. Although we do better than the national average, Maine has little to be pleased with in the statistic on teen births. Nationally, 10 percent of all girls aged 15 to 19 become pregnant. Maine is only a little better at 8.4 percent. These girls tend to drop out of high school to care for their babies. Of those pregnant girls under age 17, better than 80 percent who give birth end up on welfare with a societal price tag of \$21 billion annually, according to the National/International Abstinence Association.

How many young women, especially those in the lower social-economic levels, might have been able to advance their lives if they had not had sex prematurely while they were too immature to understand the consequences?

Mr. Speaker, I offer that LD 1261 will not eradicate the present sex education or health education courses. The teaching of abstinence will simply enhance the offerings available to our young people. We need to pass this measure, however, because without it, many school systems will not tell youngsters about the abstinence option.

Parental permission and participation is a most important component of any educational program, but it is especially vital when a class has the potential to conflict with family value systems. Parents know better than school administrators what is best for their own children.

The bill requires local school districts to create local school districts to create local health education advisory councils to ensure that local community values and health issues are reflected in the unit's human sexuality instruction. The council would recommend the appropriate grade levels for instruction, as well as the methods and course content.

The local councils would include teachers, school administrators, students, health care professionals, business people, law enforcement officials, clergy and other interested members of the public.

The bill also creates the Maine Abstinence Oversight Council to prepare public education programs to reduce the number of children born to unwed mothers.

It would create media programs to educate the public, especially teenagers, about the problems associated with childbirth and raising children in single-parent households. It would also create education programs about the role of abstinence in preventing pregnancy.

LD 1261 is the best measure for this body could take to ensure that Maine youngsters have opportunities to advance themselves and help the economy of their state. Let us give them the knowledge that allows them to avoid sexual intercourse until they are mature and able to understand the role of family values.

Please vote against the pending motion.

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

Representative RICHARD: Mr. Speaker, Men and Women of the House. Those of us who voted Ought Not to Pass agree with the previous two speakers, but this is a very serious matter. Those of us who have been here a few years agree so strongly to that that we saw that it was put into the Maine learning results. Practically everything that is in this bill is in the Maine learning results and is already being taught. Public and approved private schools are required to offer comprehensive school health education including a half credit course as a graduation requirement. Comprehensive school health education is defined in 10 components including family life education. Abstinence education is incorporated into family life education and most schools currently emphasize the importance of abstinence in reducing unwanted pregnancy and sexually transmitted diseases. We feel that the content of what should be taught is already in our learning results and already being taught. Further, this bill asks for a Maine Abstinence Oversight Council. They are not expected to be paid, but they are expected to have compensation for reimbursement for any necessary expenses. There is no means of where that money is going to come from in this bill. Also, there is a Maine Abstinence Fund referred to. The fund is pursuant to rules adopted by the department, but we have no fiscal note of where that funding is coming from. Therefore, the eight members of the committee who voted Ought Not to Pass voted because we feel strongly. Those of us who were here when learning results were passed feel strongly that everything in this bill is already in learning results and is already being taught in our schools. Thank you Mr. Speaker.

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

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

The SPEAKER: The Representative may pose his question.

Representative DUPREY: Mr. Speaker, Men and Women of the House. Could somebody on the committee answer for me, is there anywhere in statute of the State of Maine that requires us to teach sex education in schools?

The SPEAKER: The Representative from Hampden, Representative Duprey has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Madison, Representative Richard.

Representative RICHARD: Mr. Speaker, Men and Women of the House. The learning results are in statute and they do require it.

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

Representative DUPREY: Mr. Speaker, Men and Women of the House. My research has come up with that Maine is one of the few states that is not required, actually, to teach sex education in schools. I know we put some different things in there. I just want to talk real briefly on the subject. I know I am not going to change anybody's mind, but it will make me feel better. We tell our kids to say no every day. Say no to drugs. Say no to alcohol. Say no to cigarettes. We say that a lot. When it comes to sex, we say, it is okay. Just put on a condom. It is okay if you love someone. I was kind of hoping this would be a night topic. I am really toning myself down quite a bit. If I told you I was going to propose a program for teenagers about how to drink and drive safely or how to use cocaine safely or how to smoke pot without burning your fingers, you thought I would be nuts. What if my argument was, well kids are going to drink anyway, so let's teach them how to drive safely when they are drunk. Of course, I am not advocating for these programs, but I hear the same argument about sex education all the time. I hear the kids are going to do it anyway so let's just teach them how to do it safely. I think it should be up to the parents what is to be taught, because they think of what is best. Parents should be given a choice between sex education or abstinence education. If they want the sex education, great, let the public school teach it. If they want abstinence education, they should have that option in public schools.

In my own case, 100 percent abstinence is all that is taught in my kid's schools. I teach them myself. I have a friend who teaches abstinence in local high schools. Some high schools actually allow it and Herman High School being one of them. The good Representative from Carmel, Representative Treadwell, allows it in Herman High School. A friend of mine actually taught a class. I am going to read some real quick letters from students to the actual teacher. These are teenagers. They are sophomores. I won't read the name of the person. "It was great when you gave your presentation. You didn't stand there and tell us sex was bad. You told us the truth. You gave us some great facts. Through all my school years and all the sex talks I have been through, yours was the best. Thanks for the great information." Next one, "You not only told us the bad things about the sex thing, but you were telling us the good about it. I really appreciate someone telling me the good and the bad things about these situations. It was scary when I realized that if you sleep with one person, you could be sleeping in a lot more diseases." Next letter, "I think your presentation was very interesting. I learned a lot I didn't know. If it is possible, I think you should teach the same presentation to eighth and ninth graders as well because I know that for a lot of tenth graders it might be too late for some people, especially the thing about how ineffective condoms really are. Thanks for coming to our school." Final letter, "I liked your presentation. It was a good way to learn about sex and how some of the side effects could devastate you. The pictures were really a little bit too much, but you know what, the pictures get you real worried about, oh my

God, do I really want to get that gross disease. In other words, it makes you think." Thank you Mr. Speaker.

Representative ESTES of Kittery **REQUESTED** that the Clerk **READ** the Committee Report.

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

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. 88

YEA - Ash, Bagley, Belanger, Berry RL, Blanchette, Bliss, Bouffard, Brannigan, Brooks, Bruno, Bryant, Bull, Bumps, Bunker, Canavan, Chizmar, Clark, Colwell, Cote, Cowger, Cummings, Daigle, Desmond, Dorr, Dudley, Dugay, Duncan, Dunlap, Duplessie, Estes, Etnier, Fisher, Fuller, Gagne, Gerzofsky, Goodwin, Green, Hall, Hatch, Hawes, Hutton, Jacobs, Jones, Kane, Koffman, Labrecque, LaVerdiere, Laverriere-Boucher, Ledwin, Lemoine, Lundeen, Mailhot, Marley, Marrache, Matthews, Mayo, McGlocklin, McKee, McLaughlin, McNeil, Michaud, Mitchell, Murphy E, Muse C, Muse K, Nass, Norton, Nutting, O'Brien LL, O'Neil, Paradis, Patrick, Perkins, Perry, Pineau, Povich, Richard, Richardson, Rines, Rosen, Savage, Schneider, Sherman, Simpson, Smith, Stanley, Sullivan, Tarazewich, Tessier, Thomas, Tobin D, Tracy, Tuttle, Twomey, Usher, Volenik, Watson, Wheeler EM, Wheeler GJ, Young, Mr. Speaker.

NAY - Andrews, Annis, Berry DP, Bowles, Buck, Carr, Chase, Chick, Clough, Collins, Crabtree, Cressey, Davis, Duprey, Foster, Glynn, Gooley, Haskell, Heidrich, Honey, Jodrey, Kasprzak, Landry, Lessard, Lovett, MacDougall, Madore, McKenney, Mendros, Michael, Morrison, Murphy T, Pinkham, Snowe-Mello, Tobin J, Trahan, Treadwell, Waterhouse, Weston, Winsor.

ABSENT - Baker, McDonough, McGowan, Norbert, O'Brien JA, Peavey, Quint, Shields, Skoglund, Stedman.

Yes, 101; No, 40; Absent, 10; Excused, 0.

101 having voted in the affirmative and 40 voted in the negative, with 10 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence. **ORDERED SENT FORTHWITH.**

HOUSE DIVIDED REPORT – Majority (11) Ought Not to Pass – Minority (2) Ought to Pass as Amended by Committee Amendment "A" (H-209) – Committee on EDUCATION AND CULTURAL AFFAIRS on Bill "An Act to Permit the Ten Commandments to be Posted in Public Schools"

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

TABLED – May 1, 2001 (Till Later Today) by Representative RICHARD of Madison.

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

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

Representative **MACDOUGALL**: Mr. Speaker, Men and Women of the House. What this bill would simply do is allow public schools to permanently display the Ten Commandments if they so chose. What I have also included in it is a referendum for it to go out to the people to decide. It is interesting that today happens to be the National Day of Prayer and I am going to debate the ability of public schools to display the 10 Commandments. It is somewhat ironic. Why did I enter this bill? I am going to tell you a little bit about myself, about my background, when I was raised and so forth and hopefully when I get done, maybe I will have convinced a few.

I was born and raised in Quincy, Massachusetts during the 1950s and 1960s. The city was a bastion of ethnicity and cultural differences. There were Italian neighborhoods, Irish neighborhoods, German neighborhoods, English neighborhoods and mixtures of different ethnic backgrounds. Among religious groups there were those who were Jewish, Roman Catholic, Lutheran, Episcopal, Baptist, Congregational, Greek Orthodox and others. There were poor families, wealthy families and many in between. I had friends among all these various groups. Many of my fondest memories are tied to these days of my youth. A common thread throughout this community was a respect and appreciation of the Ten Commandments. How did this resonate throughout our neighborhoods?

First, there was a respect for authority that began in the home and permeated throughout the civil arena. Teachers, police, storeowners, clergy, indeed any adult, was greeted and treated with respect and courtesy. They were our friends, but they were not our buddies. We understood the difference. We were equal under the law, but we were not equal in station. They were in positions of authority and our proper response was to submit to their authority. There was a comfort and rest in that understanding. As we matured, accepted and fulfilled challenging tasks, we attained higher levels of responsibility and gained the rewards that come with demonstrated ability. This applied to the poor, the wealthy and, indeed, all the various groups mentioned above.

In public schools we began the school day with the teacher reading from the Bible and the class reciting the Lord's Prayer, followed by the Pledge of Allegiance. We began the day with the affirmation that we weren't the most important creatures in the universe. The world didn't serve us, instead, we were to think of ourselves as serving others. And we did this standing erect with no slouching and no talking. It set a tone of order and the expectation to learn things.

There was a tacit agreement to adhere to the principles found in the Ten Commandments. Also, there was acknowledgement that we had the tendency to do the very things that the Ten Commandments prohibited if we didn't remind ourselves. It was fundamentally understood that stealing was wrong, that murder was wrong, that adultery was wrong and that coveting was wrong. There was an expectation that there would be consequences to our actions depending if they were good or bad actions. If we worked hard, there would be rewards. If we were caught stealing, there would be sanctions. The Commandments acted like stop signs in the intersections of life, compelling us to make the right decisions as opportunities presented themselves.

You will recall in the Chief Executive's State of the State Address, he painted Maine as the community. He said that the greatest treasures of Maine are our children. You may remember his claim that if children had a choice of where to be born, they would choose Maine, as I would have. I submit to you that this vision has to be based on something outside ourselves, something that has stood the test of time and can endure the myriad of challenges of life. The Ten Commandments, which provided the moral underpinnings in the city I grew up in, have long since been abandoned and are no longer welcome in public discourse. Indeed the idea of putting this bill in disturbs many people. Since my childhood, anything relating to Christianity or the Judeo-Christian heritage has been removed from the public arena. At Christmastime, schools no longer have Christmas programs. They have holiday programs. What have been the results since these changes?

Widespread teen suicides, unwed mothers, unwed fathers, skyrocketing divorce rates, drug and substance abuse, numerous increases in types of STDs, AIDS, school shootings, school violence, bomb threats, domestic violence, child abuse,

less respect for authority, less liberty, to mention a few. In contrast to the results, we are living in unparalleled prosperity. We are living in a time where technology has transformed the planet. One of the things we are going to debate before we get out of here this session is the technology component or the laptop proposal. Information is more accessible than at any time in history. All the tools and resources to flourish are within our grasp, yet we languish in a culture that is broken in many ways.

One of my famous authors, C.S. Lewis, wrote a book called *Abolition of Man*. He refers to the person who has no foundation based on enduring principles as a trousered apes. What he means by that is an educated person who is disengaged from their roots. Ignoring the moral components so important to our country at its inception has borne the bitter fruit that results when a country has lost its historical moorings. A quote I would like to read from James Madison I think is very telling. "We have staked the whole future of American civilization, not upon the power of government, far from it. We have staked the future of all our political institutions upon the capacity of mankind for self-government, upon the capacity of all of us to govern ourselves according to the Ten Commandments of God." When I submitted this to the committee, I had attached several quotes from the founding fathers. Indeed, their writings are full of connections to biblical scriptures and the commandments. History has clearly demonstrated the capacity for self-government had its foundation in the Ten Commandments as Mr. Madison presented.

Our nation from its beginnings was God centered, not man centered, in its understanding of the universe. Abraham Lincoln's second Inaugural Address, I won't read it here. I suggest you really reread it. Besides being a beautiful piece of writing, it mostly is full of connections to the Bible. There are many, many indications from the Bible. The nation's struggle was not ultimately going to be decided by the Congress, the south or the north, but ultimately it was going to be by providence. There are numerous examples throughout our history of similar linkage to the law of God as being indispensable to our survival as a nation. To this day, Congress, as do all State Legislatures, begin the day with prayer. When the President takes his oath of office, he places his hand on the Bible. When we take our oaths of office, we invoke God's name.

As recently as 1983, the Congress and the President, by proclamation, declared the Bible as the most important and influential book of this nation and declared 1983 as the Year of the Bible. In 1990, the Congress unanimously requested the President to proclaim the International Year of Bible Reading. This proclamation asserts, "It was a biblical view of man, one affirming the dignity and worth of the human person, made up the image of our Creator, that inspired the principles upon which the United States is founded."

Quoting Presidents Lincoln and Wilson, the proclamation asserts that the Bible contains revelations of God's intervention in human history, and that it, the Bible, transcends the boundaries between nations and languages because it contains a universal message. Here the President refers to the human person as the image of God.

In the same year, 1990, the President and the Congress followed a custom that dates back to the Continental Congress, which issued the first official proclamation for a National Day of Prayer on July 12, 1776. President Bush followed Public Law 100-307, setting aside the first Thursday in May as a National Day of Prayer, to dedicate this nation once more to the protection of divine providence.

My bill simply acknowledges our heritage and allows the citizens of Maine to choose to display the Ten Commandments in their schools, if they want to do so. If this were to happen,

would this by itself reverse the litany of ailments that malign our country and state? Probably not. Might it offer an opportunity for Maine citizens to regain an understanding of their historical roots? Yes. To understand the vicissitudes that formed our nation, you cannot disengage the primacy of its spiritual roots. Our society's removal of any meaningful discourse, which involves the religious components of our forbears, is to deny it that really happened. It is as if I tried to describe my upbringing in Quincy without appeal to what was obviously a vital, accepted and integral part of the framework of the culture. That framework was based on the Ten Commandments. That is the essence of the framework in which our forefathers forged this nation and any understanding of who we are as a people must have that as a component. I would urge your support of my bill to allow the people to decide. Thank you very much.

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

Representative SNOWE-MELLO: Mr. Speaker, Right Honorable Men and Women of the House. I stand here before you as a cosponsor of this bill. Why would I believe that this is warranted in our schools and how do my constituents feel about doing this in our local school? I have to tell you that not one person that I randomly inquired of thought that posting the Ten Commandments was a bad idea. In fact, most thought it was a good idea. What I learned and what most of them felt was that it was a historical document that has been around a very long time. Many of the people I talked with were taught about the Ten Commandments through their Sunday School classes, some it was a doctrine that they took for granted and thought that everyone followed it, because it was chock full of commonsense laws. Others said that when they grew up it was a doctrine that most everyone in their community followed, it was ingrained in their whole philosophy of life.

To post in the hallways of our schools points such as, one, do not steal. This is quite a problem with teenagers shoplifting in our stores and stealing from their fellow students or family members.

Two, do not kill. Would this not cut down on our prison population if children were taught the sanctity of life? Children need to know that they must have respect for life, for that very life is a gift that we must all treasure and not take lightly. Perhaps when the children see this every day when walking past the Ten Commandments being posted on their school hallway wall that a bit of it will sink into that child's subconscious and they will eventually know that they should never take another's life.

Three, honor thy mother and father is very important. For this is a fundamental way to teach respect. We promote parents to be their kid's friends, but do we teach them to honor mom and dad at the same time. By honoring mom and dad a child will learn to respect themselves, their grandparents, other family members, they will also be able to honor their friends, teachers and other community members. I believe that we have fallen short of this valuable lesson in teaching our children that their parents gave birth to them and that above all, they need to love and honor them.

Four, do not commit adultery. That perhaps the children will learn to be faithful in their relationships and take them seriously and dedicate themselves to one person only when they are the age to settle down. By taking this commandment by heart, we would probably have far fewer divorces.

Five, do not bear false witness against your neighbors. Many people forget about this one. Perhaps if we teach our children early to be honest and fair with their neighbors, we would not have the breakdown of civil obedience and would not need the amount of police protection that we have today. Our courts would not be as backlogged as they are now from disputes.

I believe that this is a great start and would get us back on the right path. Did you know that most established religions have great respect for the Ten Commandments? Most religious doctrines from other faiths are very similar to the Ten Commandments. Perhaps we could post several of these other creeds in our school. Why not? I do not believe that any Supreme Court would strike down. Did you know that the Ten Commandments are hung on the wall of the United States Supreme Court? I believe that this is a very compelling reason why we should pass this law. Thank you very much for listening to my testimony.

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

Representative RICHARD: Mr. Speaker, Men and Women of the House. When I first saw this bill, I thought, this is a good idea for all of the reasons that we have just heard. However, when we heard the testimony and the opposition, one very strong piece of opposition made many of us realize that we had to vote Ought Not to Pass. In 1980, the Supreme Court ruled that the posting of the Ten Commandments was a violation of the US Constitution's prohibition against government establishing religion. That goes on to give further detail, which I won't give to you, but it seemed to me that was a strong enough reason if it is against the Supreme Court Ruling of 1980, it doesn't seem very logical for us to be trying to do this. Another piece of evidence that was given to us was that there are three versions of the Ten Commandments in the Old Testament. We were asked which version we were going to use? Also, when you speak about the Old Testament and the New Testaments, you are dividing religions, so, which one do we want to promote? There just seemed to, as good as this sounds, I agree that it sounds very good and it is something that we would like to teach children to follow, but it just seems that there are compelling forces that would make it an incorrect thing for this Legislature to pass that law. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Brooklin, Representative Volenik.

Representative VOLENIK: Mr. Speaker, Men and Women of the House. I am glad the Representative from Poland mentioned other religions. This bill, as I see it, says a public school may prominently display the Ten Commandments of the Bible. I could support that if instead of a period after that, if it said, if posted, side by side, in equal prominence of display with sacred text from at least the following religions, Islam, Hinduism, Buddhism, Taoism, Confucianism, Zoroastrianism, Jainism, Wicca and perhaps Capitalism, the largest world religion we have now. There are wonderful passages from text of all of these and other religions that give good ethical guidance to all who read them and it can lead to reverence for our fellow man, our fellow creatures and our environment. However, I think a better solution is to retain the separation of church and state. Thank you.

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

Representative DAVIS: Mr. Speaker, Men and Women of the House. I am also a cosponsor of this legislation. I would like to give my support to my friends, Representative MacDougall and Representative Snowe-Mello. I agree with what they said. Thank you.

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

Representative KASPRZAK: Mr. Speaker, Men and Women of the House. I would just like to add as a former librarian that when I first became a librarian, I was told that one book that had to be removed from the shelves, actually had been removed, and

was put aside in a separate area, books that had been given by an organization to the school, had to be removed from the shelf. If I had any objection to any other books on the shelves, that was not my decision to make. The one book that must be removed from the library shelves of my school district was the Bible. It was not allowed. We did, however, have other books that supported other religions, such as many of those that the Representative previously speaking had mentioned. There were books on religion of the environment, the religion is Hinduism, the religion of Wicca, the religion of Secular Humanists, the religion of Evolutionists, the religion of Native Americans, the religion of Judaism were even allowed, but you could only speak of the Holocaust and then you couldn't speak about the evil reason for the Holocaust that was perpetrated on innocent people. I would just add, why not Judeo Christian values allowed in school? Thank you.

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: 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. 89

YEA - Andrews, Annis, Ash, Berry RL, Blanchette, Bliss, Bouffard, Brannigan, Brooks, Bruno, Bryant, Bull, Bumps, Canavan, Chizmar, Collins, Colwell, Cote, Cowger, Crabtree, Cummings, Daigle, Desmond, Dorr, Dudley, Dugay, Dunlap, Duplessie, Estes, Etnier, Fisher, Fuller, Gerzofsky, Glynn, Green, Hall, Hatch, Hawes, Hutton, Jacobs, Kane, Koffman, LaVerdiere, Laverriere-Boucher, Ledwin, Lemoine, Lessard, Lovett, Madore, Mailhot, Marley, Matthews, Mayo, McGlocklin, McGowan, McKee, McKenney, McLaughlin, Michaud, Mitchell, Murphy E, Murphy T, Muse C, Nass, Norton, O'Brien LL, O'Neil, Paradis, Perkins, Pineau, Povich, Quint, Richard, Richardson, Rines, Rosen, Savage, Schneider, Sherman, Simpson, Skoglund, Stanley, Sullivan, Tarazewich, Tessier, Thomas, Tobin D, Tracy, Twomey, Usher, Volenik, Watson, Wheeler GJ, Mr. Speaker.

NAY - Bagley, Belanger, Berry DP, Bowles, Buck, Bunker, Carr, Chase, Chick, Clark, Clough, Cressey, Davis, Duncan, Duprey, Foster, Gagne, Gooley, Haskell, Heidrich, Honey, Jodrey, Jones, Kasprzak, Labrecque, Landry, Lundeen, MacDougall, McNeil, Mendros, Michael, Morrison, Nutting, Patrick, Perry, Pinkham, Smith, Snowe-Mello, Tobin J, Trahan, Treadwell, Tuttle, Waterhouse, Weston, Wheeler EM, Winsor, Young.

ABSENT - Baker, Goodwin, Marrache, McDonough, Muse K, Norbert, O'Brien JA, Peavey, Shields, Stedman.

Yes, 94; No, 47; Absent, 10; Excused, 0.

94 having voted in the affirmative and 47 voted in the negative, with 10 being absent, and accordingly the Majority Ought Not to Pass Report was ACCEPTED and sent for concurrence. ORDERED SENT FORTHWITH.

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)

TABLED - May 1, 2001 (Till Later Today) by Representative COLWELL of Gardiner.

PENDING - PASSAGE TO BE ENACTED.

Representative COLWELL of Gardiner **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. 90

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

NAY - Crabtree, Kasprzak, Treadwell.

ABSENT - Baker, Goodwin, Marrache, McDonough, Muse K, Norbert, O'Brien JA, O'Brien LL, Peavey, Shields, Stedman.

Yes, 137; No, 3; Absent, 11; Excused, 0.

137 having voted in the affirmative and 3 voted in the negative, with 11 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

JOINT ORDER - Relative to Recalling from the legislative files Bill, "An Act to Permit Involuntary Medication of Mentally Ill Persons Residing in Department of Corrections Facilities," S.P. 331, L.D. 1099

(S.P. 606)

- In Senate, **READ** and **PASSED**.

TABLED - May 2, 2001 (Till Later Today) by Representative NORBERT of Portland.

PENDING - **PASSAGE**. (2/3 Vote Required)

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

Representative **POVICH**: Mr. Speaker, Men and Women of the House. LD 1099 was inadvertently shown on your calendar as an Ought Not to Pass document. It was not Ought Not to Pass. It was tabled in our committee. We support the bill Ought to Pass and this action wants to correct that error on the calendar. Thank you.

Pursuant to Joint Rule 404, this Joint Order required the affirmative vote of two-thirds of those present for **PASSAGE**. 121 voted in the affirmative and 0 in the negative, 121 being more than two-thirds of those present, the Joint Order was **PASSED** in concurrence.

JOINT ORDER - Relative to Recalling from the Governor's desk Bill, "An Act to Promote Safety and to Help Elderly Drivers by Providing an Optional One-year License," S.P. 208, L.D. 773 (S.P. 608)

- In Senate, **READ** and **PASSED**.

TABLED - May 2, 2001 (Till Later Today) by Representative NORBERT of Portland.

PENDING - **PASSAGE**.

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

Representative **FISHER**: Mr. Speaker, Men and Women of the House. Inadvertently this was sent to the down to the Governor's desk. It has a note on it and it has to come back to the Highway Table. Thank you.

Subsequently, the Joint Order was **PASSED** in concurrence.

SENATE DIVIDED REPORT - Majority (8) **Ought Not to Pass** - Minority **Ought to Pass as Amended by Committee Amendment "A" (S-95)** - Committee on **CRIMINAL JUSTICE** on Bill "An Act to Require a Life Sentence for Murder Unless There Are Mitigating Circumstances"

(S.P. 203) (L.D. 768)

- In Senate, Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

TABLED - May 2, 2001 (Till Later Today) by Representative COLWELL of Gardiner.

PENDING - **ACCEPTANCE OF EITHER REPORT**.

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

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

Representative **SNOWE-MELLO**: Mr. Speaker, Men and Women of the House. Here I am again standing up and talking. I apologize for that, but I am on the Ought to Pass report and I need to speak to the motion.

Criminals who commit crimes, which rise to certain heinous atrocities, and commit them certainly by a premeditated process, are not acting by accident. They have committed a crime that deserves the maximum life sentence. Our people in this state must be protected from these wanton criminals. These criminals are sociopaths who care nothing about their fellow man or the precious gift of human life that they so coldly steal from their victims.

The process, as it stands today, allow plea-bargaining and good time rewards to bring sentences down well below the current 25 year minimum. In view of the disgusting crime of murder, I believe this is an outrage.

This bill changes the system so that a person sentenced for a heinous crime of murder must be sentenced to imprisonment for life. Only if mitigating circumstances exist can the court adjust the sentence downward. If mitigating circumstances exist, the court should specify those circumstances. Now, if a murder is adjusted downward, it cannot be adjusted below 25 years, which is the current minimum term of imprisonment for murder.

You may hear from fellow committee members who do not support this bill that there are very few criminals who serve less than 25 years, but let me put it to you this way. How would you feel as the relative and loved on of a person who was murdered? I am sure that you would feel a lot safer and much less anxious, knowing that the person is locked away for life.

The change of policy would direct judges to always start at a life sentence and work down for mitigating circumstances.

Murder sentences should be stiffened by starting with the presumption of a life sentence in all cases, while preserving a judge's discretion to account for mitigating circumstance.

Victims who have lost their life, and so, my friends, the perpetrator of these ugly murders against society should lose at least the freedom of life on the outside of prison. Thank you.

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

Representative **POVICH**: Mr. Speaker, Ladies and Gentlemen of the House. The bill specifies that a person sentenced for the crime of murder should be sentenced to imprisonment for life. Only if mitigating circumstances exist can the court adjust the sentence downward and if mitigating circumstances exist, the court shall specify those circumstances. If a sentence of murder is adjusted downward, it cannot be adjusted below 25 years, which is the current minimum term of imprisonment for murder. The amended version of the bill strips the bill and increases the minimum to 35 years.

In Maine law there are five classes of crime plus the crime of murder. The classes are murder, A, B, C, D and E. E and D are your misdemeanors with maximum sentences of six months and a year. C is five years. B is ten years and A is 20 years. The code, set up 25 years ago, eliminated parole and established the current sentences.

The judge sets the sentence after the verdict is announced.

The bill is unnecessary and will not accomplish the results to impose any stiffer sentences than are sentenced now. In fact, it may cause lesser sentencing because of the difficulty of proving the crime may cause more plea bargaining and lesser sentences, especially if the evidence is weak.

The majority agreed that current sentencing provisions work and there are no shortages of life sentences imposed when they are warranted. Not all murders are the same. Proving guilt is often difficult. Most recently Vella Gogan received a plea bargain for six years. Here was a woman tormented and tortured for many years who finally murdered her husband. It was a gruesome murder, but did not have the same gravity as the person who killed the baby in Auburn. The man is now serving a life sentence with no parole.

I urge you to support the Majority Ought Not to Pass Report. Thank you.

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

Representative **LESSARD**: Mr. Speaker, Members of the House. This is very emotional for me. Back in 1961 one of our own State Troopers was killed on the sidewalk of Berwick. He was a good friend of mine. I graduated from high school with him, the Maine Criminal Justice Academy in 1958. He was shot while he was laying on the sidewalk during a bank holdup. I hope I don't stir up any memories for his widow who is here right now as a part of this body. At least this bill points out the necessity to look at these things when it is a capital crime. It is mind boggling to me. How an individual can do this and a few days later walk the streets. This individual is walking the streets now. He was apprehended in New Hampshire after the shooting. He is walking the streets now. It was a few years ago that he did this. I am appalled that this system works that way, but that is our system of law and we all abide by it. At least this bill, unfortunately I was unable to testify on it before the committee, but as I say excuse my emotions on this Mr. Speaker and the House, it is very dear to me. Thank you.

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

Representative **ANDREWS**: Mr. Speaker, Men and Women of the House. I am the widow of the individual that my fellow

colleague was talking about. I would like to go back a few years to the day my husband was shot and murdered in South Berwick. The lawyers and the police came to me and they said, "Mary, we are only going to try him for murder. We are not going to try him for the bank robbery, because he is going to get life." He served eight and a half years. My family does not feel that justice was served, particularly my children. This man had killed before. My husband was not the first. I truly feel that if you do the crime, you do the time. Thank you.

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

The SPEAKER: A division 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.

A vote of the House was taken. 36 voted in favor of the same and 70 against, 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-95)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** later in today's session.

HOUSE DIVIDED REPORT – Majority (12) **Ought to Pass as Amended by Committee Amendment "A" (H-252)** – Minority (1) **Ought to Pass as Amended by Committee Amendment "B" (H-253)** – Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Amend the Laws Governing Registers of Deeds"

(H.P. 991) (L.D. 1328)

TABLED – May 2, 2001 (Till Later Today) by Representative BAGLEY of Machias.

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

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

On motion of Representative MADORE of Augusta, the House **RECONSIDERED** its action whereby the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

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. I apologize for not getting up fast enough. This bill came before us in caucus yesterday and I asked a number of questions and went back and read the bill and actually thought that might satisfy my curiosity and it actually resulted in more questions and more concerns. I would like to pose those series of questions through the chair to anyone who would care to answer. In the bill there are a number of different things that they are trying to and I am a little bit confused. One of them talks about the administration that would be there. It is a heading. I am wondering why that is necessary considering that all the information is already included in the body of the deed. The second thing would be what would happen in the case of an out-of-state deed coming in if it doesn't meet these standards? Would it be rejected? Who would make that decision? Also, what would happen in the case if the type size is wrong, again, who would make that decision? Would each registry be deciding these issues above board or would each one make them individually? I guess the final question would be, if this is going

to be a way of streamlining the paperwork, would that result in a reduction in workforce at the registry? Would that be a cost savings to the counties? Thank you.

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

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

The House recessed until 4:00 p.m.

(After Recess)

The House was called to order by the Speaker.

UNFINISHED BUSINESS

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

HOUSE DIVIDED REPORT – Majority (7) **Ought to Pass as Amended by Committee Amendment "A" (H-172)** – Minority (6) **Ought Not to Pass** – Committee on **LABOR** on Bill "An Act to Provide Notice of Termination Status"

(H.P. 187) (L.D. 198)

TABLED – April 26, 2001 (Till Later Today) by Representative BUNKER of Kossuth Township.

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

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

The Bill was **READ ONCE**. **Committee Amendment "A" (H-172)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Friday, May 4, 2001.

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

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **BANKING AND INSURANCE** reporting **Ought to Pass** on Bill "An Act to Permit Foster Parents to Purchase Group Health Insurance"

(H.P. 275) (L.D. 353)

Signed:

Representatives:

- DUDLEY of Portland
- SMITH of Van Buren
- YOUNG of Limestone
- MAYO of Bath
- SULLIVAN of Biddeford
- CANAVAN of Waterville
- MARRACHÉ of Waterville

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

Signed:

Senators:

- LaFOUNTAIN of York
- DOUGLASS of Androscoggin

ABROMSON of Cumberland

Representatives:

- O'NEIL of Saco
- GLYNN of South Portland

Representative MICHAEL of Auburn – of the House – abstaining.

READ.

Representative DUDLEY of Portland moved that the House **ACCEPT** the Majority **Ought to Pass** Report.

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

Majority Report of the Committee on **BANKING AND INSURANCE** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-274)** on Bill "An Act to Amend Maine Credit Laws"

(H.P. 1276) (L.D. 1736)

Signed:

Representatives:

- DUDLEY of Portland
- YOUNG of Limestone
- MAYO of Bath
- O'NEIL of Saco
- SULLIVAN of Biddeford
- CANAVAN of Waterville
- MARRACHÉ of Waterville
- GLYNN of South Portland

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (H-275)** on same Bill.

Signed:

Senators:

- LaFOUNTAIN of York
- DOUGLASS of Androscoggin
- ABROMSON of Cumberland

Representatives:

- MICHAEL of Auburn
- SMITH of Van Buren

READ.

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

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

Majority Report of the Committee on **CRIMINAL JUSTICE** reporting **Ought Not to Pass** on Bill "An Act to Discourage Environmental Terrorism"

(H.P. 623) (L.D. 823)

Signed:

Senator:

- McALEVEY of York

Representatives:

- POVICH of Ellsworth
- O'BRIEN of Lewiston
- QUINT of Portland
- PEAVEY of Woolwich
- GERZOFISKY of Brunswick
- MITCHELL of Vassalboro

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-273)** on same Bill.

Signed:

Senators:

O'GARA of Cumberland
DAVIS of Piscataquis

Representatives:

BLANCHETTE of Bangor
TOBIN of Dexter
SNOWE-MELLO of Poland
WHEELER of Bridgewater

READ.

Representative COLWELL of Gardiner moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

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

Majority Report of the Committee on **CRIMINAL JUSTICE** reporting **Ought Not to Pass** on Bill "An Act Concerning Runaways"

(H.P. 851) (L.D. 1123)

Signed:

Senators:

McALEVEY of York
O'GARA of Cumberland
DAVIS of Piscataquis

Representatives:

POVICH of Ellsworth
O'BRIEN of Lewiston
BLANCHETTE of Bangor
TOBIN of Dexter
QUINT of Portland
PEAVEY of Woolwich
GERZOFISKY of Brunswick
MITCHELL of Vassalboro
WHEELER of Bridgewater

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-271)** on same Bill.

Signed:

Representative:

SNOWE-MELLO of Poland

READ.

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

Majority Report of the Committee on **CRIMINAL JUSTICE** reporting **Ought Not to Pass** on Bill "An Act to Prevent Theft of Motor Fuels"

(H.P. 907) (L.D. 1221)

Signed:

Senator:

McALEVEY of York

Representatives:

POVICH of Ellsworth
BLANCHETTE of Bangor
TOBIN of Dexter
QUINT of Portland
PEAVEY of Woolwich
GERZOFISKY of Brunswick
MITCHELL of Vassalboro
WHEELER of Bridgewater

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-272)** on same Bill.

Signed:

Senators:

O'GARA of Cumberland
DAVIS of Piscataquis

Representative:

SNOWE-MELLO of Poland

READ.

Representative COLWELL of Gardiner moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

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

Majority Report of the Committee on **CRIMINAL JUSTICE** reporting **Ought Not to Pass** on Bill "An Act to Reinstate the Death Penalty for the Murder of Children"

(H.P. 1124) (L.D. 1493)

Signed:

Senator:

McALEVEY of York

Representatives:

POVICH of Ellsworth
O'BRIEN of Lewiston
BLANCHETTE of Bangor
QUINT of Portland
PEAVEY of Woolwich
GERZOFISKY of Brunswick
MITCHELL of Vassalboro
WHEELER of Bridgewater

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-270)** on same Bill.

Signed:

Senators:

O'GARA of Cumberland
DAVIS of Piscataquis

Representatives:

TOBIN of Dexter
SNOWE-MELLO of Poland

READ.

Representative COLWELL of Gardiner moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

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

Majority Report of the Committee on **JUDICIARY** reporting **Ought Not to Pass** on Bill "An Act to Allow a Mortgagee to Select a Land Title Company to Perform the Title Search"

(H.P. 489) (L.D. 629)

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

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-276)** on same Bill.

Signed:
Representatives:
SHERMAN of Hodgdon
MENDROS of Lewiston

READ.

On motion of Representative LaVERDIERE of Wilton, the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence. **ORDERED SENT FORTHWITH.**

Majority Report of the Committee on **JUDICIARY** reporting **Ought Not to Pass** on Resolve, Establishing a Panel for Repeal of Unnecessary or Archaic Laws

(H.P. 566) (L.D. 721)

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
SHERMAN of Hodgdon

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-285)** on same Resolve.

Signed:
Representatives:
WATERHOUSE of Bridgton
MENDROS of Lewiston

READ.

On motion of Representative LaVERDIERE of Wilton, 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.**

Majority Report of the Committee on **JUDICIARY** reporting **Ought Not to Pass** on Bill "An Act to Protect the Rights of Maine Citizens and Industries from Influences Outside of Maine" (EMERGENCY)

(H.P. 622) (L.D. 822)

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** 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.

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. 91

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

NAY - Clark, Cressey, Duprey, Goodwin, Hall, Haskell, Kasprzak, MacDougall, Mendros, Pinkham, Snowe-Mello.

ABSENT - Andrews, Bagley, Baker, Marley, Marrache, McDonough, Michael, Muse C, Muse K, O'Brien LL, Perry, Shields, Stedman, Tuttle, Twomey, Watson, Wheeler GJ.

Yes, 123; No, 11; Absent, 17; Excused, 0.

123 having voted in the affirmative and 11 voted in the negative, with 17 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence. **ORDERED SENT FORTHWITH.**

Majority Report of the Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-279)** on Bill "An Act to Amend the Maine Tort Claims Act"

(H.P. 747) (L.D. 966)

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
SHERMAN of Hodgdon
MENDROS of Lewiston

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

Signed:
Representative:
WATERHOUSE of Bridgton

READ.

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

The Bill was **READ ONCE**. **Committee Amendment "A" (H-279)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Friday, May 4, 2001.

Majority Report of the Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-284)** on Bill "An Act to Authorize the Maine Indian Tribal-State Commission to Introduce Legislation and to Organize Assemblies of State and Tribal Leaders" (H.P. 879) (L.D. 1171)

Signed:
Senator:
RAND of Cumberland
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 Not to Pass** on same Bill.

Signed:
Senators:
McALEVEY of York
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 to Pass as Amended** Report.

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

Ten Members of the Committee on **JUDICIARY** report in Report "A" **Ought to Pass** on Bill "An Act to Encourage and Support a Mother's Decision to Breast-feed in this State" (H.P. 1039) (L.D. 1396)

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

Two Members of the same Committee report in Report "B" **Ought Not to Pass** on same Bill.

Signed:
Representatives:
MADORE of Augusta
WATERHOUSE of Bridgton

One Member of the same Committee reports in Report "C" **Ought to Pass as Amended by Committee Amendment "A" (H-278)** on same Bill.

Signed:
Representative:
MENDROS of Lewiston

READ.

Representative LaVERDIERE of Wilton moved that the House **ACCEPT** Report "A" **Ought to Pass**.

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

Majority Report of the Committee on **JUDICIARY** reporting **Ought Not to Pass** on Bill "An Act to Bring the Takings Law into Compliance with the Constitution of Maine and the United States Constitution" (H.P. 1147) (L.D. 1550)

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
SHERMAN of Hodgdon

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-277)** on same Bill.

Signed:
Representatives:
WATERHOUSE of Bridgton
MENDROS of Lewiston

READ.

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

Representative GLYNN of South 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. 92

YEA - Ash, Belanger, Berry DP, Berry RL, Blanchette, Bliss, Bouffard, Bowles, Brannigan, Brooks, Bruno, Bryant, Bull, Bumps, Bunker, Canavan, Chase, Chick, Chizmar, Clark, Colwell, Cote, Cowger, Crabtree, Cummings, Daigle, Desmond, Dorr, Dudley, Duncan, Dunlap, Duplessie, Estes, Etnier, Fisher, Fuller, Gagne, Gerzofsky, Goodwin, Green, Hall, Hatch, Hawes, Honey, Hutton, Jacobs, Jodrey, Jones, Kane, Koffman, Labrecque, Landry, LaVerdiere, Laverriere-Boucher, Ledwin, Lemoine, Lessard, Lundeen, Madore, Mailhot, Matthews, Mayo, McGlocklin, McKee, McLaughlin, McNeil, Michaud, Mitchell, Morrison, Murphy E, Murphy T, Nass, Norbert, Norton, Nutting, O'Brien JA, O'Neil, Paradis, Patrick, Peavey, Pineau, Povich, Quint, Richard, Richardson, Rines, Rosen, Savage, Schneider, Sherman, Simpson, Skoglund, Smith, Stanley, Sullivan, Tarazewich, Tessier, Thomas, Tobin D, Usher, Volenik, Weston, Wheeler EM, Young, Mr. Speaker.

NAY - Annis, Buck, Carr, Clough, Collins, Cressey, Davis, Dugay, Duprey, Foster, Glynn, Gooley, Haskell, Heidrich, Kasprzak, Lovett, MacDougall, McGowan, McKenney, Mendros, Perkins, Pinkham, Snowe-Mello, Tobin J, Tracy, Trahan, Treadwell, Waterhouse, Winsor.

ABSENT - Andrews, Bagley, Baker, Marley, Marrache, McDonough, Michael, Muse C, Muse K, O'Brien LL, Perry, Shields, Stedman, Tuttle, Twomey, Watson, Wheeler GJ.

Yes, 105; No, 29; Absent, 17; Excused, 0.

105 having voted in the affirmative and 29 voted in the negative, with 17 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**.

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

HOUSE DIVIDED REPORT - Report "A" (10) **Ought to Pass** - Report "B" (2) **Ought Not to Pass**- Report "C" (1) **Ought to Pass as Amended by Committee Amendment "A" (H-278)** - Committee on **JUDICIARY** on Bill "An Act to Encourage and Support a Mother's Decision to Breast-feed in this State"

(H.P. 1039) (L.D. 1396)

Which was **TABLED** by Representative LaVERDIERE of Wilton pending his motion to **ACCEPT** Report "A" **Ought to Pass**.

Subsequently, Report "A" **Ought to Pass** was **ACCEPTED**.

The Bill was **READ ONCE** and was assigned for **SECOND READING** Friday, May 4, 2001.

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

HOUSE DIVIDED REPORT - Majority (7) **Ought Not to Pass** - Minority (6) **Ought to Pass as Amended by Committee Amendment "A" (H-273)** - Committee on **CRIMINAL JUSTICE** on Bill "An Act to Discourage Environmental Terrorism"

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

Representative MITCHELL of Vassalboro **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 Vassalboro, Representative Mitchell.

Representative **MITCHELL**: Mr. Speaker, Men and Women of the House. What this bill is essentially trying to do is create a new crime, the crime of environmental terrorism. Unfortunately what it is aimed at solving is already addressed in the criminal code.

The proponents of the bill brought forward a few examples of bad acts that they wanted punished. One of them was a sportsmen's club that was burnt down by an animal rights group. That is arson. It is in the code. It is already a Class A crime. The other things that were brought to our attention was an environmental group that raised a genetically engineered crop in Orono. That would be aggravated criminal mischief, which is a Class C crime. It is a felony already.

As you can see, the actual crimes that is aimed at are addressed, but there is a more pernicious part of the bill that is aimed at protests. I distributed information from the Criminal Law Advisory Committee, which advises the Criminal Justice Committee on issues of changes to the code. They stated that legislation could not more clearly raise a First Amendment constitutional issue than by punishing conduct undertaking for the primary purpose of protesting. The real crime that the proponents of this bill are interested in dissuading are addressed in the code already. They are already felonies. What this unfortunately would do is it would subject much smaller wrongs to felony charges. For example, I believe, a sit in could suddenly become a felony if it was done for environmental purposes. I urge the body to support the Ought Not to Pass report. Thank you.

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

Representative **CLARK**: Mr. Speaker, Ladies and Gentlemen of the House. I hope this evening you will join me and vote against the pending motion. Now a days you see a lot of people protesting against something that they don't believe in. If they don't believe in cutting the forest, they spike the trees. That has an after affect. Once that tree is cut, it is brought to a sawmill and sawed into lumber. If one of spikes hit a saw going through the sawmill, somebody could get seriously injured. What we are trying to do here is we are trying to make it from a misdemeanor to a Class E crime. Somebody should be punished for the act. Earlier today we had a bill similar. If you do the act, you should also pay the time. Day in and day out we see more of these. Just because I feel differently than what my colleagues feel like, it shouldn't be putting somebody else's life in danger. Somebody tried to stop a train going to the Lincoln Pulp and Paper Mill with chlorinated products on board, just because they are against chlorination. What we have got to do is to make sure that this bill becomes law so that we do have something that is out there to make sure that people are paid for the price that they pay.

You will hear a lot of people against the bill saying that we already have this. If we already have it, then why don't they prosecute for the crime that they commit? All they do is get a slap on the wrist and that is it. At the last demonstration at the

Lincoln Pulp and Paper Mill up in Lincoln, somebody was hurt. All they did was get a little slap on the wrist and that was it. Would it be alright for myself to go into anyone else's home or business and spray paint all over the house for something that I don't believe in. That is wrong, ladies and gentlemen. What we have to do is to make sure that if you do the crime, you should pay the price. Just because we have different philosophies we shouldn't put somebody else's life in danger. I ask you to not support the Ought Not to Pass and let's go ahead and support the Minority Report. Thank you.

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

Representative **POVICH**: Mr. Speaker, Men and Women of the House. I agree with Representative Clark from Millinocket that tree spiking is an awful act, but it is currently a crime under current Maine law. Does current Maine law work? We don't really know because most of these crimes are committed in the dead of night and they haven't caught anybody yet. When they do, when we get them, we will prosecute them and we will jail them under current law. Just catch them and see if current law does the job. If current law doesn't do the job, then we will change the law. I urge you to support the pending motion.

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

Representative **CARR**: Mr. Speaker, Men and Women of the House. Having lived in Lincoln for 35 or so years, I am quite familiar now with what I would consider environmental terrorism. Lincoln Pulp and Paper has been visited by some of these folks. A group calling itself Earth First has visited, caused damage, blocked the road to the mill, intimidated the workers, painted graffiti all over, entered the fence and trespassed. If you look at their website, which I provided a great deal of material on some of these groups to the Criminal Justice Committee, you will find that Lincoln Pulp and Paper is a target. A picture of the paper mill is on their website and some of the things that they would like to do. Why they do this, I am not really sure.

Lincoln Pulp and Paper has done several things to make itself environmentally friendly. You may or may not know that they are one of the very few mills in the world that uses sawdust as a recycled product to make paper. They have also recently obtained a process of oxygenation that will do away with dioxins completely. That is one of the only ones in the world. My belief is that the reason that they are targeted is that they are a small privately owned independent mill, which is less able to protect itself against the threats and intimidation by legal recourse.

I know that it has been said that crimes, if they are committed, they can deal with it. I want to mention a couple of other things, other crimes, that they could be charged with. If you look at our hate crimes, if somebody commits an assault against an individual and they claim it is a hate crime, an assault is still an assault. I think we are all familiar with that situation. Nonetheless, we have a hate crimes bill. You can be charged under that. We have organized crime bill. If you do certain things, you can be convicted of those crimes. If you put them all together, you can be convicted of a higher and larger crime. This isn't something that is new and is used everyday. Those of us who live in mill towns and those of us who represent districts of the state that have people who work in the forests, who make their living in the rural areas of the state, people who run chipper mills, people who generate the logs that go to the sawmills, they are asking for a little protection. The Representative from Millinocket, Representative Clark, put this bill in on their behalf to try to protect them and to protect the businesses, the few that we have left in the rural areas of the state. I would ask that you defeat the present motion and pass this bill so that it will help those people. Thank you very much Mr. Speaker.

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

Representative **SAVAGE**: Mr. Speaker, Men and Women of the House. The previous speaker did mention the hate crimes statute and I just want to point out that what we have in the state is a civil hate crimes statute. It is not called a hate crimes statute. It is called a civil rights violation. That civil statute allows the Attorney General to get an injunction against someone based on their conduct. We do not have a criminal hate crimes statute. The closest thing we have to a criminal violation would be called interference with constitutional and civil rights. I just wanted to bring that to your attention. I think it is really important that we be very careful when we start duplicating criminal law, when you have a criminal law that applies to certain conduct and then we have another law that applies to the same conduct. What we ultimately will wind up with are prosecutors who have five or six different things that they can charge somebody with and they will. It puts a strain on the system. We hear a lot of numbers all the time from the courts about how there were 2,000 or 20,000 or 100,000 cases. Often times it is the same conduct and it is just a bunch of different charges for the same conduct. In order for us to keep things simple, we really need to have one statute that applies to that type of conduct and not a bunch of different statutes that all apply to the same kind of conduct to avoid the problem of duplication, duplicity and other problems that we see when we have more than one criminal statute that applies to the same exact conduct. Thank you.

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

Representative **TOBIN**: Mr. Speaker, Ladies and Gentlemen of the House. This is a rural Maine issue. We saw pictures of skidders that were burnt to a crisp. We saw pictures of trucks that had spray-painted graffiti all over them. I am a Christmas tree farmer. You can buy a seedling for anywhere between 47 and 67 cents. It takes three to five years for that tree to get to be 30 inches tall to establish its root system. From that point, it takes off. We had a citizen from the Town of Milo that had a tree plantation. It wasn't Christmas trees, it was highbred poplars and no doubt they were young. In the young stage, they are probably not of that great a value. It takes me 12 years to grow a tree. I don't know how long it would have taken for those poplars to be of considerable value. The potential of a tree seedling or of a tree is much greater than appears to the average eye. This is a serious issue in rural Maine. I ask you to vote against the pending motion and to pass the Minority 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 agree with everything that has been said on this legislation. It is not only a rural Maine issue, it is sort of no so rural Maine issue too. The corn crop that was mentioned that was vandalized at the University of Maine was in my district, a couple of years ago. That was a waste of a tremendous amount of monetary resources as well as research. It is a real shame. The other incidences that have been described here, like those described by my friend from Lincoln, Representative Carr and others, those are already crimes. The real problem isn't what we call criminal or not criminal, the real problem is whether or not we can enforce those laws. Those who engage in these types of activities have time on their side. They figure out how to get it, various organizations they disagree with and deal with them in violent means. I don't think that you can really effectively get at them by saying that they are a group to be singled out for particularly onerous prosecution by saying that spray painting a skidder if you are out with your friends on a Saturday night is a misdemeanor property damage crime, if you will. If you are

doing it and you write animal liberation on the front on it, that now becomes a felony. I am not really sure if that is really sending any particular message that is going to have an effect.

As far as tree spiking is concerned, I have thought a lot about that. I thought of a fellow that used to live in my hometown, long dead now, and he was permanently disabled by a sawmill accident where a saw blade hit an ax head in a tree. The story behind that was he was working on a friend of his woodlot. A generation or so before somebody decided to take a lunch break and sort of whacked their ax into the base of the tree and went off to have their soup and came back and couldn't find their ax. They just left it there. Over time the tree grew over the ax head, the handle rotted off and eventually Walter King got half his leg taken off by flying saw teeth. I don't know if it is at all possible that somebody could have been accused of, in maybe a disagreement over that incident, of environmental terrorism under this particular statute. I am just doing a what if here. Obviously not, we say obviously not, but if we take this matter and put it before a court, is it going to be ambiguous? I think it would be ambiguous. I am not sure we really would accomplish anything material in passing this. I think on the face of it, it is a good premise. I just don't know if it would accomplish anything.

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

Representative **TRAHAN**: Mr. Speaker, Men and Women of the House. Many of you already know that I am in the resource-based industry of logging. I really didn't plan on standing here today, but after hearing the testimony, I feel I must. I would like to tell you what it feels like to be the owner of equipment and be working in the woods and be vulnerable to the public. When I leave my woodlot at the end of the day, I leave my lifeblood behind. I leave my machinery. None of it is insured. There is just not enough profit in my industry to insure it the way it should be. When I go home each and every night I worry when I return the next day if my livelihood will still be there.

I believe having heard the previous speaker that we don't know if this legislation will have an impact or not. You can say that about any piece of legislation that is put before this body. We don't know until after it is passed whether it will have an affect. I want you to know here today that if you pass this piece of legislation, the message you would be sending to me as an individual and as a business owner in a natural-resource based industry under attack by many groups across our nation and world, you are sending a message to me that you believe that my industry is important and my protection from these people is important. For those people that are out there now, I know if we pass this legislation, it would be important to them because you would be recognizing that this type of violence against them is not acceptable by the Maine Legislature. Thank you.

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

Representative **SHERMAN**: Mr. Speaker, Ladies and Gentlemen of the House. I just have a couple of comments. I think most things have been said that really need covering. I would like to reference Representative Dunlap and Representative Savage from Buxton. I think this is a newly constructed bill. I think it is finely crafted. If you actually read it, it tells you the steps that you actually have to go through in order to prove environmental terrorism. There are several triggers here. It says, "A person is guilty of environmental terrorism if that person commits a crime of violence, dangerous to human life, destruction to property or business practices and has to be for the primary purpose of protesting the practices of a person or business with respect to the environment or natural resources issues." We are in the year 2001, how many thousands of environmental groups do we have from soft environmental

groups to hard environmental groups." After you have found those things and there has been destruction, then it has to cause injury, in fact, to the person or damage to the property of the business. There has to be findings by the court. Section B says, "To purposely cause a significant interruption in business or loss of product that results in the loss of revenue or compensational damages." I think it has been crafted to get at those people who are spiking trees or people have been hurt or interrupt the business and cause great financial harm. I don't think it is necessarily covered under the laws as they are written. I would remind you that we pass thousands of bills here where we say something in the 119th wasn't good enough or something in the 117th wasn't good enough. This is trying to craft something to help the citizens of rural Maine to have some sort of a decent life out there. Thank you.

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

Representative **GOOLEY**: Mr. Speaker, Men and Women of the House. What can I say? I wasn't going to get up and speak on this issue, but having said that, I was a supervising forester who witnessed tree spiking on Mt. Blue State Park. Those were big spikes and they were driven in those trees and those trees are still there. I believe the spikes are still in those trees. I have also been to the hybrid tree farm, poplar farm, up in Milo where the trees were butchered by environmentalists. These are acts of environmental terrorism. I guess I agree with what Representative Trahan said about, we need to send a message. I would urge you to vote against the pending motion and go on to pass this LD. Thank you.

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

Representative **MITCHELL**: Mr. Speaker, Ladies and Gentlemen of the House. I would just like to reiterate some of what I said. The significant crimes that are being discussed here are already covered in the books. If you are asking for a message, there is hardly a stronger message than the criminal code. There are still murders in the State of Maine even though we pretty much said how we feel about murder. Whenever you are passing a crime, you really have to think about the what ifs and since the issue that we are all opposed to and we are all focused on are covered, think about the what ifs. If you do read the bill, people who perhaps have a sit in and block entrance to the plant for a day, that becomes a felony. However much you might disagree with their philosophy, as the good Representative from Millinocket said, there are different philosophies. I don't think that anybody really believes that that rises to the level of a felony, but it becomes a felony. There are different philosophies and nobody endorses tree spiking and no one is endorsing any of these crimes and no one is impugning the Lincoln Pulp and Paper Mill, but you just have to consider all the possibilities when you are passing a felony crime. Think about who it might affect and you want a narrowly tailored bill that doesn't put the wrong people in jail. Since we have already addressed the real crimes, then I don't think we need to stretch further and risk putting people in jail for a lot longer than their actions deserve. Thank you.

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

Representative **CARR**: Mr. Speaker, Men and Women of the House. I think that if every time we had a bill before us, we said what if, we would have a lot less legislation. We would have a lot fewer laws and that is probably very good advice. I think that it should be carried on for every bill, not just some particular ones. Thank you.

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

Representative **POVICH**: Mr. Speaker, Men and Women of the House. During the public hearing we had a couple of special interest groups that came and visited us and wanted us to pass this bill. These were the people that were affected by this. I respect their opinion and I usually vote their way because I am from rural Maine, down east Maine is rural Maine. In my area there are woods and trees and forests and the lumber business is an important business in my area. I asked them what the problem was here? Why do you really want this bill? We had a good discussion and I said that the message that you are supporting here is something that I think is a mixed message. I am talking about the Sportsmen Alliance of Maine. I usually vote their way, not because I am a member or for any other reason that I agree with those issues. With the pulp and paper industry, I can't remember a time when I voted against an issue because the pulp and paper industry in Bucksport is very important to me. I spoke to most of them and said that this is a real problem bill. This really affects the criminal code and I don't diminish the gravity of this. This may not be a sexy item, the criminal code or the Constitution, I think, in my mind, it is a very sexy item and needs to be defended. It makes the Constitution of Maine very, very nervous. To me, that is very, very important. Politically, I suppose, you vote for this bill and there is political mileage here.

The **SPEAKER**: The Chair recognizes the Representative from Arundel, Representative Daigle. For what reason does the Representative rise.

Representative **DAIGLE**: Mr. Speaker, point of order. I ask that the speaker not refer to the motives of members whether we vote for this legislation or not.

The **SPEAKER**: The Chair will remind members that it is never appropriate to speak to the motives or the actions of another member in this body. The Representative may proceed.

Representative **POVICH**: Mr. Speaker, Men and Women of the House. I do appreciate that reminder from the good Representative from Arundel. That was out of line. This is a good example of getting caught up in the emotion of the bill. I apologize. The fact is, in my opinion, it is very important that this bill not pass because of the constitutional aspect of it, because of the message we send and the current criminal law will do the job. There was a case of a gentleman in Otis, my district, \$600,000 worth of arson to his equipment. He wasn't sure who did it. He testified at the hearing. Arson is a Class A crime. A person convicted of arson faces a 20-year sentence. Arson is arson and terrorism is terrorism. The people that were demonstrating at Lincoln Pulp and Paper were prosecuted. Again, whether you agree with the Judiciary or not, they received punishment that was commensurate with the crime, which was probably a Class E crime, which was stated was a slap on the wrist. If the person never committed a previous crime or if convicted of that, that is an appropriate sentence for that. The second time or third time there are factors and they will earn their felony if they keep doing this. Ladies and gentlemen, I urge you to support the pending motion and defeat the bill. Thank you.

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

Representative **TRACY**: Mr. Speaker, Ladies and Gentlemen of the House. I have heard the Constitution invoked in this debate quite handily. I would dare say that it is not for me to determine if this bill is constitutional or not. The only way this bill can be determined constitutional or not is to send it out and let the courts determine it. Thank you.

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

Representative **CLARK**: Mr. Speaker, Ladies and Gentlemen of the House. That is a good point that the Representative from Rome brings. Before in this body, a long time ago, he talked the term limits. They didn't know if it was constitutional or not. They voted for it. They sent it out to the people and now it is into law. In the current law where people stop business operations or destroy their business will only be facing a Class D or E crime. This bill raises that threshold to a Class C crime. This would serve as a deterrent and send a strong message to those groups that are encouraging violence and damage to further their agenda, whether it is against sportsmen who trap or farmers who use a herbicides or loggers who harvest trees, all legal and appropriate practices under Maine law. They should not work in fear that their life and property are at risk by others who have a philosophical disagreement to choose violence to express it. Thank you.

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

Representative **STANLEY**: Mr. Speaker, Ladies and Gentlemen of the House. I rise today for an issue that affects a lot of people, all the citizens of the State of Maine. The reason I say that is because I feel under this bill here, if you do a certain crime, then you ought to be charged for the crime for what it is and not be charged with a crime like arson or anything else under a disguise. If you are doing harm to a business, industry or people, then the public ought to know the crime you have done, instead of having a different crime to cover it. I think the public should have the right to know why a person is charged with a crime and what kind of a crime he is charged with because when that person goes back into that community before he goes to trial or whatever, the people that he lives with or associates with, will know why he is charged and what he is being charged for. If somebody went in and did something to a skidder and went back into the community and they knew they were charged with environmental terrorism, I think that the people would have a little different respect for that person than if they were charged with some other misdemeanor charge or a Class D crime. What this is all about is if you are doing something, people ought to be knowing what you are doing. I will tell you, this is the way the public perceives things and that is the way we, in the state, should be handling things. You say what you did, like murder or whatever. That is what you are charged with and this is the same thing. People want to know what you are being charged with.

The **SPEAKER**: The Chair recognizes the Representative from Bar Harbor, Representative Koffman.

Representative **KOFFMAN**: Mr. Speaker, Ladies and Gentlemen of the House. I think the direction this bill takes us is toward a slippery slope and sets a bad precedent. I personally don't want to go there. There are lots of groups who commit crimes because they hold very strong beliefs and go beyond legal protest to committing crime. They should be punished for their crimes. If we begin setting up categories of law related to different people's beliefs and what they might do because they feel passionate about something, we are going to be in trouble in our society. I could imagine after we pass this bill, we could have a genetic engineering terrorism bill. We could have a pro-life terrorism bill. We could have a peace movement terrorism bill, an animal rights terrorism, a civil rights terrorism bill and we can all think of every kind of protest that might go on in which a crime is committed and put a preface on it and call it this version of terrorism and then we can start ranking which ones get more jail time. Does pro-life terrorism get more jail time than environmental terrorism? It is just a slippery slope and I don't think it is good policy. I just couldn't support it. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Livermore, Representative Berry.

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

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

Representative **BERRY**: Mr. Speaker, Men and Women of the House. I would pose the question, if there was an event in a community such as a huge chemical leak, chlorine leak, and that sparked a protest by a number of citizens groups, and say they picketed and protested and it interfered with delivery of wood chips or whatever. With this action is it likely that any of these citizens could be charged with environmental terrorism?

The **SPEAKER**: The Representative from Livermore, Representative Berry has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Arundel, Representative Daigle.

Representative **DAIGLE**: Mr. Speaker, Ladies and Gentlemen of the House. In response to the question from my good friend, Representative Berry, I would refer to the language in the bill. The answer would be yes, if this was a crime, as the bill states, violence, not a simple peaceful protest, not a statement of the public's will or public being upset about something. It would have to be an actual crime of violence that is considered dangerous to human health. That is actually out of the text of the statute.

I will proceed further. What we are doing with this bill is we are setting policy, once again, which is our charge. We set policy in the federal government for a series of issues. We call hate crimes, crimes, on the federal level. We call violence against abortion clinics, special categories requiring certain punishments that are greater than the typical, which would be for the act alone. What we are doing here is making a statement of policy for the State of Maine that if your motive is to intimidate, interfere and you actually cause harm to people, violence is involved, that is a little different level than a simple act of juvenile mischief. For that reason, I urge all of us to vote against the pending motion so that we can pass this bill. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Woolwich, Representative Peavey.

Representative **PEAVEY**: Mr. Speaker, Men and Women of the House. I wish to answer Representative Berry's question and then may I continue speaking? To answer Representative Berry's question, my feeling is if you look at the bill, Section 1, Part B, it says, "to purposefully cause significant interruption in business." Therefore, I think that the group of protestors who are protesting because there was a huge chlorine leak at that plant would be considered felons under this bill.

I am urging you to vote with the Ought Not to Pass report. It has been said a number of times, but I just want to reiterate. All the crimes that we are talking about that we are upset about are covered in our criminal code. Criminal mischief, aggravated criminal mischief, assault, arson, violence, they are all covered. I think another Representative just mentioned that if you start with one kind of terrorism covered in a specific statute, the next Legislature will be dealing with all the different other kinds of terrorism there are. Truly we have a Ferdico, which covers all criminal statutes. It is covered in there. Thank you.

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

Representative **LAVERDIERE**: Mr. Speaker, Men and Women of the House. I rise in support of the pending motion to accept the Majority Ought Not to Pass Report. I do so in order to help clarify a couple of points that I think some people may have missed in this discussion. The Maine Criminal Code is a very carefully crafted document. Legal experts spent years crafting

that document and bringing it forward to this Legislature. It has served the people of the State of Maine very well for a long time. This bill, if passed, would, in my opinion, begin the process of dismantling the code creating new rights and new crimes that are already repeated in the existing code. I have great sympathy for the Representative from Waldoboro, Representative Trahan's situation with regard to his employment. I also have great sympathy for the paper companies and others who are trying to go about their business and are worried that people are going to destroy their property. That already is a crime. That is already something that is covered by the code that is something that if you feel should be toughened, then let's toughen it. Let's do that as far as the individual crime is concerned. If you want to make that individual crime have a greater penalty, go to that crime and do so. This law does something very dangerous. That is, if you commit the crime and your intent is to commit the crime, then you have the usual penalty, but if you commit the same crime and someone says you have the intent to protest, then you become a felon. This is the first time that I have seen something that we have put forward since I have been in this Legislature that truly, truly is a serious attack on the First Amendment to the United States Constitution. I am not advocating that people should be allowed to commit the crimes, they shouldn't and we should have stiff penalties for them, but what you have done here in this bill is to link those crimes with someone's right to be able to protest. It is the exercise of their First Amendment right to protest that is causing them to now be a felon. In my opinion, they probably should be a felon the minute they commit the crime. If they are going to destroy Representative Trahan's machinery, they should be severely punished for that. Do it in the crime, don't create this new crime that links commission of some act with a protest and because it is in protest, because they are exercising their First Amendment right, they are now a felon. I think that this is a well intended, but misguided bill. I would strongly urge the members of this body to accept the Majority Ought Not to Pass Report. Thank you.

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

Representative **BLANCHETTE**: Mr. Speaker, Ladies and Gentlemen of the House. After sitting through many hours of discussion in committee at Criminal Justice on this bill and listening to this, I find myself in disagreement with some statements from some very revered legislators here that our criminal code is all that it should be. If our criminal code is all that it should be, then I guess we have wasted probably 100 hours listening to bills that would, in fact, go in and tweak and alter our criminal code as it is written today. We live in a very, very trying time in the United States. It has happened here in Maine. Environmental terrorism is moving in in every aspect of our life. The bills that are written in our criminal code that our Judicial System has to work and enforce are not sufficient to take care of the terrorism that we are going to face as the years go by. I would hate to think that this Legislature, in its wisdom to pass the Ought Not to Pass report, would put our blueberry industry on the coast in jeopardy for terrorism to go in and poison, burn or destroy a billion dollar crop a year. The same terrorism could happen in Aroostook County to the potato crops to the broccoli crops. This is environmental terrorism at its worst. The crime and the penalty needs to be increased. It needs to send a strong message out there. I believe the Judicial System will eventually thank the Legislature in the State of Maine if we have the fortitude to pass Ought to Pass Minority Report and send terrorism a message that we will not tolerate you. Thank you Mr. Speaker.

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

Representative **MENDROS**: Mr. Speaker, Ladies and Gentlemen of the House. In looking at this bill, there are two words that stand out, violence and intimidation. That is what this is about, terrorism. We hear all the time in the news about bullies in schools and what a big problem bullying is becoming. We need to send a message to kids. The bullying isn't right. These are bullies of the worst kind. If we want to send a message to kids that bullying isn't right, we need to send a message to adults that bullying isn't right and isn't going to be tolerated in the State of Maine.

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

Representative **WATERHOUSE**: Mr. Speaker, Ladies and Gentlemen of the House. I did intend on speaking on this. In reference to some of the comments from my good friend, my committee chair, the Representative from Wilton, I don't see this as an attack or a violation of First Amendment rights. I will be the first one to stand up here and defend those. First Amendment rights deal with peaceful demonstrations. We are talking about violence here. For a number of the reasons that were stated earlier on the different enhancements and new crime descriptions to get at people who hide behind the cover of whatever they are doing to do violence. We have done a number of those things down through the years, both at the state and federal levels. A classic example is the civil rights laws. We had people who were perpetrating violence on citizens, violating the laws existing at the time, but the federal government decided that they were going to put in civil rights laws so that they could actually be tried for the same crime, it is almost like a double jeopardy thing, but it was found to be constitutional, so we could at people who were hiding around the cloak of laws that weren't sufficient in the states they were doing those violent acts on.

One of the things that I can attest to having served on the Criminal Justice Committee a long time ago was that the criminal code is somehow viewed by a lot of people as sacrosanct. People who come before that committee don't want it touched and for good reasons. Having said that, there are also good reasons to delve into that and to change some of it. Back in the 117th and some of the committee members that are here that served with me back then on the Criminal Justice Committee can remember that we had an attempted murder bill passed. It was a new classification. A Class A crime that was not on the books before because of some of the things that were happening and on the Class A crime, you can only get a certain number of years whereas now we have a new statute called attempted murder, which is a Class A crime where you can get life. I don't think we should be passing laws willy nilly, but I think the time has come for acts that are under cover of good intentions by some people, but actually go after certain groups of people instigating violence and affecting their ability to make a living. I think the time is now. Thank you.

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

Representative **SMITH**: Mr. Speaker, Men and Women of the House. I want to thank all who spoke before me, because they made me take the book out and read the law that is presented before you. There is no way I can disagree with anybody who spoke strongly in favor of a law that would provide a remedy for any crime of violence or anything that would be dangerous to human life. That is fine, but read the whole bill. The bill provides also for a person to be guilty when the action is destructive to property or business practices. This could be a wide range of activities. It could even encompass woodland

owners who gate their roads to prevent public access to some of the lakes and ponds. A person who would take issue with that and want to break the chain on that gate could find themselves being prosecuted under this. This really is a law that aims more towards people's protesting practices than it does towards giving any additional remedy for crimes of violence. Keep in mind that you probably are not going to see more people being prosecuted for driving spikes in trees, what you are going to see is somebody being prosecuted as a felon, a Class C felon for having destroyed a sign in protest, broken a chain in protest, disrupted the business practices of somebody who did not want the public going on their lands to reach the great ponds that we all have an interest in. I do believe this law goes much too far. I would recommend that the motion Ought Not to Pass be voted in favor of. There is a danger of a law that goes too far.

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

Representative **SHERMAN**: Mr. Speaker, Ladies and Gentlemen of the House. It seems like we are talking before the Supreme Judicial Court. I would remind the good gentleman from Van Buren that there is a comma after the word business practices, which means you must read on. If you read on it says that violent and dangerous thing that happens, and the result is. There is no period after the word business practice so you have this nice little descriptive clause in there, but then in says, and the result is. I would suggest there has to be a result of some sort, either in A or B for this to kick then. I don't believe a sign would come under this law. Thank you.

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

Representative **SMITH**: Mr. Speaker, Men and Women of the House. That is exactly my point. To cause damage to property or business could be as minimal as interfering with vehicles going in and out of a road. It could be as minimal as a destruction of a sign or a chain. That is the danger of this. It is too broad.

The **SPEAKER**: The Chair recognizes the Representative from Livermore, Representative Berry.

Representative **BERRY**: Mr. Speaker, Men and Women of the House. I don't mean to prolong this debate tonight, but I would hope that we could look at this in possibly another way. I appreciated the Representative from Arundel's answer, but I guess I disagree as I read Section 1A. It does say that person is guilty of environmental terrorizing if that person commits a crime of violence dangerous to human life or destructive to property or business practices and that is where I think the point the Representative from Van Buren was making. That is what I was trying to get at, is that business practices results in a loss of revenues or compensable damages is in Section B.

There is more, from my experience, of people's response to maybe a business operation or practice. The Representative from Lewiston mentioned the bully. Sometimes the bully is the business and sometimes the people speak up. Maybe by speaking up and possibly by peaceful protest and possibly just by blocking a gate as the Representative from Vassalboro said earlier, a sit in. There are a number of lawyers out there that would be glad to take a case, a number of paper company lawyers, that would have them in house, that would be able to present a case to say we have lost this much business or you have impacted our reputation. Where does it end? Who is charged with that? This bill doesn't limit this to someone that burns a skidder or damages someone's trees. I feel for those people and I think that I trust the people that have spoken and say there is a way to deal, if you can catch them, we can deal with them.

I would think about limiting, possibly, a community's right to respond and your own citizen's right to express their opinions and feelings. In February 1988, there was chlorine leak in the Town of Jay. If it had been in the summertime, there would have been, I believe, a valley from Jay to Lewiston/Auburn, you would have seen the India type catastrophe. The people were upset about that. They went and they marched on the mill in what I believe is a peaceful protest. I believe it probably interrupted some of their business and possibly they can say that it impacted their reputation. I would not call those people criminals because they spoke up. I would ask you to support the pending motion and think beyond the individual incidence that we may know about that may have caused some damage. Thank you Mr. Speaker.

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

Representative DAIGLE: Mr. Speaker, Ladies and Gentlemen of the House. My English teachers of years past can feel they did a good job with me, I would like to remind the body of the particular words that I think are sometimes misunderstood. This bill refers to a crime of violence. What kinds of crimes of violence? Crimes of violence that are dangerous to human life. Crimes of violence, which are destructive to property or crimes of violence, which are destructive to business practices. Further, it requires them to be of significant impact and to have actually caused an injury and so forth. I think that when members of this body are concerned that a peaceful protest of any kind may be subject to this bill, they must remember how to separate these nouns and verbs. It is a crime of violence and of those kinds and if violence is not present, then I don't believe that this statute could be applied. Thank you.

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

Representative PINEAU: Mr. Speaker, Ladies and Gentlemen of the House. If this bill had been in effect in 1988, the Town Manager, the Board of Selectmen, the entire Police Department and 3,000 citizens in the Town of Jay would have been felons. We even called the Governor to see if we could get him to shut down the plant because the plant was running unsafely. The temperature was 5 degrees that morning, had it been 40 degrees, it was estimated that there would have been 3,000 dead people in the community. We protested. Under this law, had this law been in effect, those citizens that protested would have been committing a felony because our intention was to shut down the plant and protect the citizens in the Town of Jay. 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. 93

YEA - Ash, Berry RL, Bliss, Bouffard, Brannigan, Brooks, Bryant, Bull, Bumps, Bunker, Canavan, Chizmar, Colwell, Cote, Cowger, Cummings, Desmond, Dorr, Dudley, Dunlap, Duplessie, Estes, Etnier, Fisher, Fuller, Gagne, Gerzofsky, Green, Hall, Hawes, Hutton, Jacobs, Kane, Koffman, LaVerdiere, Laverriere-Boucher, Lemoine, Lundeen, Mailhot, Matthews, McKee, McLaughlin, Michaud, Mitchell, Norbert, Norton, O'Neil, Paradis, Patrick, Peavey, Pineau, Povich, Quint, Richard, Richardson, Rines, Savage, Simpson, Skoglund, Smith, Sullivan, Tarazewich, Thomas, Usher, Volenik, Mr. Speaker.

NAY - Annis, Belanger, Berry DP, Blanchette, Bowles, Bruno, Buck, Carr, Chase, Chick, Clark, Clough, Collins, Crabtree, Cressey, Daigle, Davis, Dugay, Duncan, Duprey, Foster, Glynn, Goodwin, Gooley, Haskell, Hatch, Heidrich, Honey, Jodrey,

Jones, Kasprzak, Labrecque, Landry, Ledwin, Lessard, Lovett, MacDougall, Madore, Mayo, McGlocklin, McGowan, McKenney, McNeil, Mendros, Morrison, Murphy E, Murphy T, Nass, Nutting, O'Brien JA, Perkins, Pinkham, Rosen, Schneider, Sherman, Snowe-Mello, Stanley, Tessier, Tobin D, Tobin J, Tracy, Trahan, Treadwell, Waterhouse, Weston, Wheeler EM, Winsor, Young.

ABSENT - Andrews, Bagley, Baker, Marley, Marrache, McDonough, Michael, Muse C, Muse K, O'Brien LL, Perry, Shields, Stedman, Tuttle, Twomey, Watson, Wheeler GJ.

Yes, 66; No, 68; Absent, 17; Excused, 0.

66 having voted in the affirmative and 68 voted in the negative, with 17 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" (H-273)** was **READ** by the Clerk and **ADOPTED.** The Bill was assigned for **SECOND READING** Friday, May 4, 2001.

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

HOUSE DIVIDED REPORT - Majority (9) **Ought Not to Pass** - Minority (3) **Ought to Pass as Amended by Committee Amendment "A" (H-272)** - Committee on **CRIMINAL JUSTICE** on Bill "An Act to Prevent Theft of Motor Fuels"

(H.P. 907) (L.D. 1221)

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

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

Representative POVICH: Mr. Speaker, Men and Women of the House. LD 1221, "An Act to Prevent Theft of Motor Fuel." This bill creates the new Class E crime of theft of motor fuel in Title 29 A. A person commits theft of motor fuel if the person puts motor fuel into the person's vehicle and with the intent of not paying leaves the retail fuel outlet. In addition to the penalties imposed for Class E crime, the bill requires the court to impose as a sentencing alternative a suspension of a person's driver's license for at least 30 days, but not more than 180 days. Again, the Criminal Justice Committee hears from me quite regularly about, is the law necessary? Can current criminal law get to the conduct? We do have the crime of theft. We do have the crime of theft of service and theft by deception, so there are two or three ways to get to the person who fills up their tank and takes off and to connect this with having a driver's license, I fail to see any connection between that. I am a small business owner. I do not sell gas in my store, but I do have people from time to time that come into my store and take things with the intent of not paying for them. I go to my local DA and sometimes my local DA will prosecute and sometimes he won't. Usually my Police Department is very good and they are very serious about prosecuting people who steal things. Maine's criminal code is serious about prosecuting or dealing with people that steal things. LD 1221, in my opinion, the opinion of the majority, believe that it is not necessary and I urge you to support the pending motion of Ought Not to Pass.

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

Representative WINSOR: Mr. Speaker, Men and Women of the House. I am the sponsor of this bill. I was pleased to sponsor it in the name of the 1,200 retail outlets that sell gasoline in this state.

The bill is a very simple one and I think it offers a very simple solution for a serious and growing problem and that is the problem of motor fuel theft. That is people who fill up their gas tanks in their car and then leave without ever having the intent of paying for it.

The bill that has been amended by the Minority Report to simply give an additional penalty, an option of the court, to suspend a driver's license for 30 to 180 days upon conviction. In my view, it simply gives the court another tool to deter people's conduct. Ladies and gentlemen of the House, the theft of gasoline is a very serious and growing national problem. It is a problem in Maine. It is a problem that each of us pay for each time that we fill up our tanks. A solution to add this penalty, is it an effective one? I think so. One retailer in Maine told me that gas theft in his store has doubled from 1998 to 1999 and then doubled again from 1999 to 2000.

The Maine Oil Dealers Association believe that this problem will cost consumers in Maine an additional \$700,000 to \$900,000 this year. Is an additional sentencing option or punishment option appropriate? I think so. After all, why should anyone be allowed to drive with gas that they have deliberately stolen and put into their vehicle? Does it work? I think there is a good case to be made. The fear of losing one's driver's license is a powerful deterrent. Eleven other states have already agreed and enacted bills, many of which would automatically suspend a license of someone who steals gas. Currently, including Maine, there are 16 states considering this legislation. Does it work?

I would like to read to you the comments of Mr. Ted Fogerty from Reny Petroleum Company in Richmond, Maine. Following some time after the Commonwealth of Virginia passed a law to suspend driver's licenses, he said, "In March 1999, we were selling gas with taxes and markup at 79 cents a gallon and making something. You could have a drive off and hardly feel it because the prices were low. When prices go up, the theft of gasoline increases and it just becomes a big rippling affect." His comments after the law was passed, "Drive offs have almost immediately dropped off. Hence, a substantial drop off. Now it is a potential loss of license. When people are faced with that reality, I think they think twice about it. Frankly, people who willfully steal do not have honor or care about their reputations, but to them, their driver's license is sacred."

Let me remind you that a license to drive is a privilege granted to people by this state. It is not a right. It is a privilege, which may be revoked. Ladies and gentlemen, let's not be soft in crime, any crime. Let's say to those people who willfully steal gas that they won't be able to drive with that gas. Please reject the current motion so that we can go on and approve the amended bill and see if we can help each other save a little money when we drive. Thank you.

The SPEAKER: The Chair recognizes the Representative from Greenville, Representative Jones.

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

The SPEAKER: The Representative may pose her question.

Representative JONES: Mr. Speaker, Ladies and Gentlemen of the House. I want to give you an example of a very tired legislator recently who drove to Guilford and filled up because her tank was nearly empty and then proceeded to Greenville, slept for the night and woke up in the morning and said, "Oh, my God." I went home to my town and did not pay for my gas. I am admitting that on the floor of the House, called the station and they said to me, "We have already got you. We marked you down." I was very pleased that someone saw that I did drive off with those wonderful plates and they knew who I was.

I am trying to pick out from the bill that if that person at that gas station truly didn't particularly care for me, what would have happened?

The SPEAKER: The Representative from Greenville, Representative Jones 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. In the definition section, Line 9 of the bill, there is a clause with the intent to deprive the owner of the value of the motor fuel. They would have to prove it. You could be arrested or charged under this section. You could go to court and they would have to prove the intent to deprive. Would you be charged? Possibly. You have a defense. You didn't intend to do that. That would have to be proven.

I simply would like to request a roll call vote.

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: 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. 94

YEA - Ash, Berry RL, Blanchette, Bliss, Bouffard, Brannigan, Brooks, Bryant, Bull, Bunker, Canavan, Chase, Chizmar, Clark, Colwell, Cote, Cowger, Cummings, Davis, Desmond, Dorr, Dudley, Dunlap, Duplessie, Estes, Etnier, Fisher, Fuller, Gerzofsky, Goodwin, Gooley, Green, Hall, Hatch, Hawes, Hutton, Jacobs, Jones, Kane, Koffman, Labrecque, Landry, LaVerdiere, Laverriere-Boucher, Ledwin, Lemoine, Lessard, Lundeen, Madore, Mailhot, Matthews, McGlocklin, McKee, McLaughlin, Michaud, Mitchell, Norbert, Norton, O'Neil, Paradis, Patrick, Peavey, Perkins, Pineau, Povich, Quint, Richard, Richardson, Rines, Rosen, Savage, Simpson, Skoglund, Smith, Stanley, Sullivan, Tarazewich, Tessier, Tobin D, Tobin J, Usher, Volenik, Wheeler EM, Mr. Speaker.

NAY - Annis, Belanger, Berry DP, Bowles, Bruno, Buck, Bumps, Carr, Chick, Clough, Collins, Crabtree, Cressey, Daigle, Dugay, Duncan, Duprey, Foster, Gagne, Glynn, Haskell, Heidrich, Honey, Jodrey, Kasprzak, Lovett, MacDougall, Mayo, McGowan, McKenney, McNeil, Mendros, Morrison, Murphy E, Murphy T, Nass, Nutting, Pinkham, Schneider, Sherman, Snowe-Mello, Thomas, Tracy, Trahan, Treadwell, Waterhouse, Weston, Winsor, Young.

ABSENT - Andrews, Bagley, Baker, Marley, Marrache, McDonough, Michael, Muse C, Muse K, O'Brien JA, O'Brien LL, Perry, Shields, Stedman, Tuttle, Twomey, Watson, Wheeler GJ.

Yes, 84; No, 49; Absent, 18; Excused, 0.

84 having voted in the affirmative and 49 voted in the negative, with 18 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.

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

SENATE PAPERS

The following Joint Resolution: (S.P. 611)

JOINT RESOLUTION TO RECOGNIZE MAY 3, 2001 AS MAINE CULTURAL HERITAGE DAY

WHEREAS, arts and cultural activities enhance the quality of life for all Maine residents, offer important educational opportunities from preschool through retirement, offer productive community outlets, help bolster our tourism industry and help in the attraction of key businesses to Maine; and

WHEREAS, the Maine Cultural Affairs Council is a public and private partnership, consisting of the Maine Arts Commission, the Maine Humanities Council, the Maine State Archives, the Maine Historical Society, the Maine Historic Preservation Commission, the Maine State Library and the Maine State Museum, that was formed in 1991 as a means for Maine's cultural organizations to efficiently deliver and seek funding for public arts and humanities activities in Maine; and

WHEREAS, in 1999, the Maine Legislature established the New Century Community Program, which is a statewide grant program administered by the agencies within the Maine Cultural Affairs Council and which is designed to provide key state support to local arts, cultural and educational efforts; and

WHEREAS, since 1999, the New Century Community Program has helped communities in every county in the State advance arts, cultural and educational opportunities with direct support or grants; and

WHEREAS, as a result of the success of the New Century Community Program, the Pew Charitable Trusts and other national foundations have recognized the Maine Cultural Affairs Council for its efforts and have been studying the Maine Cultural Affairs Council as a model for other states; and

WHEREAS, many of the participants within the New Century Community Program have assembled in the Hall of Flags to celebrate and demonstrate the success of this program as part of Maine Cultural Heritage Day; now, therefore, be it

RESOLVED: That We, the Members of the 120th Legislature, do hereby declare Thursday, May 3, 2001 as Maine Cultural Heritage Day and call upon the members of the Maine Legislature to participate in and celebrate the cultural riches that the State of Maine has to offer.

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

CONSENT CALENDAR

First Day

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

(S.P. 68) (L.D. 264) Bill "An Act Regarding the State's Land Use Mediation Program" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-130)**

(S.P. 299) (L.D. 1010) Bill "An Act to Manage the Sea Urchin Fishery" Committee on **MARINE RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-125)**

(S.P. 383) (L.D. 1280) Bill "An Act Concerning the Enforcement of Laws Relating to Scallopings" Committee on **MARINE RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-126)**

(S.P. 394) (L.D. 1309) Bill "An Act to Amend the Laws Pertaining to the Harvest of Adult Eels" Committee on **MARINE**

RESOURCES reporting **Ought to Pass as Amended by Committee Amendment "A" (S-127)**

(S.P. 408) (L.D. 1352) Resolve, Authorizing the Adjutant General to File a Finalized Declaration of Covenants and Restrictions with the Kennebec County Registry of Deeds in the Veterans' Memorial Cemetery Located on the Mount Vernon Road in Augusta Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-131)**

(S.P. 526) (L.D. 1649) Bill "An Act to Establish a Commercial Green Crab Fishing License" Committee on **MARINE RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-128)**

(H.P. 445) (L.D. 566) Bill "An Act to Allow Vehicles Purchased at Auction to Travel 25 Miles After Delivery at a Dealership for Inspection and Repair" Committee on **TRANSPORTATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-291)**

(H.P. 788) (L.D. 1032) Bill "An Act to Implement the Recommendations of the Maine Millennium Commission on Hunger and Food Security Concerning Child Nutrition Services" Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-293)**

(H.P. 901) (L.D. 1193) Bill "An Act to Clarify Certain Laws Relating to the Harvesting of Wild Animals" Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-292)**

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

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

PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

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

HEALTH AND HUMAN SERVICES

Bill "An Act to Create the Healthy Maine Prescription Program" (EMERGENCY)

(H.P. 1334) (L.D. 1790)

Presented by Speaker SAXL of Portland. (GOVERNOR'S BILL) Cosponsored by President MICHAUD of Penobscot and Representatives: BERRY of Livermore, KANE of Saco, NUTTING of Oakland, Senators: President Pro Tem BENNETT of Oxford, GOLDTHWAIT of Hancock, LONGLEY of Waldo, NUTTING of Androscoggin, SHOREY of Washington.

LABOR

Bill "An Act Regarding the Length of Service for Retirement Benefits and Limits on Earnable Compensation for Certain State Employees"

(H.P. 1333) (L.D. 1789)

Presented by Representative MATTHEWS of Winslow. Cosponsored by President MICHAUD of Penobscot and Representatives: CARR of Lincoln, COLWELL of Gardiner, HUTTON of Bowdoinham, MADORE of Augusta, NORBERT of

Portland, Speaker SAXL of Portland, Senators: DAVIS of Piscataquis, EDMONDS of Cumberland.

ENACTORS

Emergency Measure

An Act to Amend the Law Governing the Child Care Advisory Council and to Gather Data on Child Care Services in the State

(S.P. 21) (L.D. 37)
(C. "A" S-92)

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. 119 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

Resolve, to Establish the Commission to Study Reimbursement Rates for Maine's Bottle Redemption Businesses and Other Issues Related to the Handling and Collection of Returnable Containers

(S.P. 131) (L.D. 455)
(C. "A" S-105)

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

Representative GLYNN of South Portland **REQUESTED** a roll call on **FINAL PASSAGE**.

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 Final Passage. All those in favor will vote yes, those opposed will vote no.

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

ROLL CALL NO. 95

YEA - Annis, Ash, Belanger, Berry RL, Blanchette, Bliss, Bouffard, Brannigan, Brooks, Bryant, Bull, Bunker, Canavan, Carr, Chase, Chick, Chizmar, Clark, Clough, Collins, Colwell, Cote, Cowger, Cummings, Daigle, Davis, Desmond, Dorr, Dudley, Dugay, Duncan, Dunlap, Duplessie, Duprey, Estes, Etnier, Fisher, Fuller, Gagne, Gerzofsky, Goodwin, Gooley, Green, Hall, Hatch, Hawes, Heidrich, Honey, Hutton, Jacobs, Jones, Kane, Koffman, Labrecque, Landry, LaVerdiere, Laverriere-Boucher, Lemoine, Lessard, Lovett, Lundeen, MacDougall, Madore, Mailhot, Matthews, Mayo, McGlocklin, McGowan, McKee, McKenney, McLaughlin, Michaud, Mitchell, Morrison, Murphy E, Murphy T, Norbert, Norton, Nutting, O'Neil, Paradis, Patrick, Peavey, Pineau, Povich, Quint, Richard, Rines, Savage, Schneider, Sherman, Simpson, Skoglund, Smith, Stanley, Sullivan, Tarazewich, Thomas, Tobin D, Tobin J, Tracy, Trahan, Usher, Volenik, Wheeler EM, Winsor, Young, Mr. Speaker.

NAY - Berry DP, Bowles, Bruno, Buck, Crabtree, Cressey, Foster, Glynn, Haskell, Jodrey, Kasprzak, Ledwin, McNeil, Mendros, Nass, Perkins, Pinkham, Rosen, Snowe-Mello, Treadwell, Waterhouse, Weston.

ABSENT - Andrews, Bagley, Baker, Bumps, Marley, Marrache, McDonough, Michael, Muse C, Muse K, O'Brien JA, O'Brien LL, Perry, Richardson, Shields, Stedman, Tessier, Tuttle, Twomey, Watson, Wheeler GJ.

Yes, 108; No, 22; Absent, 21; Excused, 0.

108 having voted in the affirmative and 22 voted in the negative, with 21 being absent, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

Emergency Measure

Resolve, to Enhance Economic Development in Eastern Maine

(S.P. 286) (L.D. 997)
(C. "A" S-87)

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

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

Emergency Measure

Resolve, Directing the Maine Science and Technology Foundation to Determine the Technological, Economic and Public Policy Challenges and Opportunities for the Deployment of Broadband Information Technology Infrastructure to all Parts of the State

(S.P. 513) (L.D. 1632)
(C. "A" S-107)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 122 voted in favor of the same and 3 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

Acts

An Act to Clarify that the Sales Tax Exemption for Purchase of Manufacturing Equipment Applies Equitably

(S.P. 133) (L.D. 457)
(C. "A" S-100)

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

(S.P. 234) (L.D. 803)
(C. "A" S-101)

An Act to Provide for Plenary Proceedings in Actions for Forcible Entry and Detainer

(S.P. 239) (L.D. 807)

An Act to Improve Washington County's Economy by Promoting Natural, Historical and Cultural Tourism

(S.P. 272) (L.D. 937)

An Act to Change the Dates for Licensing of Agricultural Fairs and Exhibitions

(S.P. 284) (L.D. 995)
(C. "A" S-99)

An Act to Provide Annual Support to the Maine Rural Development Council and its Community Capacity Building Work in Distressed Areas of the State

(S.P. 335) (L.D. 1142)

An Act to Restrict the Use of the Term "Maine Water" to Water From Maine

(S.P. 410) (L.D. 1354)

An Act to Permit the Issuance of Certain Types of Consumer Credit Insurance

(S.P. 511) (L.D. 1630)
(C. "A" S-89)

An Act to Amend the Laws Pertaining to the Maine Small Business Commission

(S.P. 515) (L.D. 1634)

An Act to Amend the Revised Maine Securities Act

(S.P. 518) (L.D. 1637)

(C. "A" S-88)

An Act to Provide Statewide Access for Schools and Libraries to On-line Reference Materials and Periodicals

(S.P. 523) (L.D. 1646)

An Act to Allow Averaging of Unallocated Balances Over 3% for School Budgets

(S.P. 524) (L.D. 1647)

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

An Act to Clarify Laws Pertaining to Nuisance Wildlife

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

(C. "A" S-84)

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

On motion of Representative MENDROS of Lewiston, 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.

On motion of Representative COLWELL of Gardiner, **TABLED** pending **PASSAGE TO BE ENACTED** and later today assigned. (Roll Call Ordered)

An Act to Amend the Employment Tax Increment Financing Program

(S.P. 192) (L.D. 664)

(C. "A" S-102)

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

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

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

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

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

ROLL CALL NO. 96

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

Savage, Schneider, Sherman, Simpson, Skoglund, Smith, Snowe-Mello, Stanley, Sullivan, Tarazewich, Tessier, Thomas, Tobin D, Tobin J, Tracy, Trahan, Treadwell, Usher, Volenik, Waterhouse, Weston, Wheeler EM, Winsor, Young, Mr. Speaker.

NAY - NONE.

ABSENT - Andrews, Bagley, Baker, Bumps, Bunker, Marley, Marrache, McDonough, Michael, Muse C, Muse K, O'Brien JA, O'Brien LL, Perry, Quint, Shields, Stedman, Tuttle, Twomey, Watson, Wheeler GJ.

Yes, 130; No, 0; Absent, 21; Excused, 0.

130 having voted in the affirmative and 0 voted in the negative, with 21 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

An Act to Foster the Survival of Maine Small Businesses in Snowmobile and ATV Sales

(S.P. 247) (L.D. 815)

(C. "A" S-104)

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

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

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

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

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

ROLL CALL NO. 97

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

NAY - Simpson.

ABSENT - Andrews, Bagley, Baker, Bunker, Marley, Marrache, McDonough, Michael, Muse C, Muse K, O'Brien JA, O'Brien LL, Perry, Pinkham, Quint, Shields, Stedman, Tuttle, Twomey, Watson, Wheeler GJ.

Yes, 129; No, 1; Absent, 21; Excused, 0.

129 having voted in the affirmative and 1 voted in the negative, with 21 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

An Act to Prohibit Negative Option Sales Without a Consumer's Express Agreement

(S.P. 324) (L.D. 1092)
(C. "A" S-106)

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

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

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

BILLS IN THE SECOND READING
Senate

Bill "An Act Concerning Disabled Hunters, Trappers and Anglers"

(S.P. 609) (L.D. 1785)

Senate As Amended

Bill "An Act to Provide Opportunity for Affordable House Lot Development"

(S.P. 263) (L.D. 910)
(C. "A" S-115)

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

Bill "An Act to Require a Life Sentence for Murder Unless There Are Mitigating Circumstances"

(S.P. 203) (L.D. 768)
(C. "A" S-95)

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

On motion of Representative POVICH of Ellsworth, was **SET ASIDE**.

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

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

On motion of Representative O'NEIL of Saco, the House adjourned at 6:41 p.m., until 9:00 a.m., Friday, May 4, 2001.