

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

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

Volume II

First Regular Session

May 18, 2001 – June 22, 2001

Second Regular Session

January 2, 2002 – March 6, 2002

Pages 890-1770

ONE HUNDRED AND TWENTIETH LEGISLATURE
 FIRST REGULAR SESSION
 63rd Legislative Day
 Wednesday, June 6, 2001

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

Prayer by Father Michael Gendreau, St. Mary's Catholic Church, Augusta.

Pledge of Allegiance.

Doctor of the day, Phillip Whitney, M.D., Scarborough.

The Journal of yesterday was read and approved.

SENATE PAPERS

Non-Concurrent Matter

Bill "An Act to Amend the Laws Governing Municipal Citizen Initiatives and Referenda" (EMERGENCY)

(S.P. 231) (L.D. 796)

Bill and accompanying papers **INDEFINITELY POSTPONED** in the House on June 5, 2001.

Came from the Senate with that Body having **INSISTED** on its former action whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-167) in NON-CONCURRENCE.**

Representative McDONOUGH of Portland moved that the House **INSIST** and **ASK** for a **COMMITTEE OF CONFERENCE.**

Representative WATERHOUSE of Bridgton moved that the House **RECEDE AND CONCUR.**

Representative BULL of Freeport **REQUESTED** a roll call on the motion to **RECEDE AND CONCUR.**

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

Representative GOOLEY of Farmington moved that the Bill be **TABLED** until later in today's session pending the motion of Representative WATERHOUSE of Bridgton to **RECEDE AND CONCUR.**

Subsequently, the same Representative **WITHDREW** his motion to **TABLE** until later in today's session.

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

Representative **BRANNIGAN:** Mr. Speaker, Men and Women of the House. In a meeting this morning someone said that the ground had been totally plowed on this issue, but given that it is a harrowing experience, I would just like to say that in the debate so far almost all of this discussion is around Wal-Mart or big boxes or one group against another, the weak against the strong. The experience that I related to you a bit last week and I would just like to point again, that this isn't always the case. A referendum can be brought that can bring development work in a town or a city to its knees. A referendum can be filed today that will leave everything that you are doing, if you are underway, you are getting permits, put it all in jeopardy. In our case, it was for six months. The jeopardy was, another year, possibly, if the referendum was passed. How do you go ahead? This could be small projects, large projects, retail, housing. There needs to be a balance here between the need and the rights of people to continue to do what they are doing, get their work done, whether they are building housing or whether they are building retail, etc., and the need for people to try to get redress on a particular issue. I encourage you to back the Recede and Concur motion and right this wrong. Thank you.

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

Representative **WATERHOUSE:** Mr. Speaker, Ladies and Gentlemen of the House. Like the good Representative from Portland, I don't want to belabor this debate going over the same things we did the other day. Just to summarize my position on this, and as you can see from yesterday's vote on not curtailing the peoples' right to gather signatures to bring forward a referendum issue. I do see this issue as entirely different from those issues. This issue, to me, boils down to property rights, minority rights, the rule of law and retroactive actions, ex post facto laws that I think are not appropriate. I might remind the members of the House, as they probably well know, we do have some restrictions on how the citizens can bring forward in a referendum process. We do not have a referendum citizen's initiative process for constitutional amendments. Thank you.

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

Representative **ETNIER:** Mr. Speaker, Men and Women of the House. Excuse my rising on this for a second day, but I obviously care about this and I appreciate your bearing with me. Last night I was extremely proud of this institution. It stood firm in its support of the citizen's right to voice their concern and have a redress of grievance. It is very firm, with the exception of a handful of folks, we said that the slightest inconvenience to folks gathering petitions to affect the people's veto was inappropriate. I was very proud of the House that we took that position. I disagree with my friend from Bridgton, I do believe there is some consistency here that needs to be followed through on this morning.

I woke up at 4 o'clock this morning realizing part of the reason why I care so strongly about this. It is because when I first came back to Maine, to my birth place of Portland, actually, in about 1985, it was when I first got interested in government, because I first got involved with the Portland Waterfront, which was at that point under siege and was rapidly being converted to condominiums and boutique stores and office space and displacing the fishing vessels that worked down there. I got involved then. I got interested and worked with others on that effort and the end result of that was the citizens in a huge outpouring of support in a referendum that they brought forward, effectively rezoned the Portland Waterfront for water dependent uses only, in short. That would have been disallowed by the broad wording of this Committee Amendment and the bill that is before us. That would never have been allowed to have occurred by the language that is before us and the Portland Waterfront would have been forever changed. I thought back this morning at 4:00 of the man I worked with on that, the late Representative Larry Conley, who I believed passed away on the night of that vote. I thought that this was something he would care very strongly about, the right of the citizens to bring a petition forward when they feel their city government, in that case, the planning board, was not addressing the concerns and the people came forward and voted. That was a watershed for the State of Maine and for the City of Portland and that is part of the reason I care so firmly about this.

This has been stated several times, but there still appears to be confusion about this one other issue, which I will speak to. Without this law that is being proposed here today that would take away our constituents opportunity to vote on things, they can currently, if the realtors want to in a municipality, if the MMA wants to in a municipality, if the citizens want to in a municipality, they can go to their town office and through a petition or whatever, bring forward exactly the same concept saying that you can no longer do retroactive ordinance changes or rezoning in your municipality. They have the power to do this now on the municipal level. Why should we, as a state, override that municipal decision that is possible today and say you will not be

allowed to do this anymore statewide? We chose last night to say that we support the citizen's right to redress a grievance and petition. Let's be consistent this morning and oppose, please, the Recede and Concur motion. Thank you.

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

Representative **SHIELDS**: Mr. Speaker, Ladies and Gentlemen of the House. Let us get down to the essentials of this issue. It is not about the right to petition your government. It is about misuse of that right when your fellow citizens have studied a proposal and if acted on it in their good judgment and a proposal has met all the requirements of the law and then suddenly it is taken away again. Our citizen groups do make mistakes, but referendums do make mistakes too. I think that if your house is in that development and you have planned for it and you want to have it done and suddenly citizens come along and reverse that whole thing after you have jumped through all the hoops, you are going to think twice about it. It is just patently unfair.

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

Representative **MURPHY**: Mr. Speaker, Ladies and Gentlemen of the House. I went home last night to a Board of Selectmen's Meeting. As many of you know, I serve on that Board. After it was over, we had a discussion on this bill and I explained to them how we were debating it up here and they really couldn't understand what we were doing until I said that once our planning board gives a permit out, a group of citizens can get a petition and stop that. I don't think they really believe me. I think they think I was confused on it. I said, not, that is the way it can happen. They bring petitions before the permits are given. That is right, they have that right and they should have that right. I am a strong believer in the referendum of the people of this state. I don't even have any problems with their getting signatures in the polling place. We have no problem there at all. I would not vote to stop that either. This bill will hurt the developers, any industry, coming into this state. Everyone knows here that I am very parochial, we have a little industrial park and I really want some business in there and I don't want them to have to go through these hoops and then a group of citizens say afterward, sorry, we don't want that business here. If they have a problem, and we do notify the citizens, we send registered letters to everybody within 200 feet of any project of when the public hearing is and that this is being done through the planning board. I think they are notified. The newspaper is always there. They always get it in the paper and I think they have ample time to come in and complain. I respect that. I would fight to the death for them to have that right. After our planning board, who is appointed people, and we have good people on it, we have an engineer who donates his time and they worked hours, way into the morning hours, in order to get through their agenda and to help people on both sides. When they have made a final decision, it can be overturned, and anyone who has spent money to bring a development or an industry into that town or any town in Maine, it is just not right. It is not the way thing should be done. In my opinion, it will shut down the state, as far as development is concerned, especially for the people who really need some housing down there because low-income and middle class housing down there is really a scarcity. The rents are tremendous, enormous, and people cannot afford them. If we want to shut down all of that development in southern Maine, I guess you want to vote Indefinite Postponement of this bill.

The **SPEAKER**: The Chair recognizes the Representative from Levant, Representative Chase.

Representative **CHASE**: Mr. Speaker, Ladies and Gentlemen of the House. It kind of sounds to me like we are back in to the opt in, opt out arguments. I guess about the only valid argument that I have heard against enacting this law is that it is taking away local control and should be done on a local basis. Well, it seems to me that it would make an awful lot of sense from the fairness point of view for everybody for us to enact this law, which would prohibit the retroactivity and then any municipality that happens to want to do it could override that with their own initiative referendum process and they could allow retroactivity, if the municipality wanted it. You have the local control, yet if we enact this, we would be gaining the fairness to everybody that gets a permit and not hindering business. I certainly recommend that we Recede and Concur.

The **SPEAKER**: The Chair recognizes the Representative from Fairfield, Representative Tessier.

Representative **TESSIER**: Mr. Speaker, Men and Women of the House. There is an issue that I would like to clear up. We have heard a lot about the Portland Waterfront referendum. Information that I have said that the referendum to stop the development was completed one month before the permit was given. I think that is an important point. If we are going to hold up an example, we have to ensure that the data is correct.

Secondly, when I was elected to come to the Legislature, I was elected to represent the people of my district and the people of the State of Maine. The question is, who are the people? People are ordinary citizens, my neighbors, they are people that live down the street a ways. They are also people who own businesses and people who are developers. All of these are people that I was elected to represent. We talked about businesses and developers as though they were entities without a face. Remember, behind these businesses and developments, there is a face and it could be our neighbors. These are the people we are here to represent.

I will tell you that if there was a bill in front of us today that said we are going to reduce the public input of the citizens of an area, I would be fighting just as hard to see that that failed, as I am fighting for this. They have rights. We have built in those rights. They need to stay. Businesses and developers have rights as well. They need to stay. I would ask that you vote on the Recede and Concur. Thank you.

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

Representative **MCDONOUGH**: Mr. Speaker, Men and Women of the House. I really apologize for having to get up here this morning and, once again, plow the same ground. With all due respect to people that are in this chamber that have spoken before me this morning, I would respectfully disagree. This is a home rule issue, home rule. In the committee that I am honored to serve on, time after time after time, we get up and say it is home rule issue, leave it alone. Let the people in Berwick decide what is important to them. Let the people decide. That is this whole issue. The people in your respective towns, your boards of selectmen, your city council, can put ordinances on the books. If you want to prohibit the citizens, at any time from doing anything, go ahead and do it at home. Don't come up here to Augusta and ask me as a State Representative representing District 32 in Portland to tell my constituents that they can't do something to petition their government, which says under the Constitution of Maine, that the good Representative Lemoine, pointed out yesterday with this handout, that they are entitled to do this. I am not anti-business, good Lord, everybody in this chamber knows that I stand up for businesses if they are right. This issue, to put that up in front of this body and say that we are anti-business if we don't support this issue, is completely wrong in my sense. I just can't agree with that. I hope that good

judgment prevails once again here today. The people smiled down on us last night when we voted the right way on this bill. I think they are doing it now and hoping and keeping their fingers crossed and saying their prayers that the Maine Legislature, the House of Representatives, is going to do the right thing for them and don't put a road block in front of their ability to petition their government. You know, to me, it is never you mind what a planning board does. They are just like you and I. They can make mistakes. They honcho things through that people are not happy with. It is not a property rights issue, folks. It is your constituent's issue. It is my constituent's issue. I hope that people are listening to us this morning in this House. I see an awful lot of empty chairs here and wonder where all of our colleagues are, when we are standing up tossing hot air in the air and they are not here to listen to us, as we talk about these important issues. Our committee had a split decision. We do that frequently. That is going to happen next week, next month, next year and 10 years from now. You have to fight your case on a matter of principle, on the facts. I look at the Constitution of the State of Maine and say that is a fact, that is a document that tells our people that no matter what we do after they elect us, they feel that we are wrong, they should be able to come back and say, you are wrong.

I ask you all, how many times have you seen a project turned down in your respective community that had some legs under it? Just because a developer comes in to your town or mine and makes a proposal doesn't make it right. That is their right to do that. I will support them every time to be able to do it, but the proposal may not be right for your town or my town or a portion of my town. We do some dumb things, our good friends on planning boards. They don't listen to their people, often times. They say, sure, you can come in and make your case, we will give you two seconds to do it or three minutes or whatever. It is not like the State Legislature where we can stand and pitch our case all morning long if we feel it is important to do that so that all of our friends can come into the chamber and listen to us and be here to cast their votes at the appropriate time.

Again, Mr. Speaker, I see an awful lot of chairs here, empty chairs. I think it is important, this very, very important emotional issue to all of us, to have our colleagues come in and be here to speak to this issue for the fourth time that I am aware of and it pains me to have to do that. As somebody said, John McDonough is prepared to stand here until the cows come home to take care of the people, not only of his district, but of the State of Maine.

There has been a motion on the floor to send this to Committee of Conference. Committee of Conference is simply a thing that both bodies send Representatives to discuss the issue and come up with a recommendation. I made the motion. I didn't do that lightly. In the proper sense, good faith, of us continuing dialogue and communication, I think it is important to do that. That is why I made the motion. We have a higher motion that is sitting on the floor now. I hope, pray, I beg you, to defeat that Recede and Concur motion. Let the people in your respective communities make the decision whether they want to block our constituent's ability to say that we think you made a mistake and we want you to come and correct that mistake. It might be a Wal-Mart. It might be a huge housing project. Never you mind, it is their responsibility to listen to their local people. I am not convinced that developers are going to go into a situation and spend a ton of money, as it has been referred to, on a project if they think there is the slightest possibility that it will be turned over. They know how to negotiate. They have some pretty savvy people that come in on their behalf. They go out and they hire attorneys. They hire land planning consultants. They will come in and pitch their case. If that box doesn't fit into

your community, my sense is that I want to support my friends and neighbors who happen to be businessmen and women. Let them pitch their thing at the local level. Keep it out of Augusta.

We keep talking about the federal government, push it down to the local level to the states and let them make the decision. I say to you this morning, let's us push it right back to the local people, the local elected officials and your constituents to make the decisions to make the decisions that affect them. Sure, our responsibility at certain times is to look at the big picture, what it best for the State of Maine.

I have heard our colleagues say that we want to listen to the developers. We want them here. We have heard people stand up and say that Maine is an unfriendly state to do business in. We know better than that. That is a bogus argument. Let them make their own decisions, locally, that is, not here in Augusta. It is hard for me to even continue to go on and on and on. I am capable of doing that, each and every one of us are. I would like to see more of us here to be able to share their views with you. I don't see as many. I am going to sit down. I have said my peace. Hopefully, I have convinced more of you that this is a bad bill. It ought to be put in the round file, and at the very minimal, send it back to your local communities and let them pass the ordinances that want to block the citizen's right to appeal to their local government. Thank you very much, my friends, for indulging my lightheadedness. Do the right thing.

The SPEAKER: The Chair recognizes the Representative from Cape Elizabeth, Representative McLaughlin.

Representative **MCLAUGHLIN**: Mr. Speaker, Men and Women of the House. To start with, I would like to clarify something, comments made earlier this morning from the good Representative from Harpswell, which were responded to by the good Representative from Fairfield about the Fisherman's Wharf case in Portland. Just to remind you what the dates were in that case, December 22, 1986, there was a petition filed to the Portland City Clerk. It said that if enacted, the provision shall be applicable to all pending proceedings, applications and petitions commenced after December 22, 1986. It was filed before the Fisherman's Wharf Association filed for their permit. Fisherman's Wharf, in fact, did not close on that property until December 29 1986. It was on May 5, 1987, that the good citizens of Portland voted in favor of the initiated ordinance. It was on May 7, 1987, that that initiated ordinance was declared passed. Then, as the Representative from Fairfield mentioned, it was on June 4, 1987, that the building permit for the project was approved. This bill, LD 796, would not have prevented that citizen's petition from being filed, being voted on and from being passed.

When I spoke yesterday, I mentioned that this is a property rights issue. It still is. It still will be. Without LD 796, there can be a citizen's initiated referendum with a retroactive clause that would impact you directly. It could impact you in your own property, that one room addition you want to put on, the new garage you want to put up. There could be a change after the fact that would impact you. There could be a change after your church gets its building permit for the new rectory. It has an impact, potentially, on everybody in this room. I continue to urge you to support the motion on the floor, which is Recede and Concur. I do remind you that this was a Majority Report from the committee. Thank you Mr. Speaker.

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

Representative **LEMOINE**: Mr. Speaker, Ladies and Gentlemen of the House. I rose yesterday. I rise again today and will rise again tomorrow on this issue, if need be. This is an old fight, as I have said. It is a fight that continues year after year, generation after generation and it is before us today. What

is at issue is the people's veto. That term has been with us for over 100 years. It has been enacted into our Constitution. It has been demanded by the people that we represent. It is a mechanism for undoing a mistake that has been made by public officials. That is the nature of the society of the constitutional government that we have constructed and that we live in. I ask you not to change that Constitution, not to change the values that have driven that.

Two points that I would like to make, the first is, the good Representative from Cape Elizabeth did mention that if this bill does not go through, people will have the right to go in and retroactively change decisions that have been made by a local government. That is only partially true. If this bill goes through, the local governing bodies for our municipalities will still have the right to go back and retroactively change the ordinance. All we are doing by this legislation is prohibiting the people from doing that. This is a step in the wrong direction. It is not the nature of the society that we have built of the direct end representative democracy that we have forged, our fathers forged and that we are protecting here today. I hope that this body will stick with its vote of yesterday, defeat the Recede and Concur and perhaps we can move on to limit the contours of this right. We as a Legislature, I believe, have the right to do that, to say a municipality may limit within the number of days that a petition may be filed, the numbers of petitioners that are required. We have a right to put a lot of contours on the citizen's right, but we do not have the ability and should not try to take the ability to remove from the citizens their right to seek redress through popular referendum. Thank you.

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

Representative **RICHARDSON**: Mr. Speaker, Men and Women of the House. I oppose the motion to Recede and Concur because I do think this is a matter of local control. It does trouble me that Maine Municipal Association has come forward supporting this measure. It troubles me because I know they are made up of municipal officials, but it does strike me as odd that municipal officials should be coming to the State House to try to change something, which is inherently local in nature. Let them change this law if they wish to. Let them petition their local citizens. Last night I thought about it and I said I know why they are coming here. It is because they can't get it through their people. They can't get it through their own local citizenry, but they want us to do it for them. It troubles me that we would take it away from the local municipalities and the people who inherently have that right.

The next thing that bothers me is that I think this is an impermissible assault on people's rights. We have seen judicial decisions, turning, frankly, legislative in nature in changing workers' compensation. We have had that fight here on the House floor. We have had on the House floor the fight that related to the people's veto. We have the fight that we have had over and over again about privacy. We are taking people's rights away and we are cracking the foundation of this institution because it is built on trust. It is the trust of people understanding that we are not going to abridge or take away their rights.

I think it was Benjamin Franklin who said it best. That is that liberty is never more safe than when the Legislature is out of session. We are closing down here to the very end, but my hope is that before we leave here that we don't take one more of those rights away. We keep those rights for the people and let them decide what they want to do in their own hometowns.

Finally, I do want to thank Representative McDonough for his fine speech. I do think, in fact, that the cows have come home.

The SPEAKER: The Chair recognizes the Representative from Bucksport, Representative Rosen.

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

The SPEAKER: The Representative may pose his question.

Representative **ROSEN**: Mr. Speaker, Men and Women of the House. If a developer comes into my community, presents an application before the planning board and the application is denied, under current law can a citizen initiative then go ahead and force the community to accept the project, overriding the denial of the board, and for that matter, the planning board and the board of overseers?

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

Representative **WATERHOUSE**: Mr. Speaker, Ladies and Gentlemen of the House. We heard almost a circuitous argument here going from one right to the other. As I said before, this issue, to me, comes back to the basic right. We are talking about all of our constituents and their basic right of property rights. For those of you who feel strongly in property rights, you should be for this bill. We have a situation where the property owners have gone through all the legal hoops. We are not talking about planning boards or the board of appeals making a mistake, per say, from what I have observed of this process. We are talking about people who don't like the result. There are no mistakes made. They just don't like the result. They look at what happened and they say, gee, we should have had an ordinance to stop that, but we didn't. We followed all the rules, let's go back and change the ordinance. That is what I see happening.

The good Representative from Harspswell mentioned the other day about the court costs, of going to court, as opposed to the citizen's referendum. I say to that, yes. In the US Constitution we have what is called just compensation for takings. They made it somewhat expensive for government to arbitrarily take people's property. It should cost people money when other people follow the rules, your fellow citizens, your fellow constituents follow all the rules to try to use their property. Nobody can say up here with a straight face that we don't have a lot of regulations, a lot of ordinances that people have to jump through to get things done with their property. We have a situation in one of the towns I represent, that not too long ago some of you read it in the paper, there was a cellular tower going to be put on Pleasant Mountain, they followed all the rules, but the citizens fought that and they weren't satisfied with the decision and they took it to court. It went all the way to the Maine Supreme Court. The Maine Supreme Court remanded it back to the Board of Appeal saying that they felt as though the Board of Appeal did not interpret the ordinance, the present ordinance.

There were a small group of citizens that did that. It cost them some money, but they went through the correct process, as far as I am concerned. They did not get up a petition drive to overturn that decision. I see this as something that the citizens can do. It is a little bit more arduous than getting some signatures and changing retroactively the ordinance, but I think it is the proper process to protect people's property rights who follow the law and boards that apply the law correctly.

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

Representative **SAVAGE**: Mr. Speaker, Men and Women of the House. The last time I spoke on this, I was between you and your lunch and now I am between a bunch of politicians and their picture. I don't know which is worse. When I hear the battle of the rights, I realize and I think about this. This is not a question of can we or can't we. This is a question of should we or

shouldn't we do this. When I read to you Article 1, Section 2, I didn't really explain what that means. A lot of people said to me, why didn't you explain it? I guess I was between us and our lunch.

I am going to take a little bit of time now and go to the last bit of that section, which says that the people have the unalienable and indefeasible right to institute government and to alter, reform or totally change the same when their safety and happiness requires it. That section tells us that we can do this. We can change government when our happiness requires it. Should we? I don't think that the happiness of our people require it at this point because what is happening right here is that some folks who have been slighted or fear being slighted, those folks are either people who grant permits, I think the good Representative from Brunswick pointed out very clearly, the irony of the municipal officers coming here and asking us to do this or the developers and that is their right to come here and ask us to do this. What they are asking is that one person from that district, one person, to do something that the people wouldn't do. They know that what they are asking us to do is to not vote against the majority of our people, but they are asking us to prevent our people to have that vote. There is a huge, significant difference between those two things. If they ask us to come here and vote against what our people voted for in referendum last November, that is one thing, but it is entirely different to come here and say that we want you to prevent your people from voting. They are afraid of what the majority of your people would do, so they don't want to hear about that. Thank you.

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

Representative **ETNIER**: Mr. Speaker, Men and Women of the House. I just wanted to respond, very briefly, to my good friend from Bucksport. His question was left hanging in the ether. My understanding would be that if the case he presented where someone's expansion to their home or building approval was denied by the planning board and citizens wanted to let that development go forward, they could, indeed, bring forward a citizen's initiated petition to effectively change the ordinance or zoning in that town retroactively to allow that development to proceed. Obviously they couldn't do that if it was in violation of a state law or something or other, but if it was just a municipal ordinance and was consistent with state law, they certainly could go do that to permit a development, as well, retroactively.

The SPEAKER: The Chair recognizes the Representative from Camden, Representative Dorr.

Representative **DORR**: Mr. Speaker, Men and Women of the House. As you may know, in my professional life I am a real estate broker. I have been lobbied pretty hard by my colleagues and the lobbyists from realtors. The reason I was late getting here this morning is that I had to pull over to the side of the road and write down some thoughts on this. It has been a really difficult issue for me. I did vote to support LD 796 the first two times. Yesterday I changed my vote and last night I was able to sleep without my conscience bothering me. I remembered that when I took my oath to become a realtor, the first thing that I said I would be was to uphold the Constitution of the United States and the Constitution of the State of Maine and property rights comes somewhere down the line beyond that. I tend to be kind of a big picture person and I see a situation going on now where democracy is really under siege. If you want to look for examples, you really could probably find several of them in this morning's *New York Times*. I follow trade agreement negotiations and see that we have a constitution for a new world order that is being written by people who we did not elect, who we do not know and whose primary objection is the protection of the means of production. These are the defenders of property

rights. Somehow democracy and capitalism have become synonymous in the minds of many. I take exception to that.

I also look at the recent presidential election where reports are now revealing routine and widespread disenfranchisement of thousands of voters in Florida and the ensuing outcome of that shameful process. I came here to defend democracy and I believe that when we look at the scorecard, property rights have scored more than individual rights and democracy being under attack, I rise in defense of the democratic process and urge you to defeat the Recede and Concur motion. Thank you.

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

Representative **COTE**: Mr. Speaker, Ladies and Gentlemen of the House. I rise today on this one bill, because it came before us the other day, twice. We went on to defeat this bill twice and I am not going to say much more on it, because my fellow other colleagues who have spoken have made it clear. This is a bad bill. Let's go on to defeat the motion. Thank you.

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

Representative **DAIGLE**: Mr. Speaker, Ladies and Gentlemen of the House. I am concerned and disturbed by the tone of much of this debate because it is suggesting that those of us who are in favor of Recede and Concur somehow feel less about the rights of the people to interact with their government and that just cannot be further from the issue here. Those of us who feel Recede and Concur, as I feel Recede and Concur, is an appropriate motion for us at this time are basing that on the essence that we are not trying to change the will of the people and the ability of the people to come back and say that I dislike the policy you enacted. I dislike the law you enacted. I want to overrule you. Certainly, that is not the case here. What we are saying with this is that the decision based on those laws is something that is locked in place as a right of the people who come to the government and say, following the rules, is this or is this not something that is allowed? The decision based on those laws should stand firm. The policy that those laws represent, if the people want to change, just fine, go ahead and do so. A Recede and Concur protects the process. It protects the rights of the minority as well. For that reason, I think it is totally appropriate and in no way detracts from the ability of the people to speak to and, in fact, overrule their government.

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

Representative **TWOMEY**: Mr. Speaker, Men and Women of the House. This has been long debated, but I have learned a great deal. I have learned a great deal from my colleagues on this side of the aisle. Representative Tobin who is on my Committee of Natural Resources is a wise man. He has learned a lot. He has. I think when he spoke this week about home rule, about each and every one of us in our towns having the ability to do exactly what this bill does, really comes to the heart of the matter. I have learned a lot from Representative Carr. He has come to my committee many times on that oil fiasco. Representative Carr has taught me that one size does not fit all. You talk about sprawl and in southern Maine we are being very well developed. In northern Maine, you are crying for jobs. I learned about the two Maine's in my freshman year and it made me incensed when I went to Fort Kent for the dog sled races when they talked about the two Maine, like southern Maine didn't care about northern Maine. I stood up and told them that that is not true. I live in southern Maine, but I care about all of Maine. I have listened. I know you like to tease me about my talking and we are trying to keep it to three minutes and some of you clock me. You know, I really can listen. I have heard what some of

you on this side of the aisle have said. Representative Carr is right. One size does not fit all.

Seeing that you have the ability to do this in your own community, don't ram this down my town's throat. When we talk about referendum and citizen's initiative, it is about us. It is about our community. It is about people who live in a town who go to the grocery store and know their neighbors. It is about us going to church whenever you go to church and saying hello to your neighbors. It is about projects coming into your community that you think will really change for a negative effect. Do you know how much work it is to initiate a petition drive? Do you really believe that you can get somebody hepped up over somebody's sun deck? You have to go door to door. You have to sell that. It has got to rise from the bottom. It has to be the people that live in our towns that say that the planning board made a mistake. It is the heart of democracy. It is about our neighbors.

I have this little village at Christmas. It is my little fantasy. It is where I would like to live. In my little Christmas village in 18th Century with the carriages and the horses, it is very romantic with the beautiful streetlights. There is no incinerator in my little town. There are lots of trees and deer and moose. It is a beautiful place where I would really like to live. This is what this is really about. I am incensed when we throw it together about low-income housing. My God, I have been a champion for that because I am speaking about me. I am not rich. I didn't come from rich beginnings. My parents worked hard, as I know many of your parents have. It is about that community that comes together and says, look, the planning board made a mistake, what can we do? They gather and they organize and they try to bring what their vision of what their town is. That is what this really is all about.

I don't see developers coming into my town hall, I was on the City Council for six long years, it felt like 100 years. There were many battles, but the developers came and they rolled out the red carpet. They didn't have a line of people promoting their ideas. They have to sell it and they have the best lawyers who can sell it. You know what, I am not a powerful lawyer. I do get incensed when I go into that hall and I see those lobbyists and when I saw one of my good friends sitting down with that lawyer last night, I knew what was going on and I didn't like it. I said, why don't the little people every win? The little people can't get away from their jobs to come here. That is why they send us. I have worked so hard on this and it is not even my bill. I have sent you 69 or 79 notes, handwritten, yesterday. I sat here and I had a cramp in my arm because of my belief in you and my belief in Maine. Please, let's vote for the little people, please. Thank you.

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

Representative **WATERHOUSE**: Mr. Speaker, Ladies and Gentlemen of the House. Very briefly, we just heard some talk about the little people winning. Where the little people do win is in the Bill of Rights. A couple of speakers ago mentioned that they have concerns about property rights being put over people. That is what people have. They have property rights. In the US Constitution in the Fifth Amendment, we protect those property rights from the tyranny of the majority and that, as far as I am concerned, is what this is all about. The good Representative from Buxton, read from the Constitution of Maine, Article 1, Section 2. Let me read Article 1, Section 1. "Natural rights. All people are born equally free and independent, and have certain natural, inherent and unalienable rights, among which are those

enjoying and defending life and liberty, acquiring, possessing and protecting property, and pursuing and obtaining safety and happiness." Thank you.

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

Representative **HATCH**: Mr. Speaker, Ladies and Gentlemen of the House. It was said earlier today that business has rights. They absolutely do. There is hardly a small business in the state that I wouldn't stand shoulder to shoulder with and fight with them until the last man was standing. They said that they have faces. Yes, they do. Let's get to the real crux of this thing. Those small businesses, which are the backbone of Maine's economy, are not the people putting up the battle here. We know who it is. They can't afford that travesty that is happening out in the halls.

We get back to what this is really all about. It was said that this is development. This will help the income of the area. Yes, perhaps you get a few taxes out of it, but as far as helping the income. Take a look at what these people pay, minimum wage or near minimum wage, part time, no benefits. Do they spend a lot of money in the local economy? No, mostly they take their profits and run. They give some charitable contributions, possibly, and that is good PR. The companies and the businesses that had to leave, had to shut down, because these guys came in, were local people, the profits got spent locally, they hired most of the time, full-time people. They were good citizens and now they are no more. We want to give these people some special rights, that is what it is. We have heard the special rights argument dealing with another subject, but it is the same thing. In this instance we are giving a special right that isn't afforded anybody else in our society, no individual, no groups, charitable, religious groups, no one is protected from these initiatives, now we are going to protect this little group because of the people they got out there in the halls.

I could go on for hours. In fact, I am still wound up about what I went through this weekend. I would like to tell you more, but I am just not going to do it, because I might say things that I could be sorry for. I urge you to defeat this thing. Do the right thing for your people. They didn't send you here to do this. We are not taking away the right to petition, but what we are doing is we are going to decide what you can petition, what you can ask for. Don't do that to them, please. Thank you.

The SPEAKER: The Chair recognizes the Representative from Fort Kent, Representative Michaud.

Representative **MICHAUD**: Mr. Speaker, Ladies and Gentlemen of the House. You might wonder why a county boy decides to weigh in on this issue. I served 15 years on the town council, 12 as its chair. I was very much concerned with the development of our community. Sprawl is not really an issue for us and economic development is. When someone came in with the possibility of having some form of employment for our people, it wasn't hard for us to decide that maybe this would be a good thing. We sometimes cut corners, as well intentioned as we might have been, we cut corners. We allowed certain things to happen before permits were granted. Variances were sometimes pushed a little bit. We did so with the idea that we were trying to do that for the greater good. It did step on a couple of people who lived in the vicinity of where that development was going to be. We figured that we knew better. That was a good tradeoff and that eventually when that business did get going, that we would probably be able to say to these people, see, we knew better than you did. The problem with that is the resources are, undoubtedly, heavily skewed on the side of the development and developers and the little guy, as a walk down the hall will attest. I can't afford that kind of representation. If you simply look and listen to the argument, you are going to

find that it isn't a question of being right and wrong. The developer says, I am going to do something good for people. The people who put these petitions through are saying, wait a minute, I might get a return on your investment, but I am telling you that I don't want it. I don't want that job you are going to offer me because it is a tradeoff for something that I value a little more. It also has to be retroactive because in our rush sometimes we overlook the regulations. Ultimately what we have to do is we have to say, if people are willing to say to a development thanks, but no thanks, I am going to continue with my job. I am going to continue to make less money. I don't really want you hear because I don't think you are going to serve me well in the long run, then I think we are doing a great injustice if we take that right away. We definitely have to defeat this motion. Thank you.

The SPEAKER: The Chair recognizes the Representative from Auburn, Representative Michael.

Representative **MICHAEL**: Mr. Speaker, Ladies and Gentlemen of the House. Very briefly, just a couple of reasons why we should defeat this motion. There are problems in the permitting process. I think they deserve to be taken a close look at. We suggested yesterday moving up to the front end more and giving people their permits contingent upon complying with DEP regulations and site plans and provisions. That should be looked at. We could look at it, but this bill doesn't handle it. This is like setting off an H-bomb as a warning when we should be sending up a couple of flairs. This is way overkill to turn over the rights that have existed for 100 years for people in our communities.

Secondly, I have had no one give the House a good answer as to the answer to, why don't the local communities pass an ordinance themselves? I wonder if any community has done that. If it is such a great idea, go back home, change the ordinances in your own towns or at least a couple towns, bring the example back to the Legislature and demonstrate to us that it is functional situation. Thank you.

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

Representative **DUDLEY**: Mr. Speaker, Men and Women of the House. The genesis of this bill was in a proposal for an affordable housing development one block from where I live on Munjoy Hill. It had its beginnings in my district and I was hoping that I might have an opportunity to strike the last word on this debate, but that may not be the case. I do have a number of questions about this. There has been an awful lot of talk about whether or not this bill changes the right of citizens to petition their government. Clearly, it doesn't do away with the right of citizens to petition their government. Does it diminish the power of citizens to affect change in their government? Again, clearly, it does. It does affect the power of the citizens. It does diminish their power to affect change. The question to me becomes, why? Why are we doing this? If it has an impact, if it does change the citizen's power, why are we doing it? What is the benefit to the citizens and perhaps most importantly, how can we defend this bill back home?

I have asked proponents of this bill to provide me with an example of a situation where the retroactive referendum was actually passed, where it took affect. So far, nobody has been able to present me with any examples where one of these proposals have actually passed. All approved development, presumably, has gone forward. Even the Representative from Cape Elizabeth, my good friend and my seatmate, concedes that this bill would have had no impact on the referendum in 1986 or 1987 in Portland relative to waterfront development. If it has no impact, if there isn't really a problem, if citizens aren't abusing their right and abusing their power currently, why are we doing

this? It clearly tries to diminish their powers, so how do we defend it? I can think of no reason to defend the necessity of making this change in the power of the people to affect change in their government.

I ask you to join me in opposing the pending motion. Thank you very much.

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

Representative **LESSARD**: Mr. Speaker, Ladies and Gentlemen of the House. We have heard from our distinguished colleagues, many attorneys, quoting the Maine Constitution, which is fine. It is a valuable document. A lot of thought and wisdom went into this document. Let's refer to Article 4, Section 21, Legislative Power. Again, I will just quote the last two lines of this. "Provided, however, that the Legislature may, at any time, provide a uniform method for the exercise of the initiative and referendum in municipal affairs." I would urge you to vote for Recede and Concur. Thank you.

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

Representative **MCKEE**: Mr. Speaker, Men and Women of the House. I have lived in my community for over 30 years and one of the things that I have grown to be most proud of is grass roots democracy. It is not something that coming from the south I knew very much about. So, today's debate and the previous debates that we have had, have re-ignited my regard for citizenship. As I have felt many time on the floor of this House, I feel like a born again citizen. I have taken the message back into the schools and the communities and I think that I have re-ignited, in my own community, their regard and respect for what it means to live in the great State of Maine. I come from a place where the Senator Strom Thurman said to us when he came to our schools, be proud to live in the great State of South Carolina. I stand here today to say I am far prouder to live in the great State of Maine. It has been a pleasure to hear what I have heard today. It is reminiscent, however, of the great revivals that I attended as a child, revivals that were based primarily on faith, not reason and therein lies the difference. Today I have heard both faith and reason.

In my great State of South Carolina, however, there exists no citizen initiated referendum, none. Perhaps that doesn't surprise you that a state like South Carolina, that took centuries to hear the voices of its citizens, still refuses to allow citizen initiated referendums. We look to our counterpart next door of New Hampshire and we often extol all the many things that they have that we don't. They are beginning to come around though, aren't they, regarding property taxes and re-examining their motto, their slogan, the shibboleth, Live Free or Die. In the New Hampshire Legislature is a tiny opening into what we have a great window on. We have an auditorium. We have citizen referendums. We do have that opportunity to redress our government, Live free or die. I say live free and live and live in the great State of Maine.

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

Representative **BUNKER**: Mr. Speaker, Men and Women of the House. I have sat through these debates for a few days now and until last Thursday, I wasn't really strong one way or the other on this issue. Last Thursday I had to leave the chamber and rush down to Washington County to what they called an informational meeting. This informational meeting down in Washington County had to do with salmon and had to do with putting in a blockage and there were 50 or 60 local citizens in the room and they are all frustrated because they are down there piling this stuff down on the local picnic area that was donated to the Department of Conservation and they are putting this blockage right there where the canoes come through. All of this

stuff is going on and these people are all fit to be tied and the Salmon Commission is down there and the other representatives from the state standing there and these people are going, what happened? Basically what happened is these people missed the notice in the newspaper and their town fathers didn't respond to the notice that they got, assuming that their local planning board had jurisdiction over any permits to build anything in their town. Here we are taking the permitting process to the next step at the state level. Basically through that whole discussion in asking for input and asking for answers, the bottom line was the public hearing process was closed in January. They made it very clear that this was an informational meeting trying to provide you with information, but you have no input on what we are going to do and we are going to continue to go forward. My dilemma at looking at those people was asking them what do you want me to do. Now I have to come back here and research and this is a timely thing to start researching. What are our rights to slow that process down so the local people have an input of putting that thing up 50 feet and outside of the public eye and the public recreational area? I would ask you to oppose the Recede and Concur and allow the people to continue to have at least a vehicle. I would be opposed to anything that moves the initiative process further away from the people. Thank you.

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

ROLL CALL NO. 340

YEA - Andrews, Annis, Belanger, Berry DP, Blanchette, Bowles, Brannigan, Brooks, Bruno, Buck, Bumps, Carr, Chase, Clough, Collins, Colwell, Cowger, Crabtree, Daigle, Dugay, Duncan, Dunlap, Duprey, Estes, Fisher, Foster, Fuller, Glynn, Gooley, Haskell, Heidrich, Honey, Kasprzak, Labrecque, Ledwin, Lessard, MacDougall, Madore, Marrache, Mayo, McGowan, McKenney, McLaughlin, McNeil, Morrison, Murphy E, Nass, Nutting, O'Brien JA, Peavey, Pinkham, Povich, Rosen, Schneider, Shields, Smith, Stanley, Tessier, Trahan, Treadwell, Usher, Waterhouse, Watson, Weston, Winsor, Young, Mr. Speaker.

NAY - Ash, Bagley, Baker, Berry RL, Bouffard, Bryant, Bull, Bunker, Canavan, Chick, Chizmar, Clark, Cote, Cressey, Cummings, Davis, Desmond, Dorr, Dudley, Duplessie, Etnier, Gagne, Gerzofsky, Goodwin, Green, Hall, Hatch, Hawes, Hutton, Jacobs, Jodrey, Jones, Kane, Koffman, Landry, LaVerdiere, Laverriere-Boucher, Lemoine, Lovett, Lundeen, Mailhot, Marley, Matthews, McDonough, McGlocklin, McKee, Michael, Michaud, Mitchell, Murphy T, Muse C, Muse K, Norbert, Norton, O'Brien LL, O'Neil, Paradis, Patrick, Perkins, Perry, Pineau, Quint, Richard, Richardson, Rines, Savage, Sherman, Simpson, Skoglund, Snowe-Mello, Stedman, Sullivan, Tarazewich, Thomas, Tobin D, Tobin J, Tracy, Tuttle, Twomey, Volenik, Wheeler EM, Wheeler GJ.

ABSENT - Bliss, Mendros.

Yes, 67; No, 82; Absent, 2; Excused, 0.

67 having voted in the affirmative and 82 voted in the negative, with 2 being absent, and accordingly the motion to **RECEDE AND CONCUR FAILED**.

Subsequently, the House voted to **INSIST** and **ASK** for a **COMMITTEE OF CONFERENCE**. Sent for concurrence.

Non-Concurrent Matter

Bill "An Act to Make the Unemployment Insurance Program More Responsive to the Needs of Today's Workforce"

(H.P. 944) (L.D. 1258)

Report "A" (7) **OUGHT TO PASS AS AMENDED** from the Committee on **LABOR READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-650)** in the House on June 4, 2001.

Came from the Senate with the Bill and accompanying papers **COMMITTED** to the Committee on **LABOR** in **NON-CONCURRENCE**.

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

Representative **BUNKER**: Mr. Speaker, Men and Women of the House. We shouldn't have to go through this debate again, obviously. There were some issues brought up the other day at the eleventh hour and they were put on the desk and some of them had to talk about studies and about some other things that may or may not have been fully completed. In reflection, I would agree with that. I would ask that the body support sending it back to the committee so that we can do the work a little more professionally than possibly the way it came to the floor.

On motion of Representative **BUNKER** of Kossuth Township, the House voted to **RECEDE AND CONCUR**.

COMMUNICATIONS

The Following Communication: (H.C. 292)

STATE OF MAINE

**ONE HUNDRED AND TWENTIETH LEGISLATURE
COMMITTEE ON APPROPRIATIONS AND FINANCIAL
AFFAIRS**

June 5, 2001

Honorable Michael H. Michaud, President of the Senate

Honorable Michael V. Saxl, Speaker of the House

120th Maine Legislature

State House

Augusta, Maine 04333

Dear President Michaud and Speaker Saxl:

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

L.D. 60 An Act to Require Full Funding of the State's Share of General Purpose Aid

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

Sincerely,

S/Sen. Jill M. Goldthwait

Senate Chair

S/Rep. Randall L. Berry

House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 293)

STATE OF MAINE

**ONE HUNDRED AND TWENTIETH LEGISLATURE
COMMITTEE ON CRIMINAL JUSTICE**

June 5, 2001

Honorable Michael H. Michaud, President of the Senate

Honorable Michael V. Saxl, Speaker of the House

120th Maine Legislature

State House

Augusta, Maine 04333

Dear President Michaud and Speaker Saxl:

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

L.D. 1443 An Act to Make Adultery Illegal
We have also notified the sponsor and cosponsors of each bill listed of the Committee's action.

Sincerely,
S/Sen. Michael J. McAlevey
Senate Chair
S/Rep. Edward J. Povich
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 294)

**STATE OF MAINE
ONE HUNDRED AND TWENTIETH LEGISLATURE
COMMITTEE ON HEALTH AND HUMAN SERVICES**

June 5, 2001
Honorable Michael H. Michaud, President of the Senate
Honorable Michael V. Saxl, Speaker of the House
120th Maine Legislature
State House
Augusta, Maine 04333
Dear President Michaud and Speaker Saxl:
Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Health and Human Services has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 219 An Act to Expand the Cub Care Program and to Establish the Bear Care Program
L.D. 1289 An Act to Reimburse Restaurants for the Cost of Testing Water

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,
S/Sen. Susan W. Longley
Senate Chair
S/Rep. Thomas J. Kane
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 295)

**STATE OF MAINE
ONE HUNDRED AND TWENTIETH LEGISLATURE
COMMITTEE ON LABOR**

June 5, 2001
Honorable Michael H. Michaud, President of the Senate
Honorable Michael V. Saxl, Speaker of the House
120th Maine Legislature
State House
Augusta, Maine 04333
Dear President Michaud and Speaker Saxl:
Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Labor has voted unanimously to report the following bills out "Ought Not to Pass":

L.D. 971 An Act to Exempt Retired Persons Who Work as Substitute Teachers from Paying into the Maine State Retirement System BY REQUEST
L.D. 975 An Act to Establish an Exemption to the Exclusivity Provisions of the Maine Workers' Compensation Act of 1992 BY REQUEST

We have also notified the sponsors and cosponsors of each bill listed of the Committee's action.

Sincerely,
S/Sen. Betheda G. Edmonds

Senate Chair
S/Rep. George H. Bunker Jr.
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (S.P. 646)

**STATE OF MAINE
120TH MAINE LEGISLATURE**

May 29, 2001
Hon. Betty Lou Mitchell, Senate Chair
Hon. Shirley K. Richard, House Chair
Joint Standing Committee on Education and Cultural Affairs

120th Legislature
Augusta, ME 04333
Dear Senator Mitchell and Representative Richard:
Please be advised that Governor Angus S. King, Jr. has nominated Susan Blethen of Falmouth for reappointment and Howard C. Reiche of Falmouth for appointment as members of the School Board of the Governor Baxter School for the Deaf. Pursuant to Title 20-A, M.R.S.A. §7406, these nominations will require review by the Joint Standing Committee on Education and Cultural Affairs and confirmation by the Senate.

Sincerely,
S/Michael H. Michaud
President of the Senate
S/Michael V. Saxl
Speaker of the House

Came from the Senate, **READ and REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS.**

READ and REFERRED to the Committee on **EDUCATION AND CULTURAL AFFAIRS** in concurrence.

The Following Communication: (S.C. 339)

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

June 5, 2001
The Honorable Millicent M. MacFarland
Clerk of the House
2 State House Station
Augusta, ME 04333

Dear Clerk MacFarland:
Please be advised that the Senate today Adhered to its previous action whereby it accepted the Minority Ought Not to Pass Report from the Committee on Labor on Bill, "An Act Regarding Dismissal of Municipal Employees for Cause." (S.P. 557) (L.D. 1719)

Sincerely,
S/Pamela L. Cahill
Assistant Secretary of the Senate

READ and ORDERED PLACED ON FILE.

The Following Communication: (S.C. 340)

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

June 5, 2001
The Honorable Millicent M. MacFarland
Clerk of the House

2 State House Station
Augusta, ME 04333

Dear Clerk MacFarland:

Please be advised that the Senate today Adhered to its previous action whereby it accepted the Minority Ought Not to Pass Report from the Committee on Banking and Insurance on Bill, "An Act to Strengthen the Authority of the Bureau of Insurance." (S.P. 172) (L.D. 590)

Sincerely,

S/Pamela L. Cahill

Assistant Secretary of the Senate

READ and ORDERED PLACED ON FILE.

**PETITIONS, BILLS AND RESOLVES REQUIRING
REFERENCE**

Resolve, to Create a Commission to Study Issues Concerning Changes to the Traditional Uses of Maine Forests and Lands, Including Camp Lot Lease Arrangements and Public Enjoyment (EMERGENCY)

(H.P. 1366) (L.D. 1823)

Presented by Representative JONES of Greenville.

Under suspension of the rules, cosponsored by President MICHAUD of Penobscot and Representatives: BRANNIGAN of Portland, BUNKER of Kossuth Township, CARR of Lincoln, CLARK of Millinocket, COLWELL of Gardiner, COWGER of Hallowell, LaVERDIERE of Wilton, McGLOCKLIN of Embden, McKEE of Wayne, PINEAU of Jay, STANLEY of Medway, Senators: DAVIS of Piscataquis, KNEELAND of Aroostook, MARTIN of Aroostook.

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** suggested.

Under suspension of the rules, the Resolve was given its **FIRST READING WITHOUT REFERENCE** to a committee.

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

Under further suspension of the rules, the Resolve was **PASSED TO BE ENGROSSED** and sent for concurrence.

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

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

Representative **PINEAU**: Mr. Speaker, Ladies and Gentlemen of the House. Today is the anniversary of the landings in Normandy, June 6, 1944. I would like to take this opportunity to take a moment for the boys that made that landing and the lives that were cost, especially after the passion in the last debate and especially to the father of my seatmate, who is not here right now, who was part of that landing. Thank you.

**REPORTS OF COMMITTEE
Divided Report**

Majority Report of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought Not to**

Pass on Bill "An Act to Refine the Subdivision and Redistricting Authority of the Maine Land Use Regulation Commission" (S.P. 360) (L.D. 1198)

Signed:

Senator:

NUTTING of Androscoggin

Representatives:

LANDRY of Patten

LUNDEEN of Mars Hill

GOOLEY of Farmington

FOSTER of Gray

CARR of Lincoln

JODREY of Bethel

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (S-253)** on same Bill.

Signed:

Senators:

KNEELAND of Aroostook

KILKELLY of Lincoln

Representatives:

McKEE of Wayne

VOLENIK of Brooklin

HAWES of Standish

PINEAU of Jay

Came from the Senate with the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-253) AS AMENDED BY SENATE AMENDMENT "B" (S-321)** thereto.

READ.

On motion of Representative McKEE of Wayne, **TABLED** pending **ACCEPTANCE** of either Report and later today assigned.

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

CONSENT CALENDAR

First Day

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

(H.P. 1190) (L.D. 1613) Bill "An Act Concerning Technical Changes to the Tax Laws" (EMERGENCY) Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-689)**

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

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

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

UNFINISHED BUSINESS

The following 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.

Resolve, to Clarify the Principles of Reimbursement for Nursing Facilities

(H.P. 347) (L.D. 437)
(C. "A" H-633)

TABLED – June 4, 2001 (Till Later Today) by Representative COLWELL of Gardiner.

PENDING – **FINAL PASSAGE.**

Representative ETNIER of Harpswell moved that the Resolve and all accompanying papers be **INDEFINITELY POSTPONED.**

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

Representative **ETNIER**: Mr. Speaker, Men and Women of the House. The purpose of moving Indefinite Postponement is because the crux of this bill was included in the Part I Budget and is no longer needed. Thank you.

Subsequently, the Resolve and all accompanying papers were **INDEFINITELY POSTPONED** and sent for concurrence.

Resolve, Directing the Department of Human Services to Adjust the Cap on Direct-care Staff Costs for Residential Care Facilities

(H.P. 853) (L.D. 1125)
(C. "A" H-622)

TABLED – June 4, 2001 (Till Later Today) by Representative COLWELL of Gardiner.

PENDING – **FINAL PASSAGE.**

Subsequently, the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

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

An Act to Amend the Maine Health Data Organization Laws (EMERGENCY)

(S.P. 395) (L.D. 1310)
(H. "A" H-643 to C. "A" S-290)

TABLED – June 4, 2001 (Till Later Today) by Representative COLWELL of Gardiner.

PENDING – **PASSAGE TO BE ENACTED.**

On motion of Representative FULLER of Manchester, the rules were **SUSPENDED** for the purpose of **RECONSIDERATION.**

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

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

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **Committee Amendment "A" (S-290) as Amended by House Amendment "A" (H-643)** thereto was **ADOPTED.**

The same Representative presented **House Amendment "C" (H-685) to Committee Amendment "A" (S-290)** which was **READ** by the Clerk.

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

Representative FULLER: Mr. Speaker, Men and Women of the House. This amendment just simply removes the emergency clause. Thank you.

House Amendment "C" (H-685) to Committee Amendment "A" (S-290) was **ADOPTED.**

Committee Amendment "A" (S-290) as Amended by House Amendment "A" (H-643) and House Amendment "C" (H-685) thereto was **ADOPTED.**

The Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-290) as Amended by House Amendment "A" (H-643) and House Amendment "C" (H-685)** thereto in **NON-CONCURRENCE** and sent for concurrence.

JOINT ORDER – Relative to Joint Standing Committee on Appropriations and Financial Affairs reporting out a bill

(S.P. 54)

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

TABLED – January 23, 2001 (Till Later Today) by Representative COLWELL of Gardiner.

PENDING – **PASSAGE** in concurrence.

Subsequently, the Joint Order was **PASSED** in concurrence. **ORDERED SENT FORTHWITH.**

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:

PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

Bill "An Act Providing Funding for the Office of the State Fire Marshall and to Increase Certain Fire Inspection Fees" (EMERGENCY)

(H.P. 1368) (L.D. 1825)

Presented by Representative POVICH of Ellsworth. (GOVERNOR'S BILL)

Cosponsored by Senator McALEVEY of York and Representatives: BLANCHETTE of Bangor, GERZOFKY of Brunswick, O'BRIEN of Lewiston, PEAVEY of Woolwich, Senator: O'GARA of Cumberland.

Committee on **CRIMINAL JUSTICE** suggested.

Under suspension of the rules, the Bill was given its **FIRST READING WITHOUT REFERENCE** to a committee.

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

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

Representative POVICH: Mr. Speaker, Men and Women of the House. This bill may look awfully familiar to you and it should be, because we debated it once or twice and we passed it on to the other body. It was signed into law by the Chief Executive and oops, the good Representative from Kennebunk noticed a fatal flaw to this bill. It was a bill of a financial nature, which had been introduced by the other body, which is expressly prohibited by our Constitution of the State of Maine. What we have done is to reintroduce this with a good and hearty sponsorship from this body and nothing else has changed in this bill. I wish that this body would give it the same approval that it did last time. Thank you.

Under further suspension of the rules, the Bill was **PASSED TO BE ENGROSSED** and sent for concurrence.

ENACTORS

Emergency Measure

An Act to Permit the Salvage of Pulpwood

(S.P. 628) (L.D. 1811)

(C. "A" S-307)

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. 102 voted in favor of the same and 2 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

Resolve, to Establish the Commission to Study Ways to Eliminate Cigarette Litter in Maine

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

(C. "A" H-549)

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

Representative KASPRZAK of Newport **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. 341

YEA - Ash, Bagley, Baker, Berry RL, Blanchette, Bliss, Bouffard, Brooks, Bryant, Bull, Bunker, Canavan, Chick, Chizmar, Clark, Cote, Cowger, Cummings, Desmond, Dorr, Dudley, Dunlap, Duplessie, Estes, Etnier, Fisher, Fuller, Gagne, Gerzofsky, Green, Hatch, Hutton, Jones, Kane, Koffman, Landry, LaVerdiere, Laverriere-Boucher, Lemoine, Lessard, Mailhot, Marley, Marrache, Matthews, McKee, McLaughlin, Michaud, Mitchell, Murphy E, Muse C, Norbert, Norton, O'Brien LL, Paradis, Patrick, Pineau, Quint, Richard, Richardson, Rines, Savage, Simpson, Smith, Stanley, Sullivan, Tarazewich, Thomas, Tuttle, Twomey, Usher, Volenik, Watson, Mr. Speaker.

NAY - Andrews, Annis, Belanger, Berry DP, Bruno, Buck, Bumps, Carr, Chase, Clough, Collins, Crabtree, Cressey, Daigle, Davis, Dugay, Duncan, Duprey, Foster, Glynn, Goodwin, Gooley, Haskell, Heidrich, Honey, Jacobs, Jodrey, Kasprzak, Labrecque, Ledwin, Lundeen, MacDougall, Madore, Mayo, McDonough, McGlocklin, McGowan, McKenney, McNeil, Michael, Morrison, Muse K, Nass, Nutting, O'Brien JA, Peavey, Perkins, Pinkham, Povich, Rosen, Schneider, Sherman, Shields, Snowe-Mello, Stedman, Tobin D, Tracy, Trahan, Treadwell, Waterhouse, Weston, Wheeler EM, Wheeler GJ, Winsor, Young.

ABSENT - Bowles, Brannigan, Colwell, Hall, Hawes, Lovett, Mendros, Murphy T, O'Neil, Perry, Skoglund, Tessier, Tobin J.

Yes, 73; No, 65; Absent, 13; Excused, 0.

73 having voted in the affirmative and 65 voted in the negative, with 13 being absent, and accordingly the Resolve **FAILED FINALLY PASSAGE** and was sent to the Senate.

Emergency Measure

Resolve, to Establish the Blue Ribbon Commission on Postsecondary Educational Attainment

(S.P. 616) (L.D. 1797)

(C. "A" S-314)

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. 107 voted in favor of the same and 20 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

ENACTORS

Acts

An Act to Provide Health Insurance Coverage for General Anesthesia and Associated Facility Charges for Dental Procedures for Certain Vulnerable Persons

(S.P. 127) (L.D. 403)

(C. "A" S-300)

An Act to Establish the Maine Research and Development Evaluation Fund

(H.P. 988) (L.D. 1325)

(C. "A" H-372; S. "A" S-316)

An Act to Transfer Administration of Certain Reimbursement Functions of the Workers' Compensation Employment Rehabilitation Fund to a Voluntary Coalition of Parties in Interest

(S.P. 433) (L.D. 1413)

(C. "A" S-309)

An Act to Protect Consumers of Health Care Services

(H.P. 1167) (L.D. 1567)

(C. "A" H-661)

An Act to Offer Businesses and the Technical Colleges Incentives for Providing Workforce Health Care Training

(S.P. 505) (L.D. 1592)

(C. "A" S-312)

An Act to Amend the Laws Pertaining to the Department of Corrections

(S.P. 580) (L.D. 1758)

(C. "A" S-280)

An Act to Implement the Recommendations of the Committee to Study Access to Private and Public Lands in Maine

(H.P. 1353) (L.D. 1810)

(C. "A" H-658)

An Act to Amend the Business Equipment Tax Reimbursement Program

(H.P. 1365) (L.D. 1822)

An Act Related to the Suspension of Property Tax Abatement Appeals When the Taxpayer is Delinquent in Paying Taxes

(H.P. 1367) (L.D. 1824)

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 Amend the Maine Clean Election Laws

(S.P. 553) (L.D. 1711)

(C. "A" S-308)

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

On motion of Representative **TRAHAN** of Waldoboro, was **SET ASIDE**.

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

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

The SPEAKER: The Representative may pose his question.

Representative **TRAHAN**: Mr. Speaker, Men and Women of the House. Could we have an explanation of what this bill does, please?

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

Representative **TUTTLE**: Mr. Speaker, Ladies and Gentlemen of the House. If the members of the body would find Senate Amendment (S-308), this was an issue that the Committee on Legal and Veterans Affairs worked on all session. Essentially the compromise language was agreed to by all parties that we worked with over the session. It said the amendment removed the provision in the original bill that created the definition of independent electioneering and established reporting requirements for independent electioneering expenditures. It removed that section out. We thought that was too controversial and it changed the distribution amount that the original bill provided for clean election candidates and uncontested general elections, which are presently from one-third to 40 percent of the amount distributed in the Maine Clean Election campaign in contested general elections. We have received a lot of input on that and a lot of people had agreed that that should go up a little bit.

The amendment specifies that the rules of the commission governing qualifying contributions, certification of the Maine Clean Election candidates, distribution of fund revenues to certified candidates and disposition of equipment purchased with clean election funds are major substantial rules. This amendment makes some technical changes that were recommended in the bill. This amendment also adds a fiscal note to the bill. I hope that answers the gentleman's question.

Representative **DUPREY** of Hampden **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. 342

YEA - Annis, Ash, Bagley, Baker, Berry DP, Berry RL, Blanchette, Bliss, Bouffard, Brannigan, Brooks, Bruno, Bryant, Bull, Bunker, Canavan, Carr, Chick, Chizmar, Clark, Clough, Collins, Colwell, Cote, Cowger, Crabtree, Cummings, Daigle, Desmond, Dorr, Dudley, Dugay, Duncan, Dunlap, Duplessie, Estes, Etnier, Fisher, Foster, Fuller, Gagne, Gerzofsky, Glynn, Goodwin, Gooley, Green, Hall, Hatch, Heidrich, Honey, Hutton, Jacobs, Jodrey, Kane, Koffman, Labrecque, Landry, LaVerdiere, Laverriere-Boucher, Ledwin, Lemoine, Lessard, Lundeen, Mailhot, Marley, Marrache, Matthews, Mayo, McDonough, McGlocklin, McGowan, McKee, McLaughlin, McNeil, Michael, Michaud, Mitchell, Murphy E, Muse C, Nass, Norbert, Norton, O'Brien LL, Paradis, Patrick, Peavey, Perkins, Pineau, Pinkham, Povich, Quint, Richard, Richardson, Rines, Rosen, Savage, Simpson, Smith, Snowe-Mello, Stanley, Sullivan, Tarazewich, Thomas, Tobin D, Tracy, Trahan, Treadwell, Tuttle, Twomey, Usher, Volenik, Watson, Weston, Wheeler EM, Wheeler GJ, Winsor, Young, Mr. Speaker.

NAY - Andrews, Belanger, Buck, Bumps, Chase, Cressey, Davis, Duprey, Haskell, Kasprzak, MacDougall, Madore,

McKenney, Morrison, Muse K, Nutting, O'Brien JA, Schneider, Sherman, Shields, Stedman, Waterhouse.

ABSENT - Bowles, Hawes, Jones, Lovett, Mendros, Murphy T, O'Neil, Perry, Skoglund, Tessier, Tobin J.

Yes, 118; No, 22; Absent, 11; Excused, 0.

118 having voted in the affirmative and 22 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.

SENATE PAPERS

Non-Concurrent Matter

An Act to Amend the State's Overtime Law

(S.P. 314) (L.D. 1082)

(S. "A" S-137 to C. "A" S-114)

PASSED TO BE ENACTED in the House on May 14, 2001.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-323)** in **NON-CONCURRENCE**.

On motion of Representative **BUNKER** of Kossuth Township, the House voted to **RECEDE AND CONCUR**.

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.

An Act to Facilitate the Implementation of the Enhanced 9-1-1 Emergency System

(H.P. 1098) (L.D. 1467)

(C. "A" H-442)

- In House, **PASSED TO BE ENACTED** on May 17, 2001.

- In Senate, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-442) AS AMENDED BY SENATE AMENDMENT "A" (S-315)** thereto and **SENATE AMENDMENTS "A" (S-252), "B" (S-292) AND "C" (S-306)** in **NON-CONCURRENCE**.

TABLED - June 5, 2001 (Till Later Today) by Representative **COLWELL** of Gardiner.

PENDING - **FURTHER CONSIDERATION**.

On motion of Representative **GOODWIN** of Pembroke, the House voted to **RECEDE**.

The same Representative presented **House Amendment "A" (H-687)** to **Committee Amendment "A" (H-442)** which was **READ** by the Clerk.

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

Representative **GOODWIN**: Mr. Speaker, Men and Women of the House. This amendment just establishes accountability. The bureau came forward with a surcharge, which has been corrected. The committee did not accept it. We have also amended the bill to include privacy rights in allowing any county to opt in or out of municipalities. That amendment takes us through a full scale review in one year with the Utility and Energy Committee and a drop back to 32 cents after the first full session of the 121st Legislature. I would hope that the body would accept the amendment. I thank the committee.

House Amendment "A" (H-687) to Committee Amendment "A" (H-442) was ADOPTED.

Committee Amendment "A" (H-442) as Amended by House Amendment "A" (H-687) thereto was ADOPTED.

Senate Amendment "A" (S-252) was READ by the Clerk and ADOPTED.

The Bill was PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-442) as Amended by House Amendment "A" (H-687) thereto and Senate Amendment "A" (S-252) in NON-CONCURRENCE and sent for concurrence. ORDERED SENT FORTHWITH.

SENATE DIVIDED REPORT – Majority (7) Ought Not to Pass – Minority (5) Ought to Pass as Amended by Committee Amendment "A" (S-277) – Committee on CRIMINAL JUSTICE on Bill "An Act Concerning the Sentencing of Persons to County Jails"

(S.P. 354) (L.D. 1168)

– In Senate, Minority OUGHT TO PASS AS AMENDED Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-277).

TABLED – June 5, 2001 (Till Later Today) by Representative MITCHELL of Vassalboro.

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

With unanimous consent, Representative MITCHELL of Vassalboro WITHDREW his motion to ACCEPT the Majority Ought Not to Pass Report.

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

The Bill was READ ONCE. Committee Amendment "A" (S-277) was READ by the Clerk.

Representative BLANCHETTE of Bangor PRESENTED House Amendment "A" (H-693) to Committee Amendment "A" (S-277), which was READ by the Clerk.

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

Representative BLANCHETTE: Mr. Speaker, Ladies and Gentlemen of the House. House Amendment "A" is just a simple amendment that we put on this bill that would require the consent of both descending sheriff and the receiving sheriff in the re-sentencing of a prisoner from one county to another. This was requested and has been looked over by the Maine Sheriff's Association as a cost-saving measure to taxpayers throughout the state. I would move its adoption and ask for the membership's support on this. Thank you.

The SPEAKER: The Chair recognizes the Representative from Hartland, Representative Stedman.

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

The SPEAKER: The Representative may pose his question.

Representative STEDMAN: Mr. Speaker, Ladies and Gentlemen of the House. In the event that the two sheriffs do not agree, what happens?

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

Representative POVICH: Mr. Speaker, Men and Women of the House. I will attempt to answer this question. This is a compromise amendment for a divided report. I would imagine, this is speculation, that if the two sheriffs did not agree, then the courts recommendation then would prevail.

House Amendment "A" (H-693) to Committee Amendment "A" (S-277) was ADOPTED.

Committee Amendment "A" (S-277) as Amended by House Amendment "A" (H-693) thereto was ADOPTED.

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

Under further suspension of the rules the Bill was PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-277) as Amended by House Amendment "A" (H-693) thereto in NON-CONCURRENCE and sent for concurrence.

Bill "An Act to Repeal the Presidential Preference Primary Elections"

(H.P. 960) (L.D. 1273)

- In House, Majority (11) OUGHT TO PASS Report of the Committee on LEGAL AND VETERANS AFFAIRS READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED on May 29, 2001.

- In Senate, Bill and accompanying papers INDEFINITELY POSTPONED in NON-CONCURRENCE.

TABLED – June 5, 2001 (Till Later Today) by Representative CLARK of Millinocket.

PENDING – Motion of Representative LABRECQUE of Gorham to RECEDE AND CONCUR.

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

On further motion of the same Representative, the Bill and all accompanying papers were COMMITTED to the Committee on LEGAL AND VETERANS AFFAIRS in NON-CONCURRENCE and sent for concurrence.

Majority Report of the Committee on EDUCATION AND CULTURAL AFFAIRS reporting Ought Not to Pass on Bill "An Act to Amend the Laws Governing a Conflict of Interest for a School Board Member"

(S.P. 188) (L.D. 660)

Signed:

Senator:

ROTUNDO of Androscoggin

Representatives:

DESMOND of Mapleton

SKOGLUND of St. George

WATSON of Farmingdale

STEDMAN of Hartland

ANDREWS of York

WESTON of Montville

LEDWIN of Holden

ESTES of Kittery

Minority Report of the same Committee reporting Ought to Pass as Amended by Committee Amendment "A" (S-310) on same Bill.

Signed:

Senators:

MITCHELL of Penobscot

NUTTING of Androscoggin

Representatives:

RICHARD of Madison

CUMMINGS of Portland

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

On motion of Representative DESMOND of Mapleton, the Majority **Ought Not to Pass** Report was **ACCEPTED** in concurrence. **ORDERED SENT FORTHWITH.**

Majority Report of the Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought Not to Pass** on Bill "An Act to Enable Formation of Public Charter Schools"

(H.P. 1134) (L.D. 1531)

Signed:

Senators:

NUTTING of Androscoggin
ROTUNDO of Androscoggin

Representatives:

RICHARD of Madison
DESMOND of Mapleton
SKOGLUND of St. George
ESTES of Kittery
CUMMINGS of Portland
ANDREWS of York

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-654)** on same Bill.

Signed:

Senator:

MITCHELL of Penobscot

Representatives:

WATSON of Farmingdale
STEDMAN of Hartland
WESTON of Montville
LEDWIN of Holden

READ.

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

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

Representative **RICHARD**: Mr. Speaker, Men and Women of the House. This is a bill that we have debated many times in this Legislature in the last few years. We have another bill this year and some day charter schools may come to Maine. I am not sure that this is the appropriate bill. I would just like to share with you, if you haven't read the bill, a few lines from it. First of all, on teachers, school staff must include teachers holding teaching certificates. It does not say all teachers must be certified teachers. It goes on to say that the staff at the existing schools converting to charter school status may continue to receive prerequisites or benefits granted by the district as specified in the charter. Charter school teachers not previously teaching in a public school district are eligible for membership in the Maine State Retirement System. Alternatively, the state may add to the financing of the charter school in an amount equal to the employer contribution and so forth. New schools to be granted charters, the state shall pay directly to this charter school the average amount per pupil spent statewide for operating purposes. Consequently, if a school starts in your district, the per pupil amount of money will go to that charter school, not to your other schools, even though they have to continue operating as they have been. A charter school is exempt from all laws and rules applicable to a school board or a school district, although it may elect to comply with applicable laws or rules.

Then we speak of the chartering authority of a charter school and go on to say that in their official capacity and employees of a chartering authority are immune from civil or criminal liability with respect to all activities related to a charter school. Charter

schools are exempt from the restrictions normally associated with any state funded categorical education funding program. Transportation for students residing in the district in which the charter school is located must be provided by that district. Students living outside the district in which a charter school is located are eligible for transportation by the district in which they live to and from the border of their district of residence.

We do not have charter schools in Maine, but we have options already. We have alternative schools. We have schools within schools and very successful superintendents agreements. In other words, if a student is in a school system and just the parents feel that the school and the child just do not fit, there can be a superintendent's agreement to go to school in another district. We feel that we already have opportunities for children to have different options, rather than having to attend the school that is in the community. For what it would cost, it does not seem to several of us, the majority of the committee, that the charter school, as described in this particular piece of legislation would be a good option at this time. I would urge you to vote the **Ought Not to Pass.**

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

Representative **WATSON**: Mr. Speaker, Men and Women of the House. I am on the Minority Report out of the Education Committee on the charter school bill. Representative Richard of Madison is correct when she says that this has been before us many times before. In my three terms on the Education Committee, I believe we have probably looked at 9 or 10 different bills regarding the formation of charter schools here in Maine. Unfortunately, in my estimation, we have never gotten quite so far as other states. You have been delivered, I hope, by this time a listing of all of the states that have charter enabling legislation, which not only allows them to offer some real choice and options at the local level, but also enables them, through federal initiatives begun by a prior president, to be able to, through the Department of Education in those states, apply for federal grant money to help in the formation of charter schools. The states that are listed in the handout that you have from Representative Weston and myself doesn't go into much detail, except to tell you what states have already come on board, have track records, have successes, have failures and have had the opportunity, not just under the last administration in Washington to apply for that grant money, but will be eligible under the present administration to continue to seek some of those federal dollars that are supporting those states that want to offer the very best educational opportunities for their students.

The good Representative from Madison did inform you that right now in Maine we do have some forms of school choice. Again, over the years representing three different communities and three very distinct school districts, I know that the superintendents can work and it does offer a few families the opportunity to send their child from one school district to another as long as the superintendents agree, but even that system has its problems. Those parents who are caught in superintendents that disagree have recourse through the Department of Education to appeal.

I had an unfortunate circumstance between two of my school districts last summer, only weeks before school started. One school district felt, because of head count and state subsidies, that he could not let 12 students go to other schools, where they had already been attending. One of them was going to be a senior who had attended three years at the other school. He was not going to release those 12 students. He didn't want to lose funding. Those families were held hostage for almost two weeks before school started not knowing where their children were going to be attending school in the fall. I am only bringing

up this very sad situation and there was, fortunately, at the very last moment, I think hours before school was to open, a resolution that those students could continue to attend the schools that their parents had chosen for them. I am only bringing that up because, again, as much as we have talked and been a supporter of superintendent's agreements all these years, thinking that no there are no problems. There can be problems and they can be major.

I think in other states that have the charter schools, they have been well thought out at the local level. They are public schools. In those states where the Department of Education in meeting with those constituent groups that need to be part of the planned decision making have come up with what they feel is the best statewide policy for the establishment of charter schools. I think that that is the ideal. Unfortunately what you have before you is some very prescriptive language that unfortunately I can't even support today. I want to see us, as a state, come up with our own legislation. I want to see us wait until next session and have the Department of Education come up with what would work the best for us.

This legislation that is before you, in my mind, even though the group that worked very hard on this, there is a Maine Alliance of Charter Schools, there are legislators in this room that worked very closely with them in the last year to come up with this language they, themselves, are not convinced that it is the best. We need a plan and we need somehow to tell communities that have good programming already that is funding with public money that is part of their public school programming that they too can have an option and become something other than what they are and to be able to meet the federal guidelines to qualify for grants through the Department of Education.

It is unfortunate that I have to vote in favor of and not Ought Not to Pass on this legislation so that we have a vehicle to somehow amend, but I would urge the members of this body to please keep an open mind around the possibilities that we might have for academic attainment for all of our students K-12, that one size does not fit all. We, in Maine, have been working very hard towards some technology attainment for academic achievement. We want to be number one. I ask you in the area of choice and charters, let's not be dead last. Thank you.

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

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

Representative SULLIVAN: Mr. Speaker, Men and Women of the House. Finally, I am able to stand up and support the Education Committee and it gives me great pride. I would ask you to look very carefully at this bill because as it was pointed out earlier, there are many unfunded mandates for your local communities. I would like you to think about that. One that would mean a tremendous expense for my community, and I would dare say for much of Maine, because we have such a rural state, would be busing. If we decide to make choice of public schools, we already do have charter schools, by the way, in communities where there are no high schools. There is a law that mandates busing. If somebody in your community decides that they want to go to a school 25 miles away, you are, under this bill, mandated to provide that transportation. Most of us do not have enough buses now. That is a real concern to me. In many communities and states, large states, where there are three or four public high schools within a community, this works very well. With the exception of, I believe, only Portland, the

communities have only one high school, which their children attend.

I also have some concerns about this bill allowing people to decide they would like to send their child to a different school system because, in their eyes, it has a better football team or it has a better math program or it has a whatever. That is fine except you take with you the money from your children's allotment. I maintain if you have a school system and 100 students decide to leave and they take with them their \$4,200 or whatever the state allotment happens to be, you have created quite a problem for your local districts. I am concerned about that.

The devil is in the details. I believe the details reveal quite a devil. If we are truly looking at being able to go back to our communities and try to explain how we passed a huge unfunded mandate onto our local districts. I would ask you to support the Majority Ought Not to Pass Report. Thank you.

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

Representative CUMMINGS: Mr. Speaker, Men and Women of the House. Representative Richard has spoken well on the bill and has hit a number of themes that I want to emphasize. There are really only three problems with this bill, time, money and power. The timing is wrong. We know that Maine schools are some of the highest performing schools in the country. The National Educational Goals in 1999 ranked Maine at the head of the pack on the most performance measures of all students in the last decade. Secondly, just the other night in this body we passed learning results, which we believe will help our students forward into the next decade as well. Finally, we believe that the way we go about addressing these issues can be done K-12 for all children without harming the financial resources that we need for all our schools. The last issue, which I think has been addressed by Representative Sullivan, I think, is the issue about power. We ought to be careful about giving total autonomy without accountability and here we are about to do that. The learning results offers a promise that may not be achieved and there we go back to Representative Watson who is asking us to think long term about the possibilities of charter schools and I do think they have merit. They help us break down a possible monopoly and they help us get innovation and entrepreneurship into the system. At this point, however, I think the time in Maine educational history is for us to try to do that the way that we have always done that, with local control K-12. Thank you.

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

Representative WESTON: Mr. Speaker, Ladies and Gentlemen of the House. I have to agree with my good friend from Portland on many of the things that he has talked about, but I actually am on the other side on this report. We have studied charter schools in Maine. We actually do have a form of charter school already. We did pass legislation for the Magnet School in Limestone. I would like you to try to picture a particular kind of charter school. You may even have some potential charter schools in your own district right now. I am going to give you an example of District 34 in Belfast. They have an alternative education program they call V Cope. It is actually not even on the site of their high school. In a particularly written charter, all Maine has to do is have a charter law on their books that would qualify them for a lot of federal dollars. That is really where we are trying to get to today. If this could happen, an alternative run school, for example, like in Belfast, could qualify for federal dollars. It could help them build a little better building than what they are in right now. Charter schools can be what you want it to be. We can say we want them to be held accountable to our learning standards. We can say it has to be within our public

schools. We can qualify for lots of federal dollars right now that are going to all of these other states. That is what we would like to get to. I just would like you to think about that.

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

Representative **PEAVEY**: Mr. Speaker, Men and Women of the House. I am not a member of the Education Committee. I am a parent of a student with a learning disability. I felt that I needed to stand up and talk to you about this. Many of our kids have a wonderful education in our schools. It is absolutely true, but many very bright, very interested, very excited kids never ever fit at all and they end up dropping out. They become the truants that we talk about and they end up in the criminal justice system. Anything that we can do to give them alternative choices is what we need to do. Our money is wasted, absolutely wasted, if we don't give them the education that will get them through and to become a productive adult. I hope that you will take a few minutes and just read the amendment. It is (H-654). The summary is very clear. It is not a complicated amendment. It just allows the state to begin to look at this and set up the possibilities for these charter schools.

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

Representative **DESMOND**: Mr. Speaker, Colleagues of the House. As has been suggested, the push for charter schools in Maine has been slow in coming partly because Maine schools are the highest performing public schools in the country. In recent years, Maine students have ranked first or close to first in the country in math, science, reading and writing. Strong parent involvement and community support, as well as small schools and small class sizes that help personalize learning, have been critical factors. Unlike some states that have aggressively pursued charter schools, Maine is a state with a long history of local control. With over 700 schools in 285 school units, the opportunities for diversity and innovation in local education policies are already significant. Innovation and reform should be for all schools. If proponents of charter school legislation can identify specific regulatory or structural barriers to school performance or good practices for parent involvement or innovation, these reforms should be available to all schools, not to a select few that would make the move to charter status. Maine has, in recent years, been rated one of the top 10 states in the country for the degree of school choice that already exists. The transfer or superintendent agreements already allows parents to apply to move a student to a different school district or transfer to a different school within the same district, if there is a school, at no cost. In light of these and other provisions, what are the unique benefits we could see from charter schools?

Charter schools cannot guarantee a better plan. Those that propose state legislation and the federal charter legislation require that attendance of a charter school must be parental choice. In most small Maine communities, without multiple schools at the same grade level, there may be no place for these parents to send their children and thus no way to charter existing public schools. The performance of charter schools is uneven. Most have shown mixed results. Charter schools are not a panacea for performance. Funding for charter schools must not come at the expense of existing public schools. Federal startup is relatively small and lasts only three years. That is very important to remember. This money lasts for three years. Funding from the state and local communities has not been addressed. Local taxpayers should not be burdened with this extra cost.

The availability of federal funds is uncertain at best. There are other competing entities for these funds. There are no federal funds earmarked for Maine or for Maine charter schools

in the event charter school legislation is passed. The community must have a central role in supporting education and education policy. Charter schools circumvent elected school boards and the democratic process. Public participation and decision making is an important aspect of public education as a democratic institution. Charter schools purport to be public. They are contracted to provide an education at public expense, but they are not accountable to elected local officials. Many Maine high schools have successful alternative education programs that are taught by certified teachers. It has been suggested that charter schools will use existing school buildings. Chances are there are no extra school buildings and then communities will be expected to supply other housing and this means money.

It has been suggested that charter schools exist within a high school. This is no different than alternative ed, only it costs more money and teachers may not be certified. A proponent of charter schools suggested this arrangement to me. He said, I would think that teachers would be glad to get rid of troublemakers. I didn't know that charter schools were just for troublemakers, but he had already suggested that alternative ed and special ed had a stigma attached to it. How long would it take other students to notice that the troublemakers were in the charter school section of the school?

Support the Majority Ought Not to Pass Report on LD 1531 and give the support to our public schools that are the role models for other states and working at being better still. Support qualified teachers. Support the municipalities that are stretching their dollars to educate their children. Support local control of education.

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

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

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Hartland, Representative Stedman.

Representative **STEDMAN**: Mr. Speaker, Ladies and Gentlemen of the House. You may notice that I am on the Ought to Pass report because I think the time has come for us to consider this as an option within our educational community. Charter schools are what their charters say they are. The charters can be very specific and very pointed and have very specific goals. If the charter is not met, then the school is dissolved. It loses its charter and it no longer operates. It does offer an opportunity within the education community to provide some alternative resources and alternative methods to meet those ends for the students that are enrolled in them. The whole concept of charter schools is to provide sort of a laboratory setups where different innovative ideas can be practiced and hoping for better results for a certain population of our students. I see no reason why we should not put on the books of the State of Maine the provision that charter schools can be set up in the State of Maine and then go from there. It doesn't mean that they will be, it only means that the opportunity is there to draw down federal funds to create some alternative approaches to education. It doesn't say that the schools are going to be taught by people who are not certified if the charter so states, the whole charter still has to be approved before it can be adopted and before the school can be created. I would urge you to give the education community out there in your districts your choice if they want to set up within their own school system a charter program where certain students or certain populations of students can be given the opportunity to be educated in a different manner than is now being used.

You may want to have within your district a set of student programs that are specifically oriented to computers, if computers are your thing. You can have the school use computers very exclusively if that is what you want your charter school to be. I would hope that this bill would get approval because I think it is time to give the State of Maine the opportunity become the 38th state in the country to approve charter school legislation. Thank you.

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

Representative WATSON: Mr. Speaker, Ladies and Gentlemen of the House. I will try to be brief. I do rise to encourage people to defeat the pending motion. You have heard from others today that it is time to give charters a chance. If we do defeat this motion, there is a Minority Report that I did allude to earlier that would not be specific, but actually would allow the Department of Education to come up with what works best for the State of Maine. All we are asking in the Minority Report is for the opportunity under the federal guidelines and to create state guidelines for school districts that want to, again, I stress, it has to be a public school district that wants to conform to whatever standards the Department of Education sees fit to place upon a chartering entity. Give them the opportunity to develop at the local level programming that they feel is appropriate for them. That is all we are asking. I please encourage you to defeat the pending motion so that we can move onto the Minority Report and inform you more fully of what the Minority Report entails. Thank you.

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

Representative RICHARD: Mr. Speaker, Men and Women of the House. There have been several mentions made of federal dollars. I think it is important that you understand that last year we spent hours and hours and hours on perspective legislation on charter schools. We finally came up with something that we could all agree upon and it was checked out and the federal government said that you wouldn't get any money for this. I don't know if this bill has checked out. I don't know that any federal money really would be forthcoming. They have stronger stipulations than they used to have because the federal dollars have been abused in some states. They do have very strong stipulations. This bill has not been checked out to see if Maine would qualify for federal dollars under this legislation. That is something you have to think about.

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

Representative MCKEE: Mr. Speaker, Men and Women of the House. I first want to say that I greatly admire the members of the Education Committee. It is a committee that I really long to be on myself, but I realize as an active teacher, perhaps it is best that I work outside that committee. I do want to commend Representative Watson for thinking outside the box and trying to think of ways that we can address the needs of some of the students in the State of Maine. I do think that we do have to have a little bit of a reality check here. We are a poor state. We have limited dollars, we especially, right now, have limited dollars. When I think of more money for transportation, for buildings, for space, for more teachers, I shutter and I wonder where those dollars are going to come from.

I have been following this issue since it began. I am a subscriber to *Education Week* and I have read everything that has been written on vouchers and public charters and charter schools themselves. The thing that I have found is that when they started out, they started out with great enthusiasm with an ethos that would make Jefferson proud. It would make us all

proud. I have seen over the years that the problems of the charter schools are the problems of the public schools magnified. The burnout of the public school teacher is magnified in the charter school because they have longer hours, generally, fewer teachers and less pay. They do not have the commitment of a school board who is working to get more dollars. I think that we have to remind ourselves about that good old well oiled mechanism called the public school. The public school, which can do exactly what all of the good proponents have suggested. We can do that within public schools. The only thing that separates us from that is will, the lack of public will to do it. There are schools across the nation who have developed schools within a school.

One of my favor writers, Sarah Lightfoot, wrote a wonderful book about six or eight years ago about the 10 best high schools in America. Several of those schools did have schools within schools. I thought that is exactly what we should try to do, use our existing resources, but create, as the good Representative, Representative Stedman, suggests, creative solutions to old problems. This is really about outcome-based education. It is really asking us, could we experiment in outcome-based education? Do we have to use the old ways of getting to a goal? We are being asked in lots of areas to try that out. We are trying it out in public schools as we speak. The thing that will really raise achievement is nothing new. It is nothing new. It is a well-trained teacher in a classroom in which the teacher/pupil ratio is one that can be handled and with resources.

Our Maine schools are excellent. We already have schools attempting to do what is being suggested here. I think that others have suggested, we can learn from the experiments. This is not the time to do it, but I do applaud Representative Watson's efforts and the other members of the Minority Report to come forward with this. It may be an idea, which can come later. Thank you.

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

Representative WATSON: Mr. Speaker, Men and Women of the House. I just want you to know and remember that there are 37 other states that currently have charter schools of some kind. I am trying to figure out my statistics here, but it is about 1,700 charter schools that are serving about 350,000 students. Again, the first time I rose to speak, I did speak about what has been initiated in Washington. We don't always follow, obviously, the lead of what happens at the federal level, but I think starting with the administration of President Clinton and the continuation and strong support by President Bush of the charter initiative and actually it is before Congress to increase the funding. I think the funding, initially, was about \$145 million and they are looking at increasing that support.

I have been alluding to the possibility for us as a poor state to be able to have access to some of that, our hard earned tax dollars to come back to us in terms of educational opportunities. I think that is probably not my strongest argument for charter schools though, even though we would love to have some assistance from Washington. I think the strongest argument that I can make is that I have three school districts that all have very strong alternative education programs. I am sure that there are a lot of you in the state that have those also. It is unfortunate that the students that are in those alternative education programs aren't usually always there by choice. It is because there are some special circumstances under which they qualify.

What I would like is for every student in this state to qualify because they are unique and one learning mode doesn't suit all

students. I would like schools that know how to do good alternative educational programs to have the opportunity within their existing schools to allow them to expand upon those alternative programs that they already have. Why should it be children that have really special needs, have those kinds of environments in which they can flourish? I think all students and their families should be able to have that environment for them.

All this amendment, if we can get to that, would do would be to ask our State Department of Education to come up with some very specific guidelines for the state, for those school districts that wish to be innovative in either developing new programs or supporting existing programs that they already have and are doing well and that they really would like to expand upon.

The other states that have charter schools, each have their own charter legislation that in some ways must conform with the federal regulations, but is specific to each state. I wish I had the statistics in front of me to tell you how many states in their chartering legislation have restrictions on who can be hired to teach in charter schools. The states have that opportunity in their legislation to say that it shall be teachers that aren't just certified, but that have the highest credentials possible. There are, in fact, a lot of states that they can only hire teachers that are part of their state teachers union to teach in charter schools. When I hear from educators in my communities that are afraid that they will be competing with people who are not as professional as they, who have not kept up their credentialing, I would hope that I am in a state where we would not, through our Department of Education, offer that opportunity for those who are not qualified to teach. Those kinds of rules and regulation, if we go on to the Minority Report, would be worked out within the Department of Education through rulemaking to come back to the committee of jurisdiction for a full and honest public hearing on those rules.

We, as a state, have an opportunity to develop our own charter school programming. I don't want to see another two years go by and lose the opportunity. I just want to take this last breath to encourage you to please, please, defeat the pending motion so that we can move onto the amendment. Thank you.

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

Representative **GAGNE**: Mr. Speaker, Ladies and Gentlemen of the House. We teachers dream about things that we could do if we had our own school. We would sit around the faculty room and say that if we could get rid of some of these administrative details, what kind of wonderful school we could create. We had all kinds of plans as to the kind of kids we would keep in the schools and the ones we would keep out. It was wonderful to dream about those things, but the reality is that all of that costs money just like anything else. In this state's public schools, in any state, I believe, are the ones that really provide the opportunities for everybody. We pay plenty of money to do that. In fact, if you start sending the money that you have even suggested here today to do all of those things that you talk about, we would never be talking about a 5 percent increase, we would be talking about much greater amounts. In fact, you already got within your schools, as you have heard said, alternative ways of taking care of some of the students. We do that out of the budget and the money that we receive already on the state level. What bothers me the most about the previous speaker's remarks was that we would do this from the top down. I really believe, back to dreaming in the faculty room, that is where it should begin. The ideas should generate there. If they really have some thing that they can use to help their kids, which they did do with the alternative education programs, and I know another Representative mentioned that they were in another building away from the main building, that was very important.

We did that in our district as well so that they would feel it was a different kind of education, but all of this was done within the budgeted amount that comes from the state that came from the district and those ideas should be generated from the district. We shouldn't be dictating to them how that should be. They will come up with enough idea to go back and use the money that they have. That is what it really boils down to, the cost. The people down in the front lines know best on how to deal with that. We should stay out of it. Thank you.

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

Representative **SHIELDS**: Mr. Speaker, Ladies and Gentlemen of the House. The Auburn school department has had an effective alternative education school for some time. They have taken the appropriate children from Auburn and Lewiston and have done a good job with them. This school has been in existence for several years. It acts like a charter school. It looks like a charter school, but we can't call it a charter school. If we could enable that to happen with this legislation, then perhaps there would be some better financial support in our school system and many others. I don't think there is going to be any big rush to replace our damage to any local school systems with charter schools if we pass this, because everybody says people are happy with our schools and the kids are doing well. I think that you ought to defeat the current motion and go on and pass this legislation. Thank you.

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

ROLL CALL NO. 343

YEA - Andrews, Annis, Ash, Baker, Belanger, Berry RL, Blanchette, Bliss, Brannigan, Brooks, Bryant, Bull, Bunker, Carr, Chizmar, Clark, Colwell, Cote, Cowger, Cummings, Davis, Desmond, Dudley, Duncan, Dunlap, Duplessie, Estes, Etnier, Fisher, Gagne, Gerzofsky, Glynn, Hall, Haskell, Hatch, Hutton, Jacobs, Kane, Koffman, Landry, LaVerdiere, Laverriere-Boucher, Lemoine, Lessard, Lundeen, Mailhot, Marley, Marrache, Matthews, Mayo, McDonough, McGlocklin, McGowan, McKee, McLaughlin, Michaud, Mitchell, Morrison, Murphy E, Muse C, Muse K, Norbert, Norton, O'Brien LL, Paradis, Patrick, Perry, Pineau, Povich, Richard, Richardson, Rines, Savage, Sherman, Simpson, Smith, Stanley, Sullivan, Tarazewich, Thomas, Tobin D, Tracy, Trahan, Twomey, Usher, Volenik, Wheeler GJ, Mr. Speaker.

NAY - Berry DP, Bouffard, Bruno, Buck, Bumps, Canavan, Chase, Chick, Clough, Collins, Crabtree, Cressey, Daigle, Dorr, Dugay, Duprey, Foster, Fuller, Gooley, Green, Heidrich, Honey, Jodrey, Kasprzak, Labrecque, Ledwin, MacDougall, Madore, McKenney, McNeil, Michael, Nass, Nutting, O'Brien JA, Peavey, Perkins, Pinkham, Quint, Rosen, Schneider, Shields, Snowe-Mello, Stedman, Treadwell, Tuttle, Waterhouse, Watson, Weston, Wheeler EM, Winsor, Young.

ABSENT - Bagley, Bowles, Goodwin, Hawes, Jones, Lovett, Mendros, Murphy T, O'Neil, Skoglund, Tessier, Tobin J.

Yes, 88; No, 51; Absent, 12; Excused, 0.

88 having voted in the affirmative and 51 voted in the negative, with 12 being absent, and accordingly the Majority **Ought Not to Pass Report was ACCEPTED** and sent for concurrence.

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

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

ENACTORS
Acts

An Act to Require Full Disclosure of Prescription Drug Marketing Costs

(H.P. 778) (L.D. 1022)
(S. "A" S-304 to C. "A" H-517)

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

Representative **BROOKS**: Mr. Speaker, Ladies and Gentlemen of the House. I know we debated this at great length the other day, but I can't let this go by without discussing it very, very briefly one more time. Yesterday on your desk you received a letter on yellow paper and when I testified yesterday, I had intended to cite the letter and I had forgotten to. If you will bear with me, I will just read you one sentence out of the letter. "This legislation sends a disturbing message to Maine's business community regarding the Legislature's willingness to compel the disclosure of proprietary business information for no legitimate purposes." That sums it up and that is my objection to this legislation. That letter was signed by the Maine State Chamber of Commerce, the Maine Merchants Association, the Maine Forest Products Council, the Maine Association of Community Banks, Biotechnology Association of Maine, the Maine Beer and Wine Wholesalers Association and the Maine Auto Dealers Association, all of whom have clearly registered their concern about this legislation. It is invasive. It will be demanding proprietary information. That is not to speak of the threat that this is going to have to people who are currently getting assistance from their doctors in the form of the drugs they are provided in the way of free samples. We heard about that yesterday and what we heard was some concern about the value and the cost of those drugs after the free samples had run out and I remind you that sometimes that is necessary to find the proper drug for people before they sign on and have their insurance companies or they themselves ending up having to pay for it. Let me repeat one more time that I am absolutely, adamantly, 100 percent behind trying to find a way for all citizens of the State of Maine to be able to receive drugs, prescription drugs at a lower cost. This is not any indication that I am supportive of the current cost. Ladies and gentlemen, this is not the way.

Mr. Speaker, I move we Indefinitely Postpone LD 1022 and all accompanying papers and I would ask for a roll call.

Representative **BROOKS** of Winterport moved that the Bill and all accompanying papers be **INDEFINITELY POSTPONED**.

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

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

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

Representative **KANE**: Mr. Speaker, Men and Women of the House. I'm sorry I wasn't here earlier yesterday when this bill was discussed. I would like to refresh your recollection in a few facts. My good friend from Winterport, with whom I delightfully serve on the Health and Human Services Committee offered up that this offers no legitimate purpose for disclosure of the information. Let me tell you what the purpose is, remember the busloads of elderly people who went to Canada for their medication because they had to choose between food and medicine. That is the purpose, men and women of the House.

This is what it is all about, to make needed drugs available to our elderly citizens, not exclusively on the backs of the taxpayers where it is subsidized with the exorbitant high prices of subsidized, but rather through a lowering of price, a negotiated lowering of price. Let's not take our eyes off those buses going over the line. That is how this started. That is when it started and it is the fuel that continues to drive Maine's effort to lower prescription drugs. This why I brought the bill forward. This Ought to Pass report came out of the committee with an 8 to 4 vote.

The question may be raised, why do we want to scrutinize the expenditures of the pharmaceutical industry on advertising and promoting their products? The pharmaceutical industry defends it exorbitantly high prices on medication by claiming that it is the cost of research and development that is the primary factor contributing to the high costs. There is clear and convincing evidence, which was distributed in previous sessions on this bill that it is not R & D, but rather advertising and marketing that drives up the costs of prescription drugs for this industry. The industry continues to fight at every turn Maine's efforts to reduce the cost of prescription drugs. They are all very happy to see us expand Drugs for the Elderly and other populations of the state as long as the taxpayers are paying the freight for it. That is not fair. We have not reneged on our commitment to provide expanded Medicaid services to pay for prescription drugs. There is no reason why the drug companies cannot come to the table and negotiate with us as we wish.

The facts are that 50 percent of the cost of research and development is already paid for by taxpayers through federal subsidies for independent research administered by the institutes of health. Drug companies spend twice as much money on advertising and marketing as they do on research and development. They spend more money marketing one drug, Claritin, than Anheuser-Busch spends on beer marketing or Coca Cola spends on Coke. They are a huge monopoly for which every other country in the world they have had price controls imposed. The US has no intention of controlling price and that is not what this is all about at all. Unless they begin to control their own marketing costs and reduce their profits, which are the largest of any industry in the world, there is no way we can get them to reduce the price. The bottom line is our goal to lower prescription drug prices for our constituents.

This bill is an important part of Maine's overall strategy to reduce the cost of prescription drugs, a strategy that includes the Maine RX Program, a drug importation proposal, a tri-state purchasing coalition with Maine, New Hampshire and Vermont and the Northeast States Coalition on prescription drugs, which includes all of New England, New Jersey, New York, Pennsylvania and Delaware. They are all watching what Maine does. Maine is leading the way.

The pharmaceutical industry are not bad people and the industry should not be demonized. My older brother was a pharmaceutical representative for Hoffman LaRoche for 40 years. I know how they treat their employees, very, very well. They have the potential for being the most socially conscience and the most socially effective industry in the whole world, if they could only balance the commitment to profits with their commitment to people.

This bill does not seek to reduce their profits, but rather to expand their accessibility of the products. Ironically enough, the expansion of accessibility will likely lead to significantly increased profits. Sometimes doing good is more profitable. In this case, that would happen. Increasing accessibility would make it more profitable. The industry would like to convince us that they should not be singled out for such scrutiny. They would like to be treated like any other industry, but there is no other industry in

the world to compare to them. There is no other industry that deals in such life and death products. There is no other industry that reaps \$24 billion a year in profits. There is no other industry that gets a major portion of its profits from public taxes, federal and state, through Medicaid. There is no other industry that spends more of its profits on marketing and advertising than this industry. There is no industry that sells its products to Maine residents at twice the price of Canadian residents.

Let there be no mistake about the power of the pharmaceutical lobby on this issue. This is a David/Goliath contest. They have repeatedly challenged Maine's determination to get a fair deal for our constituents. We have refused to back down, most recently in court. Please let us not back down now.

This bill does nothing more than shed some sunlight on the internal workings of this giant industry. It merely requires them to put their cards face up on the table, just so that our constituents know what they are paying for. Is that too much to ask? I ask for your support to defeat this motion for Indefinite Postponement and to support the motion for the Majority Ought to Pass Report. Thank you.

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

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

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

Representative DUPREY: Mr. Speaker, Men and Women of the House. To anybody in the chamber who would answer this, since these drug companies are now going to have to hire people to prepare all these charts and graphs for us to try to understand, I know I get my prospectus from my investments and I can't figure it all out because they have marketing costs that I guy like me has to figure out. I can't figure it out. I consider myself an okay smart guy. Since they are going to have to hire all these people, could somebody tell me how this is going to lower prescription drug costs? I think it is going to add to prescription drug costs. Can somebody explain to me how it is going to decrease the cost of drugs, because we all want that to happen? Thank you.

The SPEAKER PRO TEM: 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 Waterville, Representative Marraché.

Representative MARRACHÉ: Mr. Speaker, Men and Women of the House. I stand here today to actually support the pending motion to Indefinitely Postpone. Those of you who know me would not understand why I would be doing this. I have openly spoke out about the costs of health care and prescription drugs and I would do whatever it takes to lower that. This is not the way. This is not a good bill. In my mind, it is destroying business and making them disclose proprietary information. If it is not this business only, it could be others later. It does not seem to be doing anything but doing retribution for whatever anger some people have towards them.

The purpose of the bill stated in the bill that it will help the state negotiate lower prices. I don't see how that is going to be accomplished through this bill. As the speaker before me stated, how in the world are we going to lower costs when we are actually going to have somebody tally all of the data that is submitted. There is also a provision in here that they have to pay a fee for what we are requiring from them. That cost is going to have to be additionally added to the price of medications. It is only going to make it more expensive. I don't see how it is going to lower costs at all.

I think another issue that I had talked with other people outside about is patients and people, people like us here. If we want to lower costs, then we need to talk to each other and stop requesting brand name medications when we go to see the doctor. I don't know how many times I offer generic drugs for common complications and they don't want it. They want the brand names and it costs 10 times more and they don't care. They want the stuff they see on TV. Perhaps they should listen to the physicians who do try and cut costs for people, not every doctor is out for the free lunches, the dinners and the trips to Colorado. I don't see anywhere in this bill where this is going to be enforced. Where does it say what will happen if they don't give the information? What are they going to do with the information? It doesn't specify exactly how they are going to lower the costs. I don't see how this is helping at all.

I will add that the samples that are given have tremendously helped patients who cannot afford them. If, by chance, we were to lower the cost from this bill, I don't know how, but if it did happen, you may only be lowering it just a bit and it still may be beyond people's needs. The samples help.

In terms of promotional gifts, let me just quickly add that we, here in this hall, are just as guilty as doctors who go out for lunch. What are we doing at our lunch hour going down to the second floor and eating food from people who are trying to peddle their ideas to get us to vote their way? There is no difference. I ask you to keep the Indefinite Postponement. Thank you.

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

Representative QUINT: Mr. Speaker, Men and Women of the House. I think there is a difference between the tuna fish sandwiches and the bags of chips and the occasional can soda that is available to everybody that works or doesn't work here, including people who visit school children. We did that by design because that was, in fact, a question. Those tuna fish sandwiches, bags of chips and cans of soda, being open to everyone, is not the same as private dinners in large restaurants and in big clubs. Having worked in a doctor's office for six months and having to deal with pharmaceutical reps, it is not an open process. It is not open at all. One of the standing jokes at the office was, what are we going to have for lunch on Friday? Who were we going to call this week? That was not open to anybody else in the hospital, nor any of the other practices at the hospital. Most physicians that I worked with really resent that interference in their day to day practices, but because it is a standard practice, many people in that particular profession are having a very difficult time dealing with it and certainly would like to have an opportunity to perhaps have some of that pressure removed from them. I must say I really resent the comparison between PTA groups, agricultural groups, any group who wants to provide legitimate informational exchanges at their tables, whether it is school students, teachers, people with disabilities, Native Americans, it is a big difference. Thank you.

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

Representative O'BRIEN: Mr. Speaker, Ladies and Gentlemen of the House. I am sorry that my good friend from Portland resents the analogy between what goes on downstairs and in the halls to what goes on in a doctor's office. I see it as absolutely the same thing. The physicians that I have spoken with do not want the pressure taken off them by the drug salesmen and women. As a matter of fact, those that I have spoken to actually like it. They need to stay up on information. They need to know about drug interactions. They need to know about the latest research. This is an educational opportunity for them. One of the previous speakers, Representative Kane, talked about what other industries. I want to ask what other

industries save so many lives? What other industry does research every day that eases the pain of so many millions of people? What other industry pays their employees so well and provides so many jobs? I don't know why they have the scarlet letter on them? I would say, by the way, for those that may question motives, I refused any drug money. This is strictly my thoughts. My motives have been questioned earlier, so I want to put that on record. Representative Kane did say, is this too much to ask? In my view it is absolutely too much to ask and there is nothing to be gained by this.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Hartland, Representative Stedman.

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

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

Representative **STEDMAN**: Mr. Speaker, Ladies and Gentlemen of the House. For anyone who may be willing to answer or has the information, has this idea been run by the Attorney General's Office to find out if we are providing an opportunity for a lawsuit dealing with harassment or discriminatory actions against a particular industry or organization?

The **SPEAKER PRO TEM**: The Representative from Hartland, Representative Stedman has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Saco, Representative Kane.

Representative **KANE**: Mr. Speaker, Men and Women of the House. I will say that the Attorney General is extremely familiar with all of the strategies with respect to our dealings with the pharmaceutical industry, given his previous role here in the Legislature. The bill before you is not something that was of my unique creation, but was modeled on a bill developed by a Republican Senate Leader in the State of Pennsylvania, who also happens to be a member of the North East States Coalition and has been in communication with and consultation with our efforts here in Maine. Thank you.

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

Representative **TWOMEY**: Mr. Speaker, Men and Women of the House. It is wonderful that we can share dialogue and not agree all the time. I had lunch today with the good doctor and we discussed this. She said, I hope you don't have a different opinion of me because I feel this way. I told her that I didn't. We need to stand up for what we believe in. I respect her opinion, but I just don't share it. We can still be friends. This afternoon I went to a press conference, one of many, for Chellie Pingree. It was very moving to me today when the man who spoke on her behalf spoke about the work she did on prescription drugs. As he continued to speak, his emotions just overcame him on the fact that he saved \$300 on his prescriptions and how \$300 to someone matters. I am positive that he didn't have a prospectus, because he couldn't afford it. We are using public money. This is nothing more than accountability. Those people that went to Canada were people from Biddeford. Those are our seniors, your seniors and mine. It does matter. When I go sit with them when I go door to door, they take out their bottles of pills and they tell me what they are going through. I have told you this before and I see these people in my head every time I stand up. This couple both have heart conditions and this man is going without so his wife can have the medicine that she needs. You know, when I see the money that they spend on advertising, I think of those people. Those people have a face and a name to me. It is about accountability. It is about using public dollars that fund this stuff, even though they say it is not research and development, it is marketing. It is about my friends who work in

doctor's offices who are unbelievably treated to meals because of the prescription drugs, they come in and want to sell this, that or the other.

On the last note, I am very careful about the food I choose to eat and where it comes from. Thank you.

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

Representative **FULLER**: Mr. Speaker, Ladies and Gentlemen of the House. This is a controversial issue and I understand that, but let me just point out some things. There is nothing in this bill that says that pharmaceutical companies cannot still give out free samples. I know they give out lots of free samples. I even get them and I am not a poor person. Does everybody know, and how many physicians also tell their patients about the Patient Assistance Program, whereby they can get free drugs on an ongoing basis if they are low income? There are other ways of getting drug assistance for poor people. I would add that that information does come from PHARMA so they are doing something to help poor people get drugs.

I have no problem with education of physicians. I agree with what they do with physicians in their offices, teaching them about new drugs, introducing them to new drugs is important. The physician's time is very valuable and they are pressed for time and I think this can be very helpful. Nobody is saying, do away with drug representatives. However, let us keep in mind some of the comments made by previous speakers, namely the honorable Representative Kane, chair of the committee and sponsor of the bill. This drug industry is not a free market, open competitive business like other businesses that sell all kinds of other products. Our tax dollars fund their research, over 50 percent of that. They get patents protecting their product for years and then they charge astronomical prices.

I have been on panels with representatives of PHARMA and I have argued this point with them. I cited this from previous testimony, they invented drugs to treat AIDS with the tax dollars from you and I and then they charged \$1,000 a month for these drugs to be dispensed to AIDS patients. People could not afford them. The Medicaid Program was paying astronomical prices for them. When I have talked to representatives of the pharmaceutical industry about the high cost of drugs their answer is, oh, but it saves hospital costs. If that is the reasoning of what they can charge because it is going to save hospital costs, that puts it in a very strange perspective. It is not related to the cost of the product. It is not related to lots of things, but because it saves hospital costs, they feel they can charge these outrageous prices.

It is the TV and magazine advertising that is really the problem that needs to be addressed. That is what is driving up the cost of our health care system. We heard from the Medicaid Program here in our State of Maine about the impact on advertising of driving up requests for the drugs that you see advertised regularly on your TV screens and the magazines that you read and they come in and the patients do say to their doctors and it was mentioned previously, I want that drug. I see it advertised. It does wonderful things. I do not want a generic drug. That drives up the cost of our Medicaid Program and it drives up the cost for any prescription drug coverage plan under any other insurance company. It also drives up the cost for other insurance plans when patients cannot afford to take their prescribed medications. When the cost of the medication is so high that they don't get their prescriptions filled, they cut the pills in half, they take them every other day instead of every day and then they end up in serious trouble and they end up in the hospital costing us way more because they are not able to afford to buy their drugs. We need to get this cost of advertising of drugs under control and I submit that the bill before you now is

one way to help address that problem. Better informed consumers, hopefully, will not go to the doctor and say that I want drug X because I saw this advertised and this is what I really need. They need to understand what that advertising is costing and how it is impacting them. I ask you to defeat the pending motion to Indefinitely Postpone this bill and let's go forward and have better educated consumers. Thank you.

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

Representative **KASPRZAK**: Mr. Speaker, Men and Women of the House. Earlier it was asked if there was a legitimate purpose to this bill. I would just say that after listening to this lengthy debate on several occasions now that obviously there is no legitimate purpose for this bill. Obviously we already know they are spending a lot of money on marketing because we have heard from several Representatives that they are spending too much, in their opinion. Another point was that the reason we have to know what this particular industry is spending their money on is because taxpayer funds are being used. Ladies and gentlemen, taxpayer funds are also being used to purchase food. Do we need to know what the grocery stores and the bread manufacturers are spending on marketing costs? Where will it end? This bill is not only bad, but it is un-American. It is socialist. I would absolutely encourage you to support the pending motion. Thank you.

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

Representative **BROOKS**: Mr. Speaker, Ladies and Gentlemen of the House. I rise a second time just simply to answer a couple of questions that were asked earlier, much of which I think has been answered. I think earlier the good Representative from Hampden asked about the connection between reducing prices and this bill. I have sat on the committee with the good Representative from Saco, Representative Kane, and listened to the testimony and listened to the public hearing and he and I have discussed this, believe me, I think to his point, probably ad nauseam. I don't see any connection and that is why I am here with an Indefinite Postponement. I am sorry. If this for a minute told me that the prescription costs in the State of Maine would go down, then I would say, let's go folks. I have done that with every other single bill that has come along from the waiver program to the tri-state pact, to the RX Program to what have you. This is the only one that I see as invasive and inconclusive. It is not going to do anything except collect information. What scares me is, what are we going to do with the information? Are we going to turn it over to a state department that we are going to spend the next several months reviewing? I am real uncomfortable with that. It is proprietary information. It is information that a company or a corporation that comes to the State of Maine and tries to conduct business and we are going to tell them that they have to pay a \$5 permit to get in here and then they are going to have to tell us every single marketing dollar that they spend in the State of Maine. I can't go there. Why would we want to do that to any industry? Remarks have been made about Coca Cola and Pepsi Cola and how much money they spend, also about Budweiser. Let's ask them about what their marketing money are and tell them that they have to tell us. Maybe we should do that. Maybe we should do that for every single business that does business in the State of Maine, including Hannaford Brothers. Is there a difference?

The pharmaceutical company does operate off taxpayer money, sure. It also operates off sick people. Hannaford Brothers operates off food stamps, taxpayer money, and it operates off hungry people. It doesn't make sense that we would single out a single industry.

As the good Representative from Saco said, we have amassed in the past year or so, proudly so, strategies to deal with this. It is embarrassing to sit in the Health and Human Services Committee and watch people come in who have just come back from bus trips to Canada and get Tamoxifen for \$10 or less when I know what it costs here, \$100 to \$110. We started and supported, all of us, both sides of the aisle, the Maine RX Program and other programs to help. There are strategies out there that are attempting to deal with this issue. Let them work before we layer over it a completely and total unfriendly law to businesses that are trying to do business in the State of Maine. That in and above itself should be enough reason, but apparently it isn't. Let's think about the people who do get drugs from their doctors and are helped and are led in the direction of finding the most appropriate drug.

I happened to be sitting in the other body when this was discussed. I listened to the good Senator who talked about information that he had pulled down off the Internet for research into HIV. There were hundreds and thousands and millions of dollars. I don't want to discourage companies from coming to the State of Maine and working.

The only other thing that I would like to say is that this bill, so there is no misunderstanding, about the fact that this did divide the Health and Human Services Committee nearly down the middle. This bill was 7 to 6 Ought Not to Pass. I believe the day or two before it came out. It was only because somebody changed their minds did it come 7 to 6 Ought to Pass. That was the vote that came up, 7 to 6. It conflicted us in committee as well. What I am saying to you here is let's not set a horrible precedent. Let's not send that signal out that would take us back to those days when we couldn't find insurance companies willing to come here and cover workers' comp because we were so "unfriendly." Let's let the other strategies work. Let's Indefinitely Postpone this bill. Thank you.

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

Representative **VOLENIK**: Mr. Speaker, Men and Women of the House. I was just looking at some statistics here from 1999. They are probably slightly out of date, but it looks like \$473,019,091 was spent in Maine on drugs and other medical non-durables. Of that \$87 million was from populations whose primary insurance is Medicaid. Fifty-five million is from populations whose primary insurance is Medicare. Seventy-one million is from populations whose primary insurance is dual eligible, both Medicare and Medicaid. The total for all public dollar expenditures on prescription drugs is probably around \$200 million, give or take \$10 or \$20 million. That is your money. That is your tax dollars. We have heard that phrase many times. Don't you want to know how that money is being spent and also as representatives of the people and stewards of the budget, don't you want to know how that money is spent and don't you deserve to know how that money is spent?

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

Representative **BOUFFARD**: Mr. Speaker, Men and Women of the House. This morning as I was having breakfast and reading the local newspaper, there was a wonderful editorial article, the jest of it says, Drug Bus Stalling for Profit. I won't read the whole editorial, but to give you an idea. The pharmaceutical industry seems to be preying on people. The more that we can find out about them, the better that I would like it. *Consumer Reports Magazine*, July 2001 has an article that is called the Stalling Game. What I want to read is a little section. There are five different reasons that they give that the pharmaceuticals are stalling. One of them says, "Sweetheart deals, that means that outright payments to competitors, not to

introduce a new drug, Geneva Pharmaceuticals told Abbott Laboratories that it would launch a generic form of the prostate drug unless Abbott paid Geneva \$4.5 million per month." That is a cost that is going to be turned around and paid for, part of it, by the taxpayers. That is something that I certainly would like to know. I am glad *Consumer Reports Magazine* is starting to delve into this subject. At the bottom of the article it says, "Unless these illegal tactics and legislative loopholes are rooted out, Americans will continue to be robbed of billions annually." They wrote the article because it says also here, "It is important since patents on 21 of the best selling drugs in the US are scheduled to expire in the next five years." What they are dealing with here is not necessarily advertising, but I would venture to say that when the drug companies are advertising prescription drugs that you have to go to a doctor in order to obtain them, why are they advertising for this? You can't buy them off the shelf. You still have to get a prescription from the doctor. The more that we find out of the monies that are being spent, disregarding what we are paying for these drugs, the better off that I am going to like it. Let's not support Indefinite Postponement of this. It is just one more tool that can be used to find out where our money is really going. Thank you.

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

Representative DUPREY: Mr. Speaker, Men and Women of the House. I will be real brief, because I know that everybody is either ready to vote or eat, one or the other. If the drug companies tomorrow decided to stop all those marketing costs, all that money would go to their profits and we would be in here complaining that they are making too much in profits. You stop and think, say the company spends \$80 million in marketing, that money goes to Maine people. I used to own an advertising agency. Wow, that money goes into TV stations, radio stations, *Down East Magazine*. The money gets pumped into the Maine economy, instead of being in a drug company's infrastructure, instead of being in the profits. They are spending money inside the State of Maine. Just keep that in the back of your mind when you vote please.

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

Representative DUDLEY: Mr. Speaker, Men and Women of the House. To address, in particular, the points made by my colleague from Newport, noting that this bill is un-American. I have a different perspective on it. I see freedom on information, freedom for consumers to know how their dollars are being spent. It is very American. We have disclosure of information of all kinds. We have disclosure for the ingredients of food. Is it un-American to disclose what is in our food? Certainly not. We have campaign expenditure disclosures that we all have to fill out. Is there anything un-American about that? Certainly not. People absolutely have a right to know how those dollars are being spent. Similarly with the securities industry, securities industries disclosure of findings, there are all kinds of important information to the public to guarantee that how those dollars are being spent is ethical. It is something that we can agree with, so that we can put our money with somebody who we respect. That is exactly what this bill is trying to do. It is a very American idea. It is probably a uniquely American idea.

As far as saving money is concerned, Representative Fuller sort of stole my thunder on that. The problem here is you have these drug manufacturers marketing directly to consumers. They are circumventing the whole patient/provider relationship. Patients aren't served by that. Patients are perhaps getting drugs that are much more expensive than the ones they need. They are perhaps getting drugs that they don't need at all. I see the ability to save money here coming in three different ways.

First of all, we are saving money in the marketing line. Money that isn't spent on marketing isn't added to the cost of drugs. People are saving money by being advised to buy less expensive drugs. People are saving money by being advised not to buy any drug at all. There are savings here, ladies and gentlemen of the House, and I urge you to vote with me against this pending motion.

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

Representative MARRACHÉ: Mr. Speaker, Men and Women of the House. I will make it brief. We just had a bill not too long ago that angered quite a few of us about freely giving information and now we are being told that this is the American way. I think people really need to think about this. Thank you.

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

Representative MAYO: Mr. Speaker, Men and Women of the House. I would second the words of the good Representative from Waterville about prolonging this debate. I have not listened to it in previous debates this session, but did feel the need to do it for a couple of reasons. One being a member representing this body in the North East Drug Compact, the gentleman from Pennsylvania who developed the model that is being used in this particular piece of legislation, LD 1022, sat beside me at the most recent meeting that we held in New Hampshire. I had a lengthy conversation with him about it. For that reason, if for nothing else, I shall be voting against the motion to Indefinitely Postpone. I feel a little awkward about that this afternoon as a former small businessman. I realize that what we are talking about is proprietary information, however, in answer somewhat to the question or the comment of the Representative from Augusta, I personally feel that the drug companies have brought this problem upon themselves. It is, I think, beyond question that drug prices and the increasing costs of drug prices are one of the things that are driving the increasing costs of the insurance market.

This morning while on the treadmill about 5:30 watching CNN, there was a segment on drug pricing and what we had in store for us in the future. This particular commentator indicated that within the next five years, we were going to see a doubling of the drug costs and their effect on insurance and their effect on hospital costs. That was their prediction. The reason is, the baby boomers. The baby boomers are coming into the prescription drug market and they are going to drive this problem even further. Somehow, somewhere, we have got to do some things to rein this in. While I am not overly comfortable with LD 1022, I do think it is one small movement along this continuum and that is why I shall be voting against Indefinite Postponement. Thank you.

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

ROLL CALL NO. 344

YEA - Andrews, Annis, Ash, Belanger, Berry DP, Brooks, Bruno, Buck, Bumps, Carr, Chase, Chizmar, Clark, Clough, Collins, Crabtree, Cressey, Daigle, Davis, Duncan, Duprey, Fisher, Foster, Glynn, Goodwin, Gooley, Haskell, Heidrich, Honey, Jodrey, Kasprzak, Labrecque, Ledwin, MacDougall, Madore, Marrache, McKenney, McNeil, Michael, Morrison, Muse K, Nass, Nutting, O'Brien JA, Peavey, Perkins, Perry, Pinkham, Rosen, Schneider, Sherman, Shields, Smith, Snowe-Mello, Stedman, Thomas, Tobin D, Tracy, Trahan, Treadwell, Usher, Waterhouse, Weston, Wheeler EM, Wheeler GJ, Winsor, Young.

NAY - Baker, Berry RL, Blanchette, Bliss, Bouffard, Brannigan, Bryant, Bull, Bunker, Canavan, Chick, Colwell, Cowger, Cummings, Desmond, Dorr, Dudley, Dunlap, Duplessie, Estes, Etnier, Fuller, Gagne, Gerzofsky, Green, Hall, Hatch, Hutton, Jacobs, Jones, Kane, Koffman, Landry, LaVerdiere, Laverriere-Boucher, Lemoine, Lessard, Lundeen, Mailhot, Marley, Matthews, Mayo, McDonough, McGlocklin, McGowan, McKee, McLaughlin, Michaud, Mitchell, Murphy E, Muse C, Norbert, Norton, O'Brien LL, Paradis, Pineau, Povich, Quint, Richard, Richardson, Rines, Savage, Simpson, Stanley, Sullivan, Tarazewich, Tuttle, Twomey, Volenik, Watson, Mr. Speaker.

ABSENT - Bagley, Bowles, Cote, Dugay, Hawes, Lovett, Mendros, Murphy T, O'Neil, Patrick, Skoglund, Tessier, Tobin J. Yes, 67; No, 71; Absent, 13; Excused, 0.

67 having voted in the affirmative and 71 voted in the negative, with 13 being absent, and accordingly the motion to **INDEFINITELY POSTPONE** the Bill and all accompanying papers **FAILED**.

Representative TRACY of Rome **REQUESTED** a roll call on **PASSAGE TO BE ENACTED**.

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

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

ROLL CALL NO. 345

YEA - Baker, Berry RL, Blanchette, Bliss, Bouffard, Brannigan, Bryant, Bull, Bunker, Canavan, Chick, Colwell, Cowger, Cummings, Desmond, Dorr, Dudley, Dunlap, Duplessie, Estes, Etnier, Fuller, Gagne, Gerzofsky, Green, Hall, Hatch, Hutton, Jacobs, Jones, Kane, Koffman, LaVerdiere, Laverriere-Boucher, Lemoine, Lessard, Lundeen, Mailhot, Marley, Matthews, Mayo, McDonough, McGlocklin, McKee, McLaughlin, Michaud, Mitchell, Murphy E, Muse C, Norbert, Norton, O'Brien LL, Paradis, Perry, Pineau, Povich, Quint, Richard, Richardson, Rines, Savage, Simpson, Stanley, Sullivan, Tarazewich, Tuttle, Twomey, Volenik, Watson, Mr. Speaker.

NAY - Andrews, Annis, Ash, Berry DP, Brooks, Bruno, Buck, Bumps, Carr, Chase, Chizmar, Clark, Clough, Collins, Crabtree, Cressey, Daigle, Davis, Duncan, Duprey, Foster, Glynn, Goodwin, Gooley, Haskell, Heidrich, Honey, Jodrey, Kasprzak, Labrecque, Landry, Ledwin, MacDougall, Madore, Marrache, McGowan, McKenney, McNeil, Michael, Morrison, Muse K, Nass, Nutting, O'Brien JA, Peavey, Perkins, Pinkham, Rosen, Schneider, Sherman, Shields, Smith, Snowe-Mello, Stedman, Thomas, Tobin D, Tracy, Trahan, Treadwell, Usher, Waterhouse, Weston, Wheeler EM, Wheeler GJ, Winsor, Young.

ABSENT - Bagley, Belanger, Bowles, Cote, Dugay, Fisher, Hawes, Lovett, Mendros, Murphy T, O'Neil, Patrick, Skoglund, Tessier, Tobin J.

Yes, 70; No, 66; Absent, 15; Excused, 0.

70 having voted in the affirmative and 66 voted in the negative, with 15 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker Pro Tem and sent to the Senate.

The Speaker resumed the Chair.

The House was called to order by the Speaker.

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

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.

An Act to Amend the Animal Welfare Laws (EMERGENCY)

(S.P. 356) (L.D. 1170)

(C. "A" S-286)

- In House, **FAILED** of **PASSAGE TO BE ENACTED** on June 4, 2001.

- In Senate, **PASSED TO BE ENACTED** in **NON-CONCURRENCE**.

TABLED - June 5, 2001 (Till Later Today) by Representative McKEE of Wayne.

PENDING - FURTHER CONSIDERATION.

Representative McKEE of Wayne moved that the House **RECEDE AND CONCUR**.

The same Representative **REQUESTED** a roll call on the motion to **RECEDE AND CONCUR**.

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

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

Representative **MCKEE**: Mr. Speaker, Men and Women of the House. This is an extremely important bill for Agriculture, Conservation and Forestry. As you know, animal welfare was put on the front burner for us. In the 1980s we had a very highly effective animal welfare program in the State of Maine, but with the economic slowdown of the early '90s we had to let a lot of people go and subsequently we ran into a lot of problems. The number of cases of reported cruelty to animals rose. We did not have the kind of support in the Department of Agriculture that we needed. We felt that we needed to revitalize this program. It is not a very good year to be revitalizing a program in the Department of Agriculture. We knew that if we asked for funds, we probably wouldn't get them. I don't know about your bureaus that are in your jurisdiction, your committees, but I will tell you that the Department of Agriculture never asked for anything that it does not absolutely need. I don't know if that reflects the frugality of the people they represent or what. I know that when Commissioner Spears comes before us and asks us for something, we really listen to him. What we are asking for here is the opportunity to raise the kind of revenues we would need in order to revitalize that Animal Welfare Program in order to provide protection of animals across the state. Just as other states have done, they have raised the registration fees for their commercial feeds and for their pet food. The revenues from the increases of the registration will go to fund this program. This was a unanimous Ought to Pass out of our committee and it passed unanimously in the Senate as well. I urge you to support the Recede and Concur and go on to help us reestablish the Animal Welfare Program in the Department of Agriculture. Thank you.

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

Representative **WATERHOUSE**: Mr. Speaker, Ladies and Gentlemen of the House. I hope you will stick to your previous position on this bill and vote against the Recede and Concur. I don't think there is anybody in this House, at least I would hope there isn't, that doesn't support protection of animals from being abused. However, having said that, it seems to me that in the seven years that I have been up here, especially this session here, the tendency is not to prioritize and to go for fee or tax increases. We are talking about an increase of \$40 to \$80 and

\$20 to \$80. That is quite a jump. I also noticed that it says that the commissioner shall deposit one-half of the fees collected pursuant to Subsection 1 in the general fund and half the fees collected in the Animal Welfare Fund. Maybe somebody could explain to me why we are putting half of the money in the general fund if this is such an important issue for protection from animal abuse. Even if that could be explained to me, I think this should be prioritized. I think it should compete with the other high priorities and the other issues that are going to be in the budget or were in the budget. I cannot support any fee increase. Thank you.

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

Representative MCKEE: Mr. Speaker, Men and Women of the House. I was quite surprised when we went before the Appropriations Committee the first time, and I know that my fellow members who served on the Budget Committee can verify this, there was surprise on the part of the chair of that committee that we were not asking for more. I truly believe this is a bare-bones request and I hope that all of you will support, as did all the members of our committee. Mr. Speaker, when the vote is taken, I would ask for a roll call.

The same Representative REQUESTED a roll call on the motion to RECEDE AND CONCUR.

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

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

Representative GOOLEY: Mr. Speaker, Men and Women of the House. I would urge you to support the Recede and Concur motion on the floor. In the Agriculture, Conservation and Forestry Committee, this bill was the most discussed bill that we had and it was a lot of discussion. It was a lot of give and take to come up with a program, which will meet the needs of everyone concerned on a statewide basis. Yes, it does increase the fees for the people who sell pet food from \$40 to \$80 per year. It doesn't seem like a very large amount and it is on a per year basis. We heard a lot of horror stories about where animals are being mistreated. We feel like we came up with the best solution for everyone concerned in the State of Maine at the present time. We had a unanimous committee report and I feel very comfortable with it. I would hope that you would support the Recede and Concur.

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

Representative MCKEE: Mr. Speaker, Men and Women of the House. I did fail to mention one thing and that was our desire for a stable funding source. We don't want to leave this up to the whims of what we have to go through in Appropriations. This is a stable source of funding. Thank you.

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

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. 346

YEA - Andrews, Annis, Ash, Baker, Belanger, Berry DP, Berry RL, Blanchette, Bliss, Bouffard, Brannigan, Brooks, Bruno, Bryant, Bull, Bumps, Bunker, Canavan, Carr, Chase, Chizmar, Clark, Collins, Colwell, Cowger, Cummings, Daigle, Davis, Desmond, Dorr, Dudley, Dugay, Duncan, Dunlap, Duplessie, Estes, Ethier, Fisher, Foster, Fuller, Gagne, Gerzofsky, Glynn,

Gooley, Green, Hall, Haskell, Hatch, Heidrich, Honey, Hutton, Jacobs, Jodrey, Jones, Kane, Koffman, Labrecque, LaVerdiere, Laverriere-Boucher, Ledwin, Lemoine, Lessard, Lundeen, Madore, Mailhot, Marley, Marrache, Matthews, Mayo, McDonough, McGlocklin, McGowan, McKee, McKenney, McLaughlin, McNeil, Michael, Michaud, Morrison, Murphy E, Muse C, Muse K, Nass, Norbert, Norton, O'Brien JA, O'Brien LL, Paradis, Peavey, Perry, Pineau, Richard, Richardson, Rines, Rosen, Savage, Schneider, Sherman, Shields, Simpson, Smith, Snowe-Mello, Stanley, Stedman, Sullivan, Tarazewich, Tessier, Thomas, Tobin D, Tracy, Trahan, Tuttle, Twomey, Usher, Volenik, Weston, Winsor, Young, Mr. Speaker.

NAY - Buck, Chick, Clough, Crabtree, Cressey, Kasprzak, MacDougall, Nutting, Perkins, Pinkham, Treadwell, Waterhouse, Wheeler EM.

ABSENT - Bagley, Bowles, Cote, Duprey, Goodwin, Hawes, Landry, Lovett, Mendros, Mitchell, Murphy T, O'Neil, Patrick, Povich, Quint, Skoglund, Tobin J, Watson, Wheeler GJ.

Yes, 119; No, 13; Absent, 19; Excused, 0.

119 having voted in the affirmative and 13 voted in the negative, with 19 being absent, and accordingly the House voted to RECEDE AND CONCUR.

The Bill was signed by the Speaker and sent to the Senate.

HOUSE DIVIDED REPORT – Majority (8) **Ought Not to Pass** – Minority (5) **Ought to Pass as Amended by Committee Amendment "A" (H-630)** – Committee on **BUSINESS AND ECONOMIC DEVELOPMENT** on Bill "An Act to Maintain a Centralized Database for Schedule II Prescriptions Dispensed by Pharmacies in the State"

(H.P. 532) (L.D. 687)

TABLED – May 31, 2001 (Till Later Today) by Representative RICHARDSON of Brunswick.

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

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

Representative RICHARDSON: Mr. Speaker, Men and Women of the House. I will urge you at the outset here to accept the Majority Ought Not to Pass Report on this bill. I do, however, want to thank the sponsor for bringing this issue forward. This is a real important issue. It deals with the drugs Oxycontin and other schedule II drugs, which are devastating portions of our state. It is a real problem, as I have indicated, and I think the sponsor was trying to address this particular problem. I have a lot of respect for the good Representative from Raymond, Representative Bruno, who is the sponsor of this bill. The committee, therefore, attempted to very seriously consider some way in which to stem the tide of Oxycontin abuse. It became apparent to us as we began our proceedings into this bill that there was no way to balance the interests of those people who were concerned about their privacy versus the interests of law enforcement and others who were hoping to stem the tide of Oxycontin abuse.

To be very short about this, this bill creates a centralized database to warehouse personal medical information about your prescription use, which in the original bill and the Majority Ought Not to Pass Report contains no confidentiality clause and also is completely open to access to law enforcement. There is a competing Minority Report, which does address some of the confidentiality issues, but would still keep this fairly well open to law enforcement for their review with quite a low threshold of interest in terms of whether they can review it or not.

We had former US Attorney Jay McCloskey come before us. He talked about three things that he thought was very important for purposes of stemming the tide of the abuse of schedule II drugs. He said it was education, increased law enforcement and treatment. I actually think he missed one. I think one is technology. With respect to education McCloskey stated that education was the key to stemming the demand and that law enforcement has been educating students on this kind of risk, the severity of this risk. Also, the pharmaceutical company, which manufactures Oxycontin, has responded by conducting seminars with doctors on how to spot fraud and abuse. This, hopefully, will stem the tide.

With respect to increased enforcement, we had a bill, which unfortunately did not pass this institution, it was a bill to MDEA agents to the role as to combat this problem, this drug problem, and others. The Criminal Justice Committee did pass legislation to make it a crime to forum shop with respect to physicians. In addition to that, they also looked into how to create a tamper proof prescription pad. That is coming back under the substantive rules. You can see that we are trying to increase the enforcement in this area.

Finally, with respect to a treatment, we have the adult education drug treatment court, which looks a convicted felons who are involved in drugs in attempts to bring them back away from the drug use and back into the main stream of life. Also, Portland Police Chief Mike Chitwood has thrown his support behind a Methadone clinic in Portland. I think we need one down east as well. That would, hopefully, help to stem the tide with respect to the chronic abusers of drugs to come and kick their habit.

Finally, I think there is technology. This is what I think will pave the way to limiting abuses which will occur and have been occurring in the Oxycontin field and that is that the pharmaceutical company, which manufacturers Oxycontin has made available tamper proof prescription pads. Also, they are developing a drug that will take out the high in the Oxycontin drug so as to provide the pain killer affect, but take away the high that the drug abusers are seeking.

We heard testimony that it is the importation of these drugs, it is also the theft of these drugs and the fraud of these drugs, in that order, which have created our problem. This bill will do nothing to stop the importation of drugs. This bill will do little to stop the robberies, which I think in part was one of the reasons why the good Representative from Raymond sponsored this bill in the first place because one of his pharmacies was, in fact, robbed. It will have very little impact, if you will, on the fraud and abuse, which occurs at the counter of the pharmacies. For that reason, we had to balance the interests of privacy against the interest of disclosing private medical information. That kind of information, I think as we have heard and I have listened to, is very sensitive information. People don't want to share it. They don't want to share personal and private information and you can tell that with respect to the matters that were debated here on the opt in, opt out and also matters which were debated in other areas that we discussed. I am asking for you to seriously consider what gain we could possible make from giving our most private of information, information related to our children's Ritalin drug use or drug use that we are using in schedule II drugs in order to combat chronic pain.

What benefit, I think, versus the detriment of allowing all of this private information to be released? What benefit will there be? I submit to you that it is very little. I just want you to remember that in the end when you deliberate this bill, that I kind of thought about how best to sum it up, if I know your name, I know your address. If you do business with me, I know your

social security number. If I am your Internet access provider or if you do business on the Internet, I know the Internet sites to go to. If you do business in a financial institution, I know all about you. I know what you make. I know what your credit history is. I know what your financial information is all about. I am, in many respects, the government or I am your Internet provider or I am, in fact, the kind of institution that seeks out this what was, unfortunately, private data. It sounds and smacks a lot to me like Big Brother. We are being asked, essentially, to give information to Big Brother, private medical information that would be collected in a central database. Under the Minority Report it will be given to DHS. I just ask that you consider what we are doing here today. We are giving, essentially, the most private of information. It is the last bastion, if you will, of private information. It is your medical information. I submit to you that that is something we just don't want to give up. The benefit does not outweigh, eventually, the harm that will be caused. Thank you very much.

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

Representative BRUNO: Mr. Speaker, Men and Women of the House. I don't know where to begin. I do want to tell you what the reality of the situation is. You have a scourge in Maine and it is killing our young people. It is destroying the lives of families in Maine and it is called drug abuse. What we need is an economic development that sponsors drug agents and we are going to walk away from this session and do nothing. You have been told all kinds of reasons not to vote for this bill, but let me tell you the truth. I have gone to three workshops on this bill and I thought we were reaching a compromise position. I don't have the answer to every bill that I submit. I always want to work with the committee and with my eight years of being up here, it has always been my feeling that if you have three work sessions and you are starting to reach a compromise, that you are making progress on a bill. On the third work session all of a sudden everything falls apart. I don't understand it. Anyway, I will move on.

We think that tamper proof prescriptions are going to solve this problem. Tamper proof prescriptions have been around for more than 20 years that I know of and I have been doing this for about 25 years now and it hasn't solved the problem. It is still going on. We are going to increase the crime to doctor shop. You don't think these people know it is a crime to doctor shop right now. They are shopping right now with doctors. It is already a crime and they do it anyway, so you think you are going to stop them. I don't think so. The major issue you need to think about is there is a major drug chain, a major pharmacy chain, in this state that has decided not to carry Oxycontin anymore. The reason they did it is because they are tired of having fraud people come in with false prescriptions and stealing from them. They are tired of getting broken into. They are tired of being helped up at gunpoint. What you are doing is you will make this drug unavailable for people who really, really, really need it and those are your cancer patients out there that get some relief from this medication.

We are talking about Methadone clinics and we think that is a good idea. We already have one in South Portland. We have one in Winslow. They are going to open one in Bangor, that was a big fight. They are going to open one in Machias. They are going to open one in Portland. We are going to have five Methadone clinics in this state and what was the first thing that happened when they opened the Methadone clinic in South Portland, they were missing thousands of doses of Methadone and that is going to solve the problem. Maybe I just think differently than most people, maybe because I have been doing this for so long and I see it every single day.

We did have US Attorney Jay McCloskey come and testify. What he said is we ought to have a real time, on-line system that every pharmacy and every doctor would have access to. I said, fine, let's do it. I thought that is the way the committee was going, but at the last minute that didn't happen. Now we are concerned about people having access. Ladies and gentlemen, pharmacy inspectors already have the right to go in and look at all these prescriptions. They already do it. The problem is they have to travel from pharmacy to pharmacy and hit all 300 around the state and there are only two pharmacy inspectors in the entire State of Maine and they have to travel from Kittery to Madawaska to Calais to Jackman and hit every pharmacy to pick up that information when we can do it and make their lives simpler and save all kinds of money. No, we don't want to do that.

We have 19 states that already do this. Maine has hit the national news because we have such a problem with Oxycontin. Every major newspaper in this state has done a story about Oxycontin abuse and yet we are going to leave this session without doing anything.

We had this thing handed out from the Maine Civil Liberties Union, which I think is the driving force behind the opposition to this. They make a point that this is in violation of Maine's confidentiality law. Baloney. When that law was passed in the 118th Legislature, I worked with the Representative from Manchester to make sure that pharmacists and doctors can talk to each other and share confidential information. If we can't, if what the MCLU says is correct, then every pharmacist and every doctor out there is breaking the law as we speak. If you want to take a look, you ought to look at Title 22, Subsection 1711, Number 6 and you will read where it says that we can share that information. Health and Human Services, Secretary Thompson, has come out and that we will pass these rules and within the next two years we will make sure that pharmacists and doctors can talk to each other. We are going to keep this at DHS. The reason I said DHS is because they have a system to take this information already. It didn't have to be DHS. They have a system. I thought I could get away without a fiscal note, but they put one on anyway. I am open to putting it wherever you want. It was not going to be in the same database. As a matter of fact, Jay McCloskey said to me, I will get you the federal funds to do this if you want to do it. It is a law enforcement tool, it absolutely is. People are breaking the law and we want to catch them. I guess some felons have rights, but those cancer patients who won't get the drugs don't have any rights.

I passed around plenty of handouts. It is the most I have ever passed around. As a matter of fact, this is probably the longest floor speech I have ever given on any bill. I kind of know where this vote is going and I feel bad. I don't feel bad for me. I don't take it personally, but I think if you are going to make a decision, you ought to make it with the truth. That is what I am giving you, the truth. I want you to think about not only your pharmacists and doctors, as a matter of fact Memorial Day weekend I got an e-mail saying that they just robbed three more pharmacies in Aroostook County. Think about it. I am willing to work with you to fix whatever problem you may have with this bill. If we sit here and vote Ought Not to Pass, which I know there has been a lot of pressure to do that, you are going to hurt many more people than you are going to realize. When that first pharmacist gets shot or he shoots someone, then what are we going to do, because there may be people in the store also. We are going to go out and say we don't have an Oxycontin problem, we are going to fix it with tamper proof prescription pads. That is absolutely ridiculous. It hasn't worked in 20 years, it is not going to work now. Thank you Mr. Speaker.

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

Representative **HALL**: Mr. Speaker, Ladies and Gentlemen of the House. This is one more of a sorry series of well meaning attacks on privacy that we have seen in this session. Mr. Speaker, it is very easy to attack privacy on the grounds of convenience, whether it is the convenience of school administrators, pharmacists, people in law enforcement or the convenience of any number of government departments. I believe it is important that we, as representatives of the people, draw a line and we should draw that whenever there is an infringement of people's personal privacy and personal identity. Your identity and mine, Mr. Speaker, is made up of data of information, whether that is data on our physical characteristics, such as fingerprints or DNA, data on our personal history, such as birth dates or my mother's maiden name or data on economic activities, such as choices or tastes that we make whenever we make a purchase. All of these types of data are under threat today. They are under the threat of becoming public information, commercial information, government information, not your own private information. This database, I believe, threatens every one of those categories of information.

Mr. Speaker, technology today makes universal data collection, not only possible, but economically viable. It also strips each of us of our very identity. The worst abuse of all is when information is concentrated in the hands of government. Government knows our guilty secrets, our medical histories and our lives. No level of government, I believe, needs this information or should have this power over us. This power might never be abused, but I don't want to take that risk. I urge you to please accept the Majority Ought Not to Pass Report. Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative **WATERHOUSE**: Mr. Speaker, Men and Women of the House. We heard a very good speech from the good Representative from Raymond and he said that the pharmacists and the doctors can share this information now. Could one of the opponents of this bill tell me if that is the case, why is confidentiality an issue?

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

Representative **RICHARDSON**: Mr. Speaker, Men and Women of the House. In answer to the question, there are two investigators at the Board of Pharmacy who have the right to go in with some threshold of concern and look at medical information, pharmacy information, that is contained at Rite Aid or any other store for that matter. What the biggest objection was to this bill is that this information would be centrally located with DHS. It would be submitted quarterly to DHS, not having any real time effect, not giving doctors or pharmacists the kind of information they would need to deny someone seeking out Oxycontin. In fact, I think it would be unwise for us to give that kind of information if, in fact, all that we have heard and read and have been told by the good Representative were true. I don't want any pharmacist being stuck up. I don't want any pharmacist having a gun placed at their head because they just told somebody, I am sorry, you just had an Oxycontin prescription yesterday, you can't have one today. I don't want that to happen. We have about 99.9 percent of the people in this central database will be law abiding people with personal medical

information. It is your last bastion of privacy. Everything else has been taken away from us. It is personal to you and now we want to take it away. I know Oxycontin is a problem and I have bent over backwards in those three workshops to try to do something about it. Every time I went home and thought about it, I couldn't cross the threshold of breaching the privacy of people. I couldn't do it. Now, are there problem? You bet there are. Are there solutions? Certainly there are solutions, but it isn't taking our privacy away from us. Thank you.

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

Representative **SAVAGE**: Mr. Speaker, Men and Women of the House. Mention was made of the medical records confidentiality statute that we passed in the 119th. As most of you were here then know, I think that was a travesty for confidentiality, but nonetheless, there was some provision in there for transmission of information between doctors and pharmacists. My understanding was that was for the purpose of executing the prescriptions, not for the purpose of ferreting out evildoers, but at this point I think I would like to pose a question through the chair.

The SPEAKER: The Representative may pose his question.

Representative **SAVAGE**: Mr. Speaker, Men and Women of the House. Is there, in fact, something in that medical records confidentiality statute that allows law enforcement and DHS to surf through the medical records of anybody who happens to have a medical record? Thank you.

The SPEAKER: The Representative from Buxton, Representative Savage has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Scarborough, Representative Clough.

Representative **CLOUGH**: Mr. Speaker, Ladies and Gentlemen of the House. This is a very serious problem. We are talking about the diversion of prescription drugs for illegal use and it is not only serious in Maine, but it is serious all over the country. As the good Representative from Raymond mentioned, 19 states already have programs similar to this and Kentucky being one of them. In Kentucky, if you all received, well, I know you did, an issue of *State Trends* put out by the Council of State Governments in an article, Prescription Drug Abuse, Not what the Doctor Ordered. It is pretty comprehensive. I will just read a little bit from it. It says, "To get the drug Oxycontin abusers and dealers steal it. Forged prescriptions or doctor shop, visit several doctors to obtain multiple prescriptions. A bottle of 140 milligram tablets that sells for \$400 at the pharmacy reportedly sells for up to \$1 a milligram or \$4,000 on the street."

They have a program in Kentucky called KASPER, the Kentucky All Schedule Prescription Electronic Reporting Program. It has been very successful. Due to the highly confidential nature of the data, statutes strictly limits who can request information from KASPER to the following: practitioners or pharmacists who are treating the patient, federal, state or local law enforcement officers who have jurisdiction over drug laws and are conducting an investigation, state Medicaid Department, but only for Medicaid purposes, state health licensing boards, but only for their licensees and grand juries that issue subpoenas.

When we talked in committee, we talked about having this under the purview of the Department of Human Services. It would, I believe, have been a very workable solution. We seem to be getting hung up on privacy. I think we have a double standard on privacy. I remember all last week we talked about giving our privacy our financial records away. We didn't hesitate for a moment to let the banks and the financial institutions do whatever they wanted to with our financial information. That is a double standard folks, we can't have it both ways. I think we

should be more concerned about what is happening to these young people in our state than we are about a problem that can be easily solved, as far as the privacy is concerned. I would urge you to vote against the pending motion and let's get on with making this bill work. Thank you.

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

Representative **BRYANT**: Mr. Speaker, Ladies and Gentlemen of the House. I just want to relay to you that just because we lost the battle last week doesn't mean we have to give away the store. We have an opportunity to work within our means to try to protect what we can protect. If we lose it, we lose it, but you don't have to give it all away.

I just want to mention a few things about the bill. The bill will not stop anybody from taking a gun and going into the store and robbing that pharmacy. It has nothing to do with it. If that is going to happen, it is going to happen. The bill is not on time. The bill is a 30, 40 or 50 day collection of data that is going to be able to looked at, cycled through and it may be that you had too many pills. It may be a number of things, but I could stand up here and I could give you 1,000 good reasons why we should keep information on every one of us. They would all be as important as this issue right here, but we have to not go down that road. We have to stay with what is reasonable. If this was a situation where you were going to make a real difference, I think you would have to ask yourself a different question. Just to collect data, there are thousands of reasons why to do it. We can't do that. I would ask you to vote with the Majority Report. Thank you.

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

Representative **BRUNO**: Mr. Speaker, Men and Women of the House. In response to the Representative from Buxton, Representative Savage, in the confidentiality law, Section 6E, the federal, state or local governmental entities in order to protect the public health and welfare where reporting is required or authorized by law or to report a suspected crime against a health care practitioner or facility. Thank you Mr. Speaker.

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

Representative **MUSE**: Mr. Speaker, Men and Women of the House. I think the concept here is a wonderful idea and it is something that certainly we need. I don't think we should be just bringing up and stopping Oxycontin. That is not the only problem that is out there. I do think that while we have a room representing every corner of the state that we should be looking at Methadone clinics with jaundiced eye. Methadone treatment is perhaps the most accepted and proven treatment for Opium addiction. Yes, there was a problem in South Portland, but that was many years ago when they first opened their doors. The facility there now runs without problems. They work hand in hand with the South Portland police and I am delighted to see that Portland is now looking at opening another clinic there as well. The fact is the majority, surprisingly enough, of their patients at the clinic are not Heroin addicts, but people who are addicted to pain pills, pain medication. That is who they are. The majority of them have jobs and they are driving some of them four plus hours one way to get there to receive their treatment and leave, for five or six days a week.

My question, Mr. Speaker, is based around the idea that our goals should be prevention of bad things happening, not necessarily to catch the bad guy. First and foremost, let's prevent it. If you prevent it, the bad guy goes away. A lot of times it is difficult to keep that in mind. I always had that problem when I was training staff in a jail. Every time they would smell someone smoking pot, they always wanted to run in, the storm

troopers, and catch the bad guy and send them to jail for a longer period of time. Well, it was always the effort to get them to calm down, step back, look at the big picture. When you open the door, storm in and you hear the toilet flush, you know the joint got flushed down the toilet and you won. If we can get our pharmacies talking to one another, then we win. If they talk in real time on their computer systems, then we win. We don't necessarily have to put handcuffs on the bad guy and take them away. If the pharmacies can talk real time through their computer system, we win.

My question would be, why can't the pharmacies, the 300 pharmacies, develop a program on their computer system so that they can talk real time to one another? I believe that Rite Aid has a system where they say that it is going to have an adverse effect with your other medication you are taking. Why can't something pop up that says, I'm sorry Mr. Jones, but you just filled this prescription for Valium or Oxycontin or whatever in Westbrook and here you are today trying to fill it in South Portland? Why can't that happen?

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

Representative BRUNO: Mr. Speaker, Ladies and Gentlemen of the House. In response to your question Representative Muse, that technology is available and it can be done and if the committee wanted to work it that way, we could have done that.

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

Representative SHIELDS: Mr. Speaker, Ladies and Gentlemen of the House. If I read this bill correctly, it only deals with schedule II drugs. I don't know how many people in this room know what schedule II drugs are. I don't know how many people in this room have treated anybody with schedule II drugs, but I have. This is the highest level of addicting medications that you are going to find. It includes Morphine, Demerol, Percodan, Oxycontin and so forth. Oxycontin, of course, is the buzzword at this time. It used to be Perks, that is what they bought on the street. One of the definitions of a schedule II drug is your prescription cannot be renewed. You have to get a new written prescription if you want to get more of it. That tells you something. It doesn't deal with the other drugs in schedule III and schedule IV, which are Tylenol with codeine and all your antibiotics and your AIDS drugs. They are schedule III and IV. They don't meet the criteria. They can be renewed over the telephone and so forth. Schedule II is different and this is all this bill deals with, as far as I can tell. This is something that you ought to think about. There are doctor shoppers out there. I have been in this mess where a person comes to me and complains of all these terrible things and they get a prescription for some pain medication, perhaps schedule II. They go to three or four other people, not known to any of the others, and they end up with four or five prescriptions for the same drug. Some of them are stupid enough, they all take them all to the same drug store. The pharmacist then begins to suspect something because the guy shows up with five prescriptions from Demerol tablets or for Percodan or for Oxycontin. That is one thing.

Number two, there are doctors out there, you know we have our bad apples like everybody else, that treat everything with a schedule II drug. You have a headache, well here is some Percodan for you. You have a sore toe, well, here is some Demerol for you. Those people need to be watched and discovered. I say that if you think about this as schedule II drugs only, the bill says the information is confidential, which means it

is not in the public. I think you really ought to support the bill and vote against this motion.

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

Representative SAVAGE: Mr. Speaker, Men and Women of the House. I appreciate the Representative from Raymond reminding me of the language that says that law enforcement can have this information when reporting is required or permitted by law. As you will all remember, the original bill that we had in the 119th would not have put that limitation on it. The limitation as required or permitted by law was the best I could do. All I can say is this is what they are asking us to do here is to permit it by law, permit surfing by law. We are going to pass this law to permit surfing. I don't know of any other part of the law, frankly, I am scared to think of it. It is probably out there or it is probably in one of the bills that we passed in the last two weeks. I don't know of it, that allows surfing through information for no cause other than we want to look at it. Although I am scared to think that we probably have allowed it and it probably does exist in some statute somewhere or some bill sitting somewhere in this Legislature as we speak, we know it is in this bill and I would ask you to vote against it. Thank you.

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

Representative MORRISON: Mr. Speaker, Ladies and Gentlemen of the House. I worked on the Business and Economic Development Committee, the one that dealt with this bill. We had an excellent committee, good people all the way. When it came to this bill, I was extremely disappointed, dumbfounded, whatever you want to use. I was just appalled that we were working this bill. It was going along and I thought we had come to an agreement on the confidentiality issue. I guess there was another issue of who was going to monitor the program, DHS or the State Police or whatever. We were just about there and all of a sudden we come in one day and we weren't going to do it anymore. There were too many issues with the bill. I couldn't believe it. I am obviously very upset. Coming from a school background, you see the problem in the school and you see it with the kids, they are being destroyed by the drugs. Some of the kids are walking zombies.

I went to a pizza place in Baileyville about a month ago. Back in the spring of 1998 I filled in on an interim basis as principal at the high school. I got to know some of these kids. I like kids. I enjoy them. I had a good rapport with kids. I wanted to try to help kids. If you are in education, you shouldn't be there for any other reason except you want to help kids. If you are not there to help kids, you ought to get out. I had good rapport with kids. I went in with a friend of mine and these three kids were out on a step. It was getting near dusk. I heard, "Hi Mr. Morrison". I didn't pay much attention. The guy next to me said that those kids were really whacked out on drugs. I didn't notice. When we were leaving they came in and they got glazed, right in a world of their own. If your heart can't go out for kids like that, what is going to happen to those kids? What has happened to this society that is whacked out on this stuff? We have to do something and I think and believe that this is a good bill, not just a good bill, but it is an excellent bill. It will help dry up the drug problem, the abuse of prescription drugs we are talking about here.

We had a report passed out to us, the Representative from Raymond, Representative Bruno, over 60 pages handed out to us. Put out by the United States Department of Justice, Drug Enforcement Administration Office of Diversion Control, in cooperation with the National Alliance With Model State Drug Laws. I took some information from this. It covered pretty much a lot of bases. It did a study with the states that are now using a

prescription drug-monitoring program. It did a study on them. It took a quote here and there for some of the information that the Representative from Raymond handed out to us for illustrated purposes, in case you didn't have time to pick it up or a lot of reading you get along the way. I just picked a quote or two here, but I started by using their format kinds of in this report. I just want to go through a few points that they made. I think it is important to drive that point home. The diversion abuse of pharmaceutical control substances is a multi-billion illicit market operating in the United States. In 1997, 15 of the top 20 abused drugs reported from Don were pharmaceutical controlled substances. Benzodizephenes as a group are involved in more overdoses admitted to emergency rooms than Marijuana, Heroin and Cocaine, three illicit drugs. Zanex, Clonopin and Valium ranking fifth, sixth and seven respectively are the most abused drugs within that class.

The National Household Survey of Drug Abuse indicated in 1995 the non-medical use of prescription drugs exceeds that of all illicit substances except Marijuana and Hash. At least 70 percent of the enforcement cases involved pharmaceuticals. The problem is bigger than street drugs. This is a quote from a Hawaii narcotics investigator. This is supposed to be our place to go for a vacation or so forth. There is a serious drug problem on our beautiful island of Hawaii.

Jay McCloskey, former US Attorney from Maine, I believe it is that greatest criminal problem and possibly the greatest social problem facing Maine. Somebody used Police Chief Chitwood whom I have great respect for in Portland, Opium addictions went from a few hundred in the '90s to 1,800 today. I have seen Heroin, Cocaine, Crack Cocaine, but I have never seen the abuse and need for a drug take off so quickly like Oxycontin. A Kentucky judge, Oxycontin is a pure scourge upon the land. That was in one of the handouts by the Representative from Raymond.

There is no question. It is an extremely serious problem and we have to do something. We have an opportunity and it doesn't look like we are going to do it. This is disturbing. Nineteen states have a program. California started it in 1940. Kentucky was the last state to come on board in 1999. They run the gamut. There are 19 states. There are other states that have programs in the hopper, they are planning on it. I would like to think that Maine is one of those. The cost of the program, here is what they said in this report, \$15,000 per year for small states and \$138,000 per year for the largest states. In our state we were told in our committee that if the Board of Pharmacy did it, some of us felt would be a good group to handle it, it would \$430,000 to set them up to be able to handle the program, monitoring. The Department of Human Services has a system in place and can do it at no cost. We are talking relatively little cost here to do the program. That is important. The benefits, prescription monitoring programs are being used to identify the crime of doctor shopping, which is a felony in some states. When a patient profile is created, then the information is disseminated to the doctors and pharmacies involved, alerting them to possible diversion. This is important. It is a law enforcement tool, but this assists health care professionals in their practice and allows them to intervene on the patient's behalf and assist them in obtaining treatment. There is an assistance program in there. A doctor can maybe help people also, which I think is important. I would rather try that route before we throw them in jail.

It has been an extremely successful program to thwart diversion in a number of states. It has been extremely successful. Again, US Attorney Jay McCloskey testified on behalf of a bill sponsored by the Senator from Bar Harbor, Senator Goldthwaite, that asked for 20 drug enforcement agents

for Penobscot, Hancock and Washington Counties. It costs \$1.5 million a year for two years. We might need that program. I opted for saying that we are short on dollars this year, let's try a preventive route first, before we go the law enforcement route.

I like LD 687 as a first step for three reasons. There are probably more, but I have three. It is much less cost, curtailing diversion and maybe less of a need for as many agents down the road and its non-punitive treatment methods before punitive measures. I think that is important. I would like to take those steps first.

A couple weeks ago Representative Colwell presented a bill to address an unquestionably serious problem in our state, domestic violence and sexual abuse. Over 140 legislators, Representatives and Senators, signed on this bill. The Representative from Kennebunk, Representative Murphy, stated to the effect that this would be one of the exceptional bills that comes along now and then that we could look back on with pride. I suggest that this is one of those bills. That is how strongly I feel about it. I feel this is one of those bills. We could look back at it with pride. There is nothing that is a cure all, but it is a step in the right direction and I think it would go a long way to help dry up the problem. I think that is important.

I would like to make one quote on the confidentiality issue that has been hammered on here, after decades of operation, no program has reported a breach of confidentiality. Thank you.

Representative TREADWELL of Carmel **REQUESTED** that the Clerk **READ** the Committee Report.

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

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

Representative **DUPREY**: Mr. Speaker, Men and Women of the House. I will be real brief on this. If you notice on the Committee Report, I am the only one of this side of the aisle on the Ought Not to Pass. It is pretty lonely right now. I applaud the Representative from Raymond for bringing this bill forward. There are some things that we can do. We did have three work sessions on this and I actually thought we were making progress on it like the Representative said. We were forced to vote on it and I just could not vote on the bill the way it was. I was hoping maybe somebody would come forward with an amendment that was palatable, but we just haven't seen it yet. It is rarely that I agree 100 percent with the Maine Civil Liberties Union or my friends on the other side of the aisle, but with a lot of the issues we were in quite an agreement on. If this was real time, I still would have the privacy concerns, but I could see the need that you could stop the person right there in their tracks, but being 30 to 60 days late, I just didn't see that.

Another problem I have is hackers. These hackers these days, hackers can hack into NASA. I am worried that somebody can hack in and find out who has Oxycontin and break into their medicine cabinet and get their Oxycontin. That was a concern of mine.

The third problem is DHS having access to every kid who has Ritalin in Maine. I don't think they need that information.

Those are my concerns. I apologize for having to speak against the bill, but being the only one on the other side, I had to explain my position. Thank you.

Representative BRUNO of Raymond **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. 347

YEA - Ash, Berry RL, Blanchette, Bliss, Bouffard, Brannigan, Brooks, Bryant, Bull, Canavan, Chick, Chizmar, Clark, Colwell, Cowger, Cummings, Desmond, Dorr, Dudley, Dunlap, Duplessie, Duprey, Estes, Etnier, Fisher, Fuller, Gagne, Gerzofsky, Green, Hall, Hatch, Hutton, Jacobs, Kane, LaVerdiere, Laverriere-Boucher, Lemoine, Lessard, Lundeen, Mailhot, Marrache, Matthews, McDonough, McGlocklin, McKee, McLaughlin, Michael, Michaud, Mitchell, Muse C, Norbert, Norton, O'Brien LL, Paradis, Perkins, Perry, Pineau, Richard, Richardson, Rines, Savage, Simpson, Smith, Stanley, Sullivan, Tarazewich, Tessier, Thomas, Tracy, Tuttle, Twomey, Usher, Volenik, Watson, Mr. Speaker.

NAY - Annis, Baker, Belanger, Berry DP, Bruno, Buck, Bumps, Bunker, Carr, Chase, Clough, Collins, Crabtree, Cressey, Daigle, Davis, Dugay, Duncan, Foster, Glynn, Gooley, Haskell, Heidrich, Honey, Jodrey, Kasprzak, Koffman, Labrecque, Ledwin, MacDougall, Madore, Marley, Mayo, McGowan, McKenney, McNeil, Morrison, Murphy E, Muse K, Nass, Nutting, O'Brien JA, Peavey, Pinkham, Rosen, Schneider, Sherman, Shields, Snowe-Mello, Stedman, Tobin D, Trahan, Treadwell, Waterhouse, Weston, Wheeler EM, Winsor, Young.

ABSENT - Andrews, Bagley, Bowles, Cote, Goodwin, Hawes, Jones, Landry, Lovett, Mendros, Murphy T, O'Neil, Patrick, Povich, Quint, Skoglund, Tobin J, Wheeler GJ.

Yes, 75; No, 58; Absent, 18; Excused, 0.

75 having voted in the affirmative and 58 voted in the negative, with 18 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence. **ORDERED SENT FORTHWITH.**

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

HOUSE DIVIDED REPORT - Majority (7) **Ought Not to Pass** - Minority (6) **Ought to Pass as Amended by Committee Amendment "A" (S-253)** - Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** on Bill "An Act to Refine the Subdivision and Redistricting Authority of the Maine Land Use Regulation Commission"

(S.P. 360) (L.D. 1198)

Which was **TABLED** by Representative McKEE of Wayne pending **ACCEPTANCE** of either Report.

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

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

Representative **MCKEE**: Mr. Speaker, Men and Women of the House. I urge you to support the Minority Ought to Pass Report. It is a bill that will address liquidation forestry harvesting. It will encourage and maintain the unbroken working forest. It will provide consumer protection for the buyers of forestland and it will add value to a buyer's investment through the sound planning of our forest lands. Furthermore, it will help to keep Maine's forest in tree growth and it will protect the environment. In the other body, the vote was 32 to 0 with three people absent. On this report we have nine members of our committee now supporting this Minority Ought to Pass Report.

I would like to share with you what the bill does. As amended, the bill restricts the current 40 acre exemption to lots used for forestry, agriculture or conservation in the LURC unorganized territories and maintains limitations restricting these lots from shoreland areas. Lots created through this exemption could not be developed without subdivision approval. Therefore,

if a liquidation harvester bought 400 acres and divided it into 10 40-acre lots, he could escape any kind of subdivision approval. LURC would like to eliminate that exemption except for forestlands for the forest industry, for agriculture or conservation. It does allow that lots given to relatives are exempt if they are held for five years before and after the transfer, that includes a spouse, a grandparent, brother, sister, child or grandchild of the donor.

It also provides an exemption for lots that are transferred to the state or local government entities for the conservation, protection of natural resources, public outdoor recreation or public purposes. It also provides a new exemption for lots greater than 1,000 acres, including shoreland areas. It then provides an exemption for lots in unauthorized subdivisions that have been in existence for more than 20 years.

Over 200,000 acres have been subdivided since 1971, the year that the Land Use Regulation Commission was established. Ninety-seven percent of these have occurred by exemptions. The situation has improved somewhat since 1991 when the Legislature restricted 40 acre lots to 10 and five years that are a quarter mile from a water body, but since then 11,000 acres have been subdivided using this large lot exemption and only 50 percent of these lots are now enrolled in tree growth.

Recently the State Planning Office did a study and many of you have had it on your desk. It was called Fishing, Farming and Forestry: Resources for the Future. We have said in this body that we are trying to protect the unbroken northern forest so that we can continue to harvest without the fragmentation that occurs when it is broken up. The result of that study was that we should close the LURC subdivision loophole that allows 10 lots to be created every five years and which acts as a disincentive to keeping forestland. Good public policy is integral to preserving our working forest and we must make sure that these policies are not contributing to fragmentation or inefficient land use, thus making forest management more difficult. Policies that promote the break up of parcels don't enhance the working forest.

I like to think of this bill also as a consumer protection bill. A person came into the Ashland office of LURC just last week and complained about a lot that had been sold to that person. It was a lot on which that person could not build a house. These lots seem to be attractive, but because they escape the subdivision approval, no consideration has been given for septic, for access, for the title, the environment, the impact on existing uses or for the appropriate areas of development. There is no rhyme or reason for the way that many of these parcels are laid out. Consequently, you might be buying something on which you could not do anything, let alone build a house. I have talked to my good colleague on the ACF Committee, Representative Landry who is from Patten and who could not be here tonight, we have talked about this being a rural development bill. Those of you who have worked on planning boards and put together comprehensive plans know that those towns and cities throughout our state with the highest property values are those places that have had good sound planning. Twenty-six of 100 communities that were surveyed by the State Planning Office have actually closed this loophole in their own communities also. Other people will speak, but I urge you to accept the Minority Ought to Pass Report and with the two people who have moved over from the Majority Ought Not to Pass Report, there are nine people from the ACF Committee that do support this. Thank you very much.

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

Representative **GOOLEY**: Mr. Speaker, Men and Women of the House. I am on the Ought Not to Pass and my feelings about this particular legislation has been that it is a giant takings

with a loss of land value. It is government control at its best. The amendment (S-321) is nothing more than a token change, allowing for primitive recreation only. Also, landowner rights have to be important to our basic freedoms and this legislation is a giant takings. I understand that there is another amendment, which will probably be discussed here and if this were to pass, then I see this in a different light. I just have to wait to see how the discussion goes here this evening. Thank you.

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

Representative **CARR**: Mr. Speaker, Men and Women of the House. Earlier today we had a long discussion about rights, and the Constitution was read to us a couple of times. Before I sit down, I intend to do that again. Also earlier today, the Representative from Skowhegan, Representative Hatch, made a couple of points about lobbying in the corridor. I think he was referring to those people who get paid to come in here and do that, people who are hired by business and others to come in and represent them here at the State House because they aren't able to do that themselves. I just want to bring attention to one of the biggest lobbying efforts I have seen in a long time and that was performed by the Director of LURC, John Williams. One of the things that I saw today that I didn't think I had ever seen before and that was a handout from LURC explaining the things that would really benefit the State of Maine if these things were passed. I just want to bring this to your attention because I am a little disturbed about people on the state payroll spending most of their days in here lobbying. I wanted that on the record.

One of the things that was read to us today out of the Constitution of the State of Maine, Article 1, Section 1 says, "All people are born equally free and independent, and have certain natural, inherent and unalienable rights, among which are those of enjoying and defending life and liberty, acquiring, possessing and protecting property." It goes on to list a couple other things, but those are the things I want to touch upon. Many of the things that were previously stated is information that came out from LURC. Some of the things that I want to bring out is that since 1989 there have been 190 subdivisions, that is 17 per year, and since 1989 each year that number has gone down. In fact, in the year 2000 there was not one single one in unorganized territories in the State of Maine. I asked the question, how many of these subdivisions have houses on them? LURC did not know the answer to that. I asked how many are still in tree growth and still being managed for forests. They did not know that answer.

I think that one of the things that we should be much more concerned about is the large tracts of land that are being bought in the State of Maine. We recently have had a whole township purchased, including lakes and access to those lakes. We have had two of those and now some of those people are being kicked off their leases and LURC has not worked to do anything about this. This is a much bigger problem then trying to go after those people, Maine residents, who don't have the money to buy whole townships, but have the money to buy 40 acres and to put a camp on that to go hunting. As many of out here at some time may decide that you want to buy 40, 50 or 60 acres, maybe you want to keep cutting the wood on that, enough to pay for your lot, allow your family to come in and put up a hunting camp. This is going to prevent you from doing that.

I asked several questions during this period of time and I really didn't get a lot of good answers. We had several people who spoke in opposition as well as we had some that was obviously in favor of it. Earlier today we heard reference to the little guy. I want to tell you about the little guys that came and testified on this. One of the little guys was Scott Hanington. He is a logger from Wytopitlock. June Meres testified in opposition. She is a former legislator. Pat Lane, a former legislator, Jeff

Gifford, he is a town councilor in Lincoln, Dick Trott from Brewer spoke in opposition. Written testimony was furnished from Cindy Burton from Medford. Roger Eck from Lee, a small woodland owner was opposed. Bill Randall, Hiram Perry, Burt Witham and Ken Lemont, those are the little people that were referred to earlier today.

Before we vote to take away more property rights, think about it. Someday you may want to purchase a lot of 40 or 50 or 60 acres, a place for you to go and build a camp, something that you paid for, something that you own. Do you want the State of Maine to take that right away from you? Thank you Mr. Speaker.

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

Representative **PINEAU**: Mr. Speaker, Ladies and Gentlemen of the House. This act will not take away your right to build this camp on that lot. What this will do is bring in the planning board. If you were going to build on the lot down in the organized territories, you would go through your planning board and build whatever it is you were going to build. If you were going to build on unorganized or de-organized territories, it would go through the State Planning Board, which is LURC. It is not a happy person that has to face the planning board and go through the permitting and go through the procedures to build, but that is the way we are in the organized territories and that is the way we want to be in the unorganized territories.

I find it difficult to go against my colleague in the committee because I really enjoy working with the Representative, but it is very important that we do have a planning board. As the Representative from Wayne indicated, one of the people that came before the committee bought one of these lots that had been liquidated harvested and thought he had a gold mine and found out he couldn't build on it because it didn't meet the requirements. I ask you to please help these people that are being stuck with these lots, go with your planning board and support this bill. Thank you.

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

Representative **GOOLEY**: Mr. Speaker, Men and Women of the House. As far as I am concerned, this particular legislation has nothing to do with liquidation harvesting. This has to do with the parceling of large parcels into small parcels. This particular LD removes property rights guaranteed by the US Constitution, the Maine Constitution and specifically the Fifth Amendment, the emphasis on private property ownership is a theme that runs through all the deliberations of our founding fathers and was explicitly included in the Constitution. Why then are we considering laws that will destroy an individual's rights to own and use his or her own property? Mr. Speaker, I move Indefinite Postponement of this particular legislation and all accompanying legislation.

Representative **GOOLEY** of Farmington moved that the Bill and all accompanying papers be **INDEFINITELY POSTPONED**.

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

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

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

Representative **LAVERDIERE**: Mr. Speaker, Men and Women of the House. You will notice that I don't rise very often on very many bills. This is one that I am rising on because I think it is a very important bill and it is one that I think we need to pass. I urge you to vote against the Indefinite Postponement. There is one section of this bill that I am particularly interested in and I think that you need to know about. It tracks, almost word

for word, a portion of legislation that I put forth in the first term that I was here dealing with only subdivisions that were never approved. There are many subdivisions that were created inadvertently many, many years ago when LURC first came on the scene. Those subdivisions have continued to be considered illegal subdivisions to this day. Every time someone buys one of those lots and has a title search done, the title attorney is required to tell the bank or the individual that they are, in fact, the owners of an illegal lot in an illegal subdivision. One of the things that this bill does is it puts a 20 year statute of limitations on the ability of LURC to go back and say that these are illegal subdivisions. In effect, what it says is that subdivisions that were illegally created more than 20 years ago are no longer illegal subdivisions. They are legitimate subdivisions and the owners of those lots do not have to pay large sums of money to attorneys trying to go back, recreate what happened more than 20 years ago and therefore make those subdivisions legal.

It is a very important bill for a lot of people who live in the unorganized territories. I represent two unorganized territories and I can tell you that this is a serious problem. It has been a serious problem and it continues to be a serious problem and this bill would resolve that issue.

I will also tell you that this bill is important for a number of other reasons and that is in my time as a title attorney working with developers, one of the reasons why we don't have as many subdivisions being approved through LURC is because the LURC law has so many loopholes in it that developers can virtually develop any land that they want to without having to get subdivision approval. That is one of the problems.

Finally, I guess I would tell you that I have had the benefit of spending a fair amount of my life studying the Constitution, both in law school and in preparation for a number of cases that I have had the privilege of being able to argue. I can tell you that if you are trying to say that this law is unconstitutional, you are swimming against the tide because this law does absolutely nothing more and nothing less than what local zoning, local subdivision approval does at the local level, as was correctly stated by the Representative from Jay, Representative Pineau. The planning board for the unorganized territory is LURC. This is nothing more than going to a planning board and getting approval. You are not prohibited from buying a 40-acre lot. You are not prohibited from selling a 40-acre lot. You are prohibited from taking an 800-acre parcel of land and dividing it into 40-acre lots and selling it off without getting anybody's approval to do that. You would have to get approval at the local level if you are in an organized territory. This merely says you have to do the same thing if you are in an unorganized territory. I urge you to please vote against the Indefinite Postponement and enact this very important bill. Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative **TRAHAN**: Mr. Speaker, Men and Women of the House. If this part of Maine, which I understand is losing population, then where is the development problem that we are trying to address? Are there subdivisions going in that are increasing the populations in some areas? What are you trying to address here?

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

Representative **VOLENIK**: Mr. Speaker, Men and Women of the House. Part of the problem is that some counties are losing

population, but the movement of population within those counties is moving often into the unorganized territory and property that sometimes falls in these categories.

I just want to reiterate that I would agree with the Representative from Wilton that if you have purchased one of these lots in the past or you happen to make the mistake of purchasing one in the future, that you will have some redress with the 20 year statute of limitations point. I just want to go on that this is a property rights issue in a sense, but it is also a community rights issue and that is exactly why we have both planning boards and LURC. There will always be a philosophic difference between those two interests. The differences between those and the issue of that will not become easier as we progress into the future and our population does grow or does move, but, in fact, the needs of property and the uses of property will continue to grow and the conflict can continue to grow between those interests and that is why we do need both planning boards and the Land Use Regulation Commission. I just want to reiterate that the intent of this bill is simply to close a loophole, which was created in the past, which never should have been created and had it not been created, we wouldn't have this bill in front of us. Thank you.

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

Representative **BUNKER**: Mr. Speaker, Men and Women of the House. This is a tough subject for sure. I was the former chair of Agriculture, Conservation and Conservation and I am I telling you what, this was always one to bring the folks out of the woods to be on both sides of the issue. My biggest concern here, I was a cosponsor of this bill in its original form and when I presented the bill to the committee, I did say there was some tinkering and some things that needed to be done. You can see that even after the committee reported the bill out there has been a lot of hard work and folks still coming to the table to refine this and to move it forward. Let's not be fooled here, ladies and gentlemen, I may live in the woods. I may live in the unorganized territory, but no matter where we live, whether we live in Augusta or southern Maine or in Fort Kent or wherever, we all realize that zoning is part of life today and that somebody has to be there to look out for the well being of all of the people and that is how zoning came into place.

I'd better tell you a story, I guess. Next to the restaurant that my mom and dad owned, there was 160-acre parcel of land. Right in the middle of that was a wonderful hunting camp and this is all pristine wood and fiber that we are trying to maintain for our woods and for our lumber mills and all of that. I will agree that this was back in 1987 or 1988, somewhere in that time frame, but a gentleman came in and talked that family from away into selling all 160 acres of land and they subdivided it into 40-acre lots. They came in and took every stick of wood of the property and my dad bought one of the 40-acre lots next door and built a residential home on it so he wouldn't have to live in the restaurant. As time went on and after, we no longer own this property, by the way, after the fact we were having problems with lines and boundaries and all this kind of stuff and when this debate started to happen earlier this year, it finally dawned on me what is going on here. They said it was an oversized lot and all this stuff. Well come to find out, it is broken up into four 40-acre lots. To the surprise of everyone, there is a 13-acre parcel that taken out of the middle. Divide four 40-acre lots and take out 13 and what do you have? All four of them lots that have been in existence for 15 years are non-conforming. That house my mother and father built on there and now is owned by somebody other than the family are really in a situation. Those people that bought the other three lots that have the idea they are going to come from Massachusetts and build a home on it,

they are also in situations that are very, very detrimental. Anybody that builds a home knows that you have to have a permit. Everybody knows there are hoops to jump through in planning. I would think that from that perspective of those four lots, this bill is very, very valuable. I would ask you to support it just from that point of view.

The liquidation harvesting side, I heard a Representative say this has nothing to do with it. Those four 40-acre lots were liquidated. What do you do after you take the value off the land and it is no longer valuable for hundreds of years or 50 years or 30 years or whatever? If you are in the business of making money, you have just got to dispose of it and take whatever extra value you can get out of it by selling it. That is still going on, ladies and gentlemen. I would disagree that this bill is a valuable tool in opposing liquidation harvesting. I think it would send a strong signal across the State of Maine. Quite honestly, ladies and gentlemen, the 2B and 2A and the 2C question on the forestry referendum question, if I was Mr. Carter and some of those folks, I would have used liquidation harvesting in all my ads and I probably could have carried one of those votes. I really think this is a proactive step to take some diffusing out of any future forestry referendums and I would ask you to support that on those couple of points. Thank you.

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

Representative **MCKEE**: Mr. Speaker, Men and Women of the House. Just to answer a couple of questions, well, actually to clarify something that I heard. I heard the good Representative Carr talking about the Land Use Regulation Commission director lobbying this bill. We all need to remember that this is a LURC bill. It was brought before the committee as a LURC bill. We need to remind ourselves of their mission. Their mission since 1971 is as land use regulation. They are charged with providing sound planning, sound development and subdivision control for 11 million acres. It is an awesome job. It is true. Right now we are in a lull, but as we were shown through statistics every 10 to 15 years we do have another land boom. Another thing is anyone can buy one of these. There seems to be some information out there that this was going to prevent you from buying one of these 40-acre lots, of course it won't do that. It is just that your investment will be infinitely better if it has gone through this subdivision approval of LURC.

Finally, our committee had a bill to stop clear-cutting. It was turned down by the committee and turned down by this House. The people who came on that bill said that it is not clear-cutting today that is the problem, it is liquidation harvesting. I just want to read to you one thing and then I will close. It is written by Lloyd Earlin. He wrote us a letter. He is a forestry consultant for the Forest Products Industry. He is talking about liquidation harvesting. He says, "There are quick buck boys who have never invested a nickel in the future of this state and they never will. To them the land is nothing, but monopoly money, something to buy, chop up, strip the wood and be out of it in one or two seasons. They would like you to keep the things as they are. Perverse incentives like the 40-acre exemption actually help the quick buck boys to bid against long-term investors for land because they facilitate fast resale and liquidation. We don't have to give these people unfettered ability to treat the north woods like monopoly money, nor do we have to expropriate private property rights. I have argued against this in the past and I will continue to do so. We only need to apply reasonable and fair subdivision regulations as we have been doing all along. The only private property right that the quick buck boys care about is the right to use land as a money machine." We have lost an estimated 56,000 to 105,000 acres of forestry land from commercial forest management. We have all said we are trying

to keep this contiguous working forest in the north woods. If we continue this trend, we will lose hundreds of jobs and millions of dollars. I would urge you to vote against the Indefinite Postponement of this bill and go on to the acceptance. Thank you.

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

Representative **GOOLEY**: Mr. Speaker, Men and Women of the House. This is the last time I am going to get up on this issue. The good Representative from Wayne mentioned that the bill we had was to stop clear-cutting. I believe the bill was to have permits required for over five acres. It wasn't really to stop clear-cutting. I guess what is reasonable and fair is a good question. I guess that is why we are debating this tonight, what is reasonable and fair. Liquidation harvesting, to my way of looking at it, is not an issue here because being a consulting forester myself, I go onto a lot of woodlands that have been subdivided down into 40-acre lots and before they were subdivided, they were partially harvested and there was a good mixture of trees left on the lots. I think it is conducive to landowners who are going sell land this way to leave a good forest, a good density of trees so that there will be likely buyers for the land. I think that this is a fairness thing and what is reasonable and fair and I would recommend that you vote with the Indefinite Postponement. Thank you.

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

Representative **CARR**: Mr. Speaker, Men and Women of the House. I will make this quick. I have a couple of points that I wanted to make. Some of the testimony that I heard and I may have misunderstood, but I just want to clarify that it is necessary to obtain a permit from LURC to build in an unorganized territory. I may have misunderstood what was said, but you do need that permit presently.

The statement that was made about non-conforming and this bill would take care of some of those lots that has been non-conforming for 20 years, I would just submit that the reason that these lots are non-conforming is that because somewhere along the line we made a law right here that made those non-conforming. I just want to make those points. Thank you Mr. Speaker.

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

ROLL CALL NO. 348

YEA - Ash, Belanger, Berry DP, Bruno, Buck, Bumps, Carr, Chase, Clough, Collins, Cressey, Davis, Duprey, Foster, Glynn, Gooley, Haskell, Hatch, Heidrich, Honey, Jodrey, Kasprzak, Labrecque, Ledwin, MacDougall, McKenney, McNeil, Morrison, Murphy E, Muse K, Nass, Nutting, O'Brien JA, Perkins, Pinkham, Rosen, Schneider, Sherman, Shields, Snowe-Mello, Stedman, Trahan, Treadwell, Waterhouse, Weston, Winsor, Young.

NAY - Annis, Baker, Berry RL, Blanchette, Bliss, Brannigan, Brooks, Bryant, Bull, Bunker, Canavan, Chick, Chizmar, Clark, Colwell, Cowger, Cummings, Daigle, Desmond, Dorr, Dudley, Dugay, Dunlap, Duplessie, Estes, Etnier, Fisher, Fuller, Gagne, Gerzofsky, Green, Hall, Hutton, Jacobs, Kane, Koffman, LaVerdiere, Laverriere-Boucher, Lemoine, Lessard, Lundeen, Mailhot, Marley, Matthews, Mayo, McDonough, McGlocklin, McGowan, McKee, McLaughlin, Michaud, Mitchell, Norbert, Norton, O'Brien LL, Paradis, Peavey, Pineau, Richard, Savage, Simpson, Smith, Stanley, Sullivan, Tarazewich, Tessier, Thomas,

Tobin D, Tracy, Tuttle, Twomey, Usher, Volenik, Watson, Mr. Speaker.

ABSENT - Andrews, Bagley, Bouffard, Bowles, Cote, Crabtree, Duncan, Goodwin, Hawes, Jones, Landry, Lovett, Madore, Marrache, Mendros, Michael, Murphy T, Muse C, O'Neil, Patrick, Perry, Povich, Quint, Richardson, Rines, Skoglund, Tobin J, Wheeler EM, Wheeler GJ.

Yes, 47; No, 75; Absent, 29; Excused, 0.

47 having voted in the affirmative and 75 voted in the negative, with 29 being absent, and accordingly the motion to **INDEFINITELY POSTPONE** the Bill and all accompanying papers **FAILED**.

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

The Bill was **READ ONCE**. **Committee Amendment "A" (S-253)** was **READ** by the Clerk.

Representative FOSTER of Gray **PRESENTED House Amendment "A" (H-691)** to **Committee Amendment "A" (S-253)**, which was **READ** by the Clerk.

On motion of Representative NORBERT of Portland, **TABLED** pending the motion of Representative FOSTER of Gray to **ADOPT House Amendment "A" (H-691)** to **Committee Amendment "A" (S-253)** and later today assigned.

On motion of Representative TREADWELL of Carmel, the House adjourned at 9:52 p.m., until 9:00 a.m., Thursday, June 7, 2001 in honor and lasting tribute to the memory of the thousands of American Soldiers and Airmen who died or were wounded on D-Day, June 6, 1944.