

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 III

Second Regular Session

March 7, 2002 – April 25, 2002

First Special Session

November 13, 2002 - November 14, 2002

Pages 1771-2574

Appendix
House Legislative Sentiments
Index

ONE HUNDRED AND TWENTIETH LEGISLATURE
SECOND REGULAR SESSION
26th Legislative Day
Thursday, March 7, 2002

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

Prayer by Reverend Foster Williams, Damariscotta Baptist Church.

National Anthem by Abbie Rabine, Gordon College, Manchester.

Pledge of Allegiance.

The Journal of yesterday was read and approved.

COMMUNICATIONS

The Following Communication: (H.C. 402)

STATE OF MAINE

**ONE HUNDRED AND TWENTIETH LEGISLATURE
COMMITTEE ON AGRICULTURE, CONSERVATION AND
FORESTRY**

March 4, 2002

The Honorable Richard A. Bennett, President

The Honorable Michael V. Saxl, Speaker

120th Maine Legislature

State House

Augusta, ME 04333

Dear President Bennett and Speaker Saxl:

Pursuant to Title 3 Maine Revised Statutes, chapter 35, we are pleased to submit the findings and recommendations of the Joint Standing Committee on Agriculture, Conservation and Forestry from the review and evaluation of the State Harness Racing Commission under the State Government Evaluation Act. In its review, the committee found that the commission is operating within its statutory authority.

Sincerely,

S/Sen. Richard Kneeland

Senate Chair

S/Rep. Linda Rogers McKee

House Chair

READ and with accompanying papers ORDERED PLACED ON FILE.

PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

Bill "An Act to Supplement Maine's Academic Attainment and to Retain Talent"

(H.P. 1655) (L.D. 2162)

Sponsored by Speaker SAXL of Portland.

Cosponsored by President BENNETT of Oxford and Representative: RICHARD of Madison, Senators: CATHCART of Penobscot, MITCHELL of Penobscot.

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

Committee on **EDUCATION AND CULTURAL AFFAIRS** suggested and ordered printed.

On motion of Representative NORBERT of Portland, the Bill was **REFERRED** to the Committee on **EDUCATION AND CULTURAL AFFAIRS** and the Committee on **TAXATION**, ordered printed and sent for concurrence.

(H.P. 1654) (L.D. 2161)

Sponsored by Representative GREEN of Monmouth. (GOVERNOR'S BILL)

Cosponsored by Senator GAGNON of Kennebec and Representatives: BUMPS of China, MURPHY of Berwick.

Committee on **TAXATION** suggested and ordered printed.

REFERRED to the Committee on **TAXATION** and ordered printed.

Sent for concurrence.

CONSENT CALENDAR

First Day

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

(H.P. 526) (L.D. 681) Bill "An Act to Amend the Law Concerning Possession of Firearms by Persons Convicted in Other States" Committee on **CRIMINAL JUSTICE** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-862)**

(H.P. 1414) (L.D. 1858) Resolve, to Improve the Health of Maine Citizens Through Hepatitis C Prevention and Detection Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-860)**

(H.P. 1469) (L.D. 1970) Bill "An Act to Clarify the Status of Retirees Who Return to Service Under the Maine State Retirement System" Committee on **LABOR** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-874)**

(H.P. 1486) (L.D. 1989) Bill "An Act Regarding Criminal History Record Checks" Committee on **CRIMINAL JUSTICE** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-863)**

(H.P. 1499) (L.D. 2002) Resolve, Establishing a Commission to Study County Jail Population, Cost and Reimbursement by the State (EMERGENCY) Committee on **CRIMINAL JUSTICE** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-861)**

(H.P. 1503) (L.D. 2006) Bill "An Act to Protect Retirement Income" Committee on **LABOR** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-873)**

(H.P. 1518) (L.D. 2022) Bill "An Act to Clarify the Sex Offender Registration and Notification Act of 1999" (EMERGENCY) Committee on **CRIMINAL JUSTICE** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-865)**

(H.P. 1521) (L.D. 2025) Bill "An Act to Make Certain Changes to the State's Child Support Enforcement Laws" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-868)**

(H.P. 1536) (L.D. 2039) Bill "An Act Regarding the Administration of Epinephrine by Emergency Medical Personnel" Committee on **CRIMINAL JUSTICE** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-864)**

(H.P. 1576) (L.D. 2082) Bill "An Act to Amend the Subdivision Review Criteria for Traffic" Committee on **TRANSPORTATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-867)**

There being no objections, the above items were ordered to appear on the Consent Calendar tomorrow under the listing of Second Day.

Bill "An Act to Conform the Maine Tax Laws for 2001 With the United States Internal Revenue Code"

(H.P. 1472) (L.D. 1973) Bill "An Act Regarding Utility Easements" Committee on **UTILITIES AND ENERGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-872)**

On motion of Representative GOODWIN of Pembroke, was **REMOVED** from the First Day Consent Calendar.

The Committee Report was **READ**.

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

**CONSENT CALENDAR
Second Day**

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

(S.P. 539) (L.D. 1670) Bill "An Act Regarding Child Abandonment" (C. "A" S-447)

(S.P. 664) (L.D. 1855) Bill "An Act to Clarify the Regulatory Authority of the Maine Forest Service Regarding Forestry-related Quarantines" (C. "A" S-446)

(S.P. 735) (L.D. 2046) Resolve, to Recognize Veterans of World War II and the Korean Conflict in the State House Hall of Flags (C. "A" S-449)

(H.P. 1434) (L.D. 1931) Bill "An Act to Appropriate Funds for the Seeds of Peace International Camp Scholarships and Property Tax Payment" (C. "A" H-859)

No objections having been noted at the end of the Second Legislative Day, the Senate Papers were **PASSED TO BE ENGROSSED AS AMENDED** in concurrence and the House Paper was **PASSED TO BE ENGROSSED AS AMENDED** and sent for concurrence.

**ENACTORS
Resolves**

Resolve, to Name the New Psychiatric Treatment Center Located in Augusta

(H.P. 1652) (L.D. 2158)

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

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

The **SPEAKER**: Pursuant to House Rule 201, the Chair would recognize that today is University of Maine Day here at the State House and as part of the Community Extension Project, we have many representatives of our local 4 Hs who are a huge part of Maine's rural economy. At this time the chair would request that the Sergeant-at-Arms escort Marjorie Hardy, Ashley Hardy, Emily Archer, Morgan Turner and Amy Lane to the front of the chamber for a presentation. These young people represent Franklin County 4 H and are the guests of the Representatives from Franklin County, Representative Gooley, Representative Jodrey, Representative LaVerdiere, Representative McGlocklin, Representative Pineau and Representative Thomas. Would the Sergeant-at-Arms please escort our guests to the front of the chamber for our presentation?

The Chair wishes to thank the representatives of 4H and the young people from Franklin County for their wonderful provisions.

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

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 Continue the Sales Tax Exemption on Vehicles Sold and Leased and Removed from the State

(H.P. 916) (L.D. 1230)

(C. "B" H-784)

TABLED - February 26, 2002 (Till Later Today) by Representative BERRY of Livermore.

PENDING - PASSAGE TO BE ENACTED.

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

An Act to Enhance the Quality and Accessibility of HIV Services and Prevention Services

(H.P. 779) (L.D. 1023)

(C. "B" H-785)

TABLED - February 26, 2002 (Till Later Today) by Representative BERRY of Livermore.

PENDING - PASSAGE TO BE ENACTED.

Representative NORBERT of Portland **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. 496

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

NAY - Bowles, Clough, Crabtree, Cressey, Duncan, Duprey, Foster, Jodrey, Kasprzak, Ledwin, MacDougall, Nass, Pinkham, Snowe-Mello, Stedman, Treadwell, Waterhouse, Weston, Winsor.

ABSENT - Bagley, Baker, Berry DP, Chick, Fisher, Goodwin, Hall, Marraché, Tuttle, Young.

Yes, 122; No, 19; Absent, 10; Excused, 0.

122 having voted in the affirmative and 19 voted in the negative; with 10 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

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

SENATE PAPERS

The following Joint Order: (S.P. 802)

ORDERED, the House concurring, that when the House stands Adjourned it does so until Monday, March 11, 2002, at 9:00 in the morning and the Senate Adjourns until Monday, March 11, 2002, at 10:00 in the morning.

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

CONSENT CALENDAR

First Day

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

(H.P. 1466) (L.D. 1963) Bill "An Act to Amend the Laws Governing Eligibility for General Assistance" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-878)**

(H.P. 1495) (L.D. 1998) Bill "An Act to Establish the Asthma Prevention and Control Program in the Department of Human Services, Bureau of Health" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-877)**

(H.P. 1497) (L.D. 2000) Resolve, Directing the Department of Human Services to Apply for a Federal Waiver to Provide Medicaid Benefits to Uninsured Residents with a Diagnosis of Cancer Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-876)**

There being no objections, the above items were ordered to appear on the Consent Calendar tomorrow under the listing of Second Day.

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-869)** on Bill "An Act Regarding Conversions of Nonprofit Entities to For-profit Entities"

(H.P. 1307) (L.D. 1770)

Signed:

Senators:

RAND of Cumberland
McALEVEY of York
FERGUSON of Oxford

Representatives:

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

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

Signed:

Representatives:

MADORE of Augusta
WATERHOUSE of Bridgton
SHERMAN of Hodgdon

MENDROS of Lewiston

READ.

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

The Bill was **READ ONCE**. **Committee Amendment "A" (H-869)** was **READ** by the Clerk and **ADOPTED**.

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

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-869)** and sent for concurrence.

Divided Report

Majority Report of the Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-870)** on Bill "An Act to Prohibit a Convicted Sexual Offender From Acquiring Custody or Obtaining Visitation Rights Without Adult Supervision"

(H.P. 1468) (L.D. 1969)

Signed:

Senators:

RAND of Cumberland
McALEVEY of York
FERGUSON of Oxford

Representatives:

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

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (H-871)** on same Bill.

Signed:

Representatives:

MADORE of Augusta
WATERHOUSE of Bridgton
SHERMAN of Hodgdon

READ.

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

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

Representative **WATERHOUSE**: Mr. Speaker, Ladies and Gentlemen of the House. I hope that you will vote against the pending motion and go on to pass the Minority Report. The interesting thing is if you look at the title of the bill it says, "An Act to Prohibit a Convicted Sexual Offender from Acquiring Custody or Obtaining Visitation Rights Without Adult Supervision". The Majority Report doesn't do that. It does not prohibit anything. What it does is put this issue on a list that a judge can take into consideration when awarding custody or visitation rights. It is something a judge can already do. One of the things that we constantly hear, one of the refrains in the Judiciary Committee is a lot of the members do not want to take the discretion away from the judge with certain issues. This is one of those issues I certainly do want to take the discretion of the judge away. Other members of the committee do and I hope, ladies and gentlemen, you do also. Think about what we should do as opposed to telling a judge he can or cannot do this. We don't want the

judges to have the discretion to allow a sexually violent predator or a sex offender to have unsupervised visitation. We are not saying they can't have visitation. We are saying they can't have unsupervised visitation. Put yourself in the shoes of the child, for those of you who have children. Would you want your child to have unsupervised visitation with a sex offender, violent or otherwise? Would you like that discretion prohibited from the judges or would you like judges to have the discretion to go ahead and do that?

When you talk about the discretion of judges, we can all think of certain instances where discretion of judges have resulted in dire consequences. This is not a radical proposal to take the discretion away from the judges in these circumstances and I hope that you don't think so either and I hope that you will vote against the pending motion and go on to pass the Minority Report.

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

Representative **LAVERDIERE**: Mr. Speaker, Men and Women of the House. I rise to ask that you support the Majority Report and I ask because after looking at this bill very carefully the majority of the committee felt that it was an appropriate method of dealing with a potential problem. There was no evidence that presented to the committee that any judge has ever abused the discretion that the judges currently have. There is only fear that they might some day. This is a situation where if the Minority Report is adopted, it would prohibit a judge from looking at the facts of the case in determining from based upon the facts of the case the appropriate custody or visitation arrangements.

If someone at 18 years old does something that they shouldn't, whether they have run down Main Street flashing and are charged with indecent exposure or commit some crime of that nature, they are classified in a way that would, under this bill, prohibit them from ever having custody of their child. It would prohibit them from ever being able to visit with a child absent adult supervision. That removes a significant amount of discretion that judges use every day in court. I would maintain that what the Majority Report does is a much better approach. It requires the judge to look specifically at the facts of the conviction, specifically at the facts of that individual and then make a finding as to whether or not custody would be in the best interests of the child or not. There is no evidence that there has been any abuse of discretion up to this point and I would urge you to support the Majority Ought to Pass as Amended Report.

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

Representative **CARR**: Mr. Speaker, Ladies and Gentlemen of the House. I want to take just a moment to bring to your attention the circumstances that brought this bill to my attention and the reason for me presenting the bill before the Judiciary Committee. During the summer I was contacted by a constituent who was very distressed over a family situation. The constituent had been married and had a female child. After a period of years she was divorced from her first husband and then remarried. In her second marriage she had another female child. Sometime during the second marriage her husband sexually abused the older daughter over a period of time. As soon as she found out, she divorced this man. He was charged, convicted and sent to jail. Upon his release from jail, he immediately applied for custody of the second child, which he was the father of. This process has been going on for a period of time and every six to eight months this lady has to go back to court, pay an attorney to defend her right to have custody of the minor child. At this time

there isn't anything that would prohibit the judge from giving custody to this person who had been convicted of sexual abuse.

This bill, the Minority Report, also deals with grandparents in similar situations. All it really does is it says that a person who has been convicted of a sexual abuse or someone who has been a sexual predator cannot gain custody of a minor child. It also requires them to have adult supervision, specified supervision, during any visitation.

One of the things that the Majority Report does not address, and I do appreciate the committee working on and at least passing something that would bring this to the attention of the judge, is the fact my constituent, and I am sure you have constituents having the same problem, that has to continually go back and defend their right to keep custody of minor children. Although I feel very fortunate to have had the committee come out with two Ought to Pass reports, I do think for the particular purpose that I brought this bill in, the Minority Report actually addresses the problem and the Majority Report actually brings the attention to us so that we know there is a problem out there and it also identifies it do the judge so that he will take that into consideration when making his determination. I will end with that. Thank you Mr. Speaker.

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

Representative **QUINT**: Mr. Speaker, Men and Women of the House. I would ask you to vote against the pending motion. Sex offenders are manipulative, deviant and the rate of recidivism is high. We go to great lengths to identify them. We go to great lengths to require mandatory reporting when they move into our communities because the community wants to know that they are in their neighborhoods, not that the person is living with someone, but in the community now it is mandatory reporting because people realize the great risk that children are in when there is a sexual predator in their neighborhood, not in their home, not with the protection of their parents, but just in their neighborhood. I am not a supporter of mandatory sentencing, but this particular issue is something that we look at daily. If you have been following the newspapers later, it happens over and over and over again. Sex offenders have the ability to be charming, persuasive and to convince people that they are something that they are not. I think this offense is, in fact, serious enough that it causes a severe consequence.

We are not saying that they cannot see their child. We are not saying that they can't spend some time with the child as long as it is under the supervision of an adult. That is reasonable. It is not unfair. I would ask you to vote against the pending motion and follow my light.

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

Representative **MUSE**: Mr. Speaker, Men and Women of the House. Originally when I heard this bill I agreed with my friend from Portland, Representative Quint, but I find myself in a position now where I disagree strongly and I will tell you why.

The bill, as it is written, will take the discretion away from our judges that they so desperately need in a case like this. I will give you two examples. When I was in high school, just a couple of years ago, a few of the boys decided at the time there was a little craze running around called streaking. A few of the boys decided that they would disguise their faces and wearing nothing but their Chevrus ties, went up to the local girls school and struck through Catherine McAuley High School. It was cool. It made headlines around the world. Jesuit priests were sending headlines from all over the world. One of them happened to know an AP reporter who tipped him off when it was about to happen and he caught the photo of a lifetime. One of those

gentlemen has confessed recently that he was, in fact, one of the stalkers. Every day that gentleman goes to work now wearing a black robe. He is a judge in Maine. He is a good judge and an even better dad. Had he been caught at the time, he would be classified as a sex offender. That is the way our state laws are written. I don't want to take a poll here or even a straw poll, but I would dare say it might show us a scary number if we asked how many hunters when they were out in the woods during a day of hunting might have relieved themselves. Were you to be caught, you do would be classified as a sex offender. Public indecency is the charge and you would therefore be classified under state law as a sex offender. That is a fact. I don't think that any of those individuals or the judge that I was speaking of should be denied visitation to their children or that it have to supervised. We need to afford these judges the opportunity to look at the circumstances surrounding these cases and make their determination as a result of that. I hope that you will accept the Majority Ought to Pass as Amended Report. Thank you Mr. Speaker.

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

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

The SPEAKER: The Representative may pose his question.

Representative **MATTHEWS**: Mr. Speaker, Men and Women of the House. Again, I don't think we are talking about stalking here. I think we are talking about a serious problem that we all see on the news and read about. My question is this, when you talk about sexual abusers and these folks that prey on children and recidivism, what is the recidivism rate among these deviants and dangerous people to society? What is the recidivism rate?

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

Representative **MUSE**: Mr. Speaker, Men and Women of the House. I would say having worked in the field for 20 some odd years, the recidivism rate for violent sexual predators is extremely high. The recidivism rate for somebody caught urinating in public down in the Old Port on a Saturday night is not so high.

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

Representative **QUINT**: Mr. Speaker, Men and Women of the House. This is a very serious issue. It is unfortunate when they looked at this perhaps that they didn't redefine what we are really trying to do here. If that clearly is the issue and the committee working the bill knew that, then perhaps their amendment would have included a better definition of what we are really trying to get at. I am not going to not support this because someone says to me that perhaps some college student might get caught and arrested for indecent exposure or perhaps urinating in the woods because they are hunting. If that is a problem and we require mandatory reporting when they move into neighborhoods or that the judge has the ability to prohibit them from ever being privately with their child, then we need to change the law. I am not going to sit here and vote for something simply because we don't have an adequate definition for what we are getting at. If that is what we need, perhaps the committee ought to consider recommitting it and taking a look at getting the definition of what we are trying to get at.

We are talking about children. We are talking about sexual predators. To dismiss this simply because someone might be a stalker or urinate in the woods and to go on is just not okay. I would ask you once again to vote against the pending motion and let's move on.

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

Representative **MITCHELL**: Mr. Speaker, Ladies and Gentlemen of the House. In response to some of the concerns raised by the Representative from Portland, the Majority Report of this committee does exactly what he says the committee should have done. It addresses the real problem. It addresses the serious issue without confusing it with the issues that were brought up by the Representative from South Portland. This allows the judge to see the difference or to look at the difference between a violent sexual offense and a streaking offense. It mandates that the judge look at these records and if the situation is clearly one where it is a violent sexual predator then the judge is going to see that. The judge has to look at that. The committee did address these concerns and the Majority Report will address the problem. I would urge the House to support the Majority Report. Thank you.

The SPEAKER: The Chair recognizes the Representative from Freeport, Representative Bull.

Representative **BULL**: Mr. Speaker, Men and Women of the House. I am on the Majority Report on this. I am on this report for many of the reasons that have already been laid out. I also want to emphasize that when we consider these bills we need to ask ourselves what is the issue that is trying to be addressed here and is there a problem? There was no evidence provided to us in committee that there have been judges who have been awarding custody or unsupervised visitation to violent sexual offenders and predators. There is no evidence of that. We do not have an issue right now here in Maine where children are being placed in the custody of people with a history of sexual offenses. I think what we are doing here is we are taking a potential problem and instead of carefully trying to craft some legislation to address the issue and to make sure that this is something that is avoided in the issue, we are taking a sledgehammer to this and obliterating the rights of those who may have made some mistakes in their past, but should not necessarily rule them out from ever having custody of a child. This bill does take into account all sexual offenses, including indecent exposure, urinating in public and things like that. Let's be careful here and let us trust the judges who have, as of yet, never provided this custody. Let's continue to allow them that discretion and trust them to make these sound decisions, which they have been all along.

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

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

The SPEAKER: The Representative may pose her question.

Representative **MCNEIL**: Mr. Speaker, Ladies and Gentlemen of the House. In the Majority Report is there anything that would give relief to the scenario that Representative Carr spoke about where the mother continually had to go back to court at her expense to prevent her child from being in the custody of a true sexual offender?

The SPEAKER: The Representative from Rockland, Representative McNeil has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Wilton, Representative LaVerdiere.

Representative **LAVERDIERE**: Mr. Speaker, Men and Women of the House. The brief answer to that is under our criminal justice and legal system people always have the right to ask the court for something. In this case this individual is asking, but he is not being granted that. There is nothing in the Majority Report that would change the current system to the extent that someone could continue to ask. That is a good example of why

the current system of allowing judges to have discretion is, in fact, working. It is working because the judge says no and the person is not getting custody of that child and not getting visitation with that child. What this bill would do would be to completely, if the Minority Report is accepted, remove the ability of a judge to look at the issue. What we are saying is that there are times when if you are defined as a sex offender for a particular type of sex offense, whether it be with another adult or a whole variety of others, then the discretion would be removed. It would be inappropriate to remove the courts discretion to at least look at the facts of the case and make the decision based upon the facts of the case.

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

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

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

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

ROLL CALL NO. 497

YEA - Annis, Ash, Berry RL, Blanchette, Bliss, Brannigan, Brooks, Bryant, Bull, Bunker, Canavan, Chick, Chizmar, Colwell, Cote, Cowger, Crabtree, Cummings, Daigle, Desmond, Dorr, Dudley, Dugay, Dunlap, Duplessie, Estes, Etnier, Fisher, Fuller, Gerzofsky, Goodwin, Green, Hall, Hatch, Hutton, Jacobs, Kane, Koffman, LaVerdiere, Laverriere-Boucher, Lemoine, Lessard, Lundeen, Mailhot, McDonough, McGlocklin, McGowan, McKee, McLaughlin, Mendros, Michael, Michaud, Mitchell, Muse C, Norbert, Norton, O'Brien LL, O'Neil, Paradis, Patrick, Peavey, Perkins, Perry, Pineau, Povich, Richard, Richardson, Rines, Savage, Simpson, Skoglund, Smith, Sullivan, Tarazewich,

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

NAY - Andrews, Belanger, Berry DP, Bouffard, Bowles, Bruno, Buck, Bumps, Carr, Chase, Clark, Clough, Collins, Cressey, Davis, Duncan, Duprey, Foster, Gagne, Glynn, Gooley, Haskell, Hawes, Heidrich, Honey, Jodrey, Jones, Kasprzak, Labrecque, Landry, Ledwin, Lovett, MacDougall, Madore, Marley, Matthews, Mayo, McKenney, McNeil, Morrison, Murphy E, Murphy T, Muse K, Nass, Nutting, O'Brien JA, Pinkham, Quint, Rosen, Schneider, Sherman, Shields, Snowe-Mello, Stanley, Stedman, Tobin J, Tracy, Trahan, Treadwell, Waterhouse, Weston, Wheeler EM, Wheeler GJ, Winsor.

ABSENT - Bagley, Baker, Marrache, Tessier, Young.

Yes, 82; No, 64; Absent, 5; Excused, 0.

82 having voted in the affirmative and 64 voted in the negative, with 5 being absent, and accordingly the Majority Ought to Pass as Amended Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-870)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Monday, March 11, 2002.

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

Representative **CHICK**: Mr. Speaker, Men and Women of the House. This morning on Unfinished Business, Item 7, I was not here to vote. Had I been here, I would ask that you would record my vote as being yea.

On motion of Representative GAGNE of Buckfield, the House adjourned at 12:02 p.m., until 9:00 a.m., Monday, March 11, 2002 pursuant to the Joint Order (S.P. 802).