

# MAINE STATE LEGISLATURE

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**Legislative Record**  
**House of Representatives**  
**One Hundred and Twenty-First Legislature**  
**State of Maine**

**Volume II**

**First Regular Session**

May 27, 2003 – June 14, 2003

**First Special Session**

August 21, 2003 – August 23, 2003

**Second Regular Session**

January 7, 2004 - January 30, 2004

**Second Special Session**

February 3, 2004 - April 7, 2004

Pages 777-1562

ONE HUNDRED AND TWENTY-FIRST LEGISLATURE  
FIRST REGULAR SESSION  
63rd Legislative Day  
Monday, June 2, 2003

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

Prayer by Reverend Edward Hatch, Palermo Christian Church.

Pledge of Allegiance.

The Journal of Friday, May 30, 2003 was read and approved.

**SENATE PAPERS**

**Non-Concurrent Matter**

Bill "An Act To Control County Jail Health Care Expenses" (H.P. 585) (L.D. 808)

House **INSISTED** on its former action whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-365)** in the House on May 29, 2003.

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" (H-365) AS AMENDED BY SENATE AMENDMENT "B" (S-242)** thereto and **ASKED** for a Committee of Conference in **NON-CONCURRENCE**.

The House voted to **JOIN** in a **COMMITTEE OF CONFERENCE**. Sent for concurrence.

**COMMUNICATIONS**

The Following Communication: (S.C. 271)

**MAINE SENATE  
121ST LEGISLATURE  
OFFICE OF THE SECRETARY  
3 STATE HOUSE STATION  
AUGUSTA, ME 04333-0003**

May 29, 2003

Honorable Patrick Colwell  
Speaker of the House  
2 State House Station  
Augusta, ME 04333

Dear Speaker Colwell:

In accordance with 9-A M.R.S.A. §6-103, please be advised that the Senate today confirmed the following nomination:

Upon the recommendation of the Joint Standing Committee on Insurance and Financial Services, the nomination of William N. Lund of Portland, for reappointment as the Director of the Office of Consumer Credit Regulation.

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

**READ and ORDERED PLACED ON FILE.**

**PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE**

**Pursuant to Statute  
Department of Labor**

Representative SMITH for the **Department of Labor** pursuant to the Maine Revised Statutes, Title 5, section 8072 asks leave to report that the accompanying Resolve, Regarding Legislative Review of Chapter 14: Rules Governing Alternative Methods of Payment of Overtime for Certain Drivers and Drivers

Helpers, a Major Substantive Rule of the Department of Labor, Bureau of Labor Standards (EMERGENCY)

(H.P. 1206) (L.D. 1627)

Be **REFERRED** to the Committee on **LABOR** and printed pursuant to Joint Rule 218.

Report was **READ** and **ACCEPTED** and the Resolve **REFERRED** to the Committee on **LABOR** and ordered printed pursuant to Joint Rule 218.

Sent for concurrence.

**SPECIAL SENTIMENT CALENDAR**

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

**Recognizing:**

Joseph A. "Tony" Poirier, of Rumford, who has been named Citizen of the Year. Mr. Poirier has been volunteering for over 40 years. He has given thousands of hours as a volunteer to his community, and he served his country during World War II in the European Theater of Operations. Mr. Poirier has been there for his family, his church, his friends, his neighbors and his country. He was named the Maine Credit Union League's Outstanding Credit Union Volunteer in 1987, and last year the Oxford Federal Credit Union named a training room after him. We extend our appreciation to Mr. Poirier for his dedication and commitment to the people of his community and congratulate him on his receiving this well-deserved award;

(HLS 636)

Presented by Representative PATRICK of Rumford.

Cosponsored by Senator BRYANT of Oxford, Representative HOTHAM of Dixfield.

On **OBJECTION** of Representative PATRICK of Rumford, was **REMOVED** from the Special Sentiment Calendar.

**READ.**

The **SPEAKER**: The Chair recognizes the Representative from Rumford, Representative Patrick.

Representative **PATRICK**: Mr. Speaker, Men and Women of the House. I am truly honored and pleased today to rise to honor a man, Tony Poirier, who was chosen from a list of seven great candidates to unanimously receive Rumford's Citizen of the Year Award. This modest and humble man has devoted over 44 years of his life volunteering to make a difference in the lives of his fellow citizens. I met this man in 1972 when I started my working career in the paper industry in the then Oxford Paper Company. I also met Tony when I went to sign up the credit union for the first time. As a matter a fact, I once worked for Tony. Tony was my maintenance supervisor and we were working on number four boiler where we had to change the expansion joint boot. This was a lousy, lousy job. I was only around 23 years old at the time when Tony, my supervisor, asked me if I wanted to go to the storeroom with him and pick up this boot. I replied, no. He asked me again, do you want to go down to the storeroom and pick up this boot? I said, no. Lo and behold he asked me a third time with his voice raising a little bit louder this time. Would you like to go to the storeroom and pick up this boot? The third time I said, no. I thought he was asking me a question, I think I have given him an answer. The fourth time he finally said, let me rephrase my question. Get your butt in the truck, son, you are going to the storeroom with me so we can get this job going. That is how our working career actually started out. That is actually the first time and the only time I have ever seen him get a little bit on the mad side. He is truly a mild mannered and humbled person who has dedicated many, many years of his life.

Tony has a long history of volunteerism. He is extremely proud of his service to the Oxford Federal Credit Union. He has

served for 44 years on their board. In fact, 42 of those years he has served as chairman. Since 1967 Tony has served the local hospital in various volunteer capacities and is a past board chairman for 13 years. He has also served as past chairman of the Rumford Community Home Corporation and as a board member of the Central Maine Clinical Associates at Central Maine Medical Center. He is also the first chairman of the Swift River Board of Directors and a past member of the Trustee Advisory Group of the Maine Hospital Association of Augusta. He can also add gentleman lobbyist to his title. He had let me know how he stood on the Dixfield Health Proposal and being the gentleman that he was, he talked to me in a kind, respectful manner to let me know that he would support his beloved rural hospital. His style of lobbying was by far the best in Rumford that I have witnessed to this date.

He has also been an American Red Cross blood drive volunteer for many years. He volunteered for the Chism Ski Club and in the cold winds of January 2003, Tony at the age of 80 donated 75 hours at Black Mountain during the Chevy National Cross County Races. I remember those days and I was inside my home nice and warm.

His church and his faith plays an important role in his life. He is a volunteer at St. Johns Church. In 1997, he oversaw the construction of a retaining wall on Washington Street, which was in dire need of repair. Our school was in imminent danger and the wall was going to collapse. Tony did a great job doing that.

He is currently lending his expertise in the development of a new parking area adjacent to the church. Something we need so we can put an elevator in our church to make it more accessible to our senior citizens and handicapped.

Tony is married to a lovely woman named Lillian. Lillian told me something just a little bit ago. Behind every great man is a wonderful woman. She is right because I know I have one myself. Lillian also can testify to the fact that I have experience in the bingo area. Lillian was my team captain for St. Johns for many years. She was a great captain and a great volunteer in her own light. They have six children, Richard, Louise, Connie, Antoinette, Michael and Philip. Louise, his daughter, had the honor to add her father's name to the list of nominees. Tony was unanimously selected.

This is but a few of the things that Tony has accomplished and devoted his time to. I don't want to use them all up because it wouldn't be fair to the next speaker. I just wanted to thank with all my heart on behalf of each and every citizen of the Town of Rumford, thank you Tony. God bless you and may he grant you many more healthy, happy years to do what you do best, helping others. Thank you Mr. Speaker.

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

Representative **HOTHAM**: Mr. Speaker, Ladies and Gentlemen of the House. Joseph A. "Tony" Poirier or Uncle Tony as my wife has known him ever since she can remember, has been volunteering in the greater Rumford area for over 40 years. He is still going strong. In recognition of his dedicated work, he was recently named Rumford's Citizen of the Year. The first time I met Tony was in 1971 when I was working as a summer spare in the Rumford mill, which was then known as Oxford Paper Company. I was working as a mill helper and Tony was the supervisor of our crew. I knew right away there was something special about him because of the respect those I worked with showed for him. It was the kind of respect they reserved for very few. Over time, I learned Tony's secret for gaining such respect. You see, he always treated others the way he wanted to be treated.

His daughter, Louise Stickney, nominated Tony for Citizen of the Year and in her nominating letter Louise said, "He exemplifies the meaning of good citizenship. Throughout his life Tony Poirier has been there for his family, his friends, his neighbor and his country. He is not afraid to serve and has always stepped in to help whenever he saw a need. He goes about his good deeds quietly and humbly." I might add with a smile on his face.

At one point Tony was serving on nine different boards at the same time. At 81, he currently serves many groups that the good Representative from Rumford has already listed, to which I would add, founding member of the Western Maine Chapter of School, longtime member of the American Legion and VFW, past Grand Knight of the Knights of Columbus and Faithful Navigator for their Fourth Degree Assembly. He has also served as president of the St. John's Parish Council. In 1987, Tony was named Outstanding Credit Union Volunteer.

Tony Poirier has lived all his 81 years in Rumford with his family and raising six children, along with his beautiful wife Lillian. He worked in the paper mill in Rumford from 1946 through 1985 as a maintenance and construction supervisor. Uncle Tony has clearly shown us all what it means to give back to a community. I am pleased and honored to be able to recognize his efforts and this recent distinction as Rumford's Citizen of the Year in this very special way. Thank you.

**PASSED** and sent for concurrence.

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#### REPORTS OF COMMITTEE Divided Report

Majority Report of the Committee on **LABOR** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-2)** on Bill "An Act Relating to Unemployment Compensation"

(S.P. 40) (L.D. 117)

Signed:

Senators:

EDMONDS of Cumberland

STANLEY of Penobscot

Representatives:

SMITH of Van Buren

HUTTON of Bowdoinham

HATCH of Skowhegan

PATRICK of Rumford

WATSON of Bath

JACKSON of Fort Kent

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

Signed:

Senator:

BLAIS of Kennebec

Representatives:

TREADWELL of Carmel

CRESSEY of Baldwin

NUTTING of Oakland

HEIDRICH of Oxford

Came from the Senate with the Reports **READ** and the Bill and accompanying papers **INDEFINITELY POSTPONED**.

**READ.**

On motion of Representative SMITH of Van Buren, the Bill and all accompanying papers were **INDEFINITELY POSTPONED** in concurrence.

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Majority Report of the Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-538)** on Bill "An Act To Regulate the Delivery Sales of Cigarettes and To Prevent the Sale of Cigarettes to Minors"

(H.P. 910) (L.D. 1236)

Signed:

Senators:

BRENNAN of Cumberland  
MARTIN of Aroostook

Representatives:

KANE of Saco  
EARLE of Damariscotta  
CRAVEN of Lewiston  
SHIELDS of Auburn  
DUGAY of Cherryfield  
WALCOTT of Lewiston  
CAMPBELL of Newfield  
LAVERRIERE-BOUCHER of Biddeford

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

Signed:

Senator:

WESTON of Waldo

Representatives:

CURLEY of Scarborough  
LEWIN of Eliot

**READ.**

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

The Bill was **READ ONCE**. **Committee Amendment "A" (H-538)** 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-538)** and sent for concurrence.

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

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#### **ENACTORS Acts**

An Act To Increase Access to Information Regarding Referendum Questions

(H.P. 925) (L.D. 1251)  
(H. "A" H-532 to C. "A" H-449)

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.

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An Act To Authorize the Deorganization of the Town of Centerville

(H.P. 1201) (L.D. 1624)

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

On motion of Representative DUPLESSIE of Westbrook, was **SET ASIDE**.

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

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

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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 Friday, May 30, 2003, 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 Election Laws

(H.P. 1134) (L.D. 1548)  
(C. "A" H-496)

**TABLED - May 28, 2003 (Till Later Today)** by Representative DUPLESSIE of Westbrook.

**PENDING - PASSAGE TO BE ENACTED.**

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

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An Act To Change Certain Educational Requirements and Make Title Changes for Licensed Social Workers

(H.P. 1162) (L.D. 1589)  
(S. "A" S-232 to C. "A" H-454)

**TABLED - May 30, 2003 (Till Later Today)** by Representative DUPLESSIE of Westbrook.

**PENDING - PASSAGE TO BE ENACTED.**

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

Representative **LAVERRIERE-BOUCHER**: Mr. Speaker, Men and Women of the House. I just wanted to make a comment on this bill. I just wanted to ask, are you all certain you want to support a bill that gives DHS special permission to give their workers less support, less quality social work professional support. The one agency whose workers need more, not less professional support. I would like to ask for a roll call.

Representative **LAVERRIERE-BOUCHER** of Biddeford **REQUESTED** a roll call on **PASSAGE TO BE ENACTED**.

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

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

Representative **O'BRIEN**: Mr. Speaker, Men and Women of the House. This is a bill that I put in so that all of the qualified, eligible, educated persons who could be and should be working for the Department of Human Services at our local nursing homes, at our hospitals, at any and all agencies that utilizes people who are willing to become part of the social work profession can, in fact, do so. I don't need to tell you where and how problems have existed in the past. I am not in any way diminishing those facts. What I am saying is we need to keep open and able the possibility of people continuing to go to work in that very needed profession. This bill was intending and should be enacted by you to make that possible in the future. If there are any questions in regards to this bill, I certainly would be happy to answer them. Thank you.

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. 199**

YEA - Adams, Annis, Ash, Austin, Barstow, Bennett, Berry, Berube, Bierman, Blanchette, Bliss, Bowen, Bowles, Brannigan, Brown R, Browne W, Bruno, Bryant-Deschenes, Bull, Bunker, Campbell, Carr, Churchill E, Clark, Clough, Collins, Courtney, Cowger, Cressey, Crosthwaite, Cummings, Curley, Daigle, Dunlap, Duplessie, Duprey B, Duprey G, Earle, Eder, Finch, Fischer, Fletcher, Gagne-Friel, Glynn, Goodwin, Greeley, Hatch, Heidrich, Hotham, Jackson, Jacobsen, Jennings, Jodrey, Joy, Kaelin, Kane, Koffman, Landry, Ledwin, Lemoine, Lessard, Lewin, Lundeen, Maietta, Makas, McCormick, McGowan, McKee, McKenney, McLaughlin, McNeil, Millett, Mills S, Moody, Moore, Murphy, Muse, Norbert, Norton, O'Brien J, O'Brien L, O'Neil, Peavey-Haskell, Pellon, Perry A, Perry J, Pineau, Piotti, Rector, Richardson E, Richardson M, Rines, Rogers, Rosen, Shields, Simpson, Smith N, Snowe-Mello, Stone, Sukeforth, Sullivan, Suslovic, Sykes, Tardy, Thompson, Tobin D, Tobin J, Trahan, Treadwell, Usher, Watson, Wheeler, Wotton, Young, Mr. Speaker.

NAY - Breault, Canavan, Churchill J, Craven, Dudley, Faircloth, Grose, Honey, Hutton, Ketterer, Laverriere-Boucher, Lerman, Marley, Mills J, Nutting, Paradis, Patrick, Percy, Pingree, Sampson, Saviello, Sherman, Smith W, Thomas, Vaughan, Walcott.

ABSENT - Andrews, Davis, Dugay, Gerzofsky, Mailhot, Marraché, McGlocklin, Richardson J, Twomey, Woodbury.

Yes, 115; No, 26; Absent, 10; Excused, 0.

115 having voted in the affirmative and 26 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 Chair laid before the House the following item which was **TABLED** earlier in today's session:

An Act To Authorize the Deorganization of the Town of Centerville

(H.P. 1201) (L.D. 1624)

Which was **TABLED** by Representative DUPLESSIE of Westbrook pending **PASSAGE TO BE ENACTED**.

On motion of Representative BRANNIGAN of Portland, the rules were **SUSPENDED** for the purpose of **RECONSIDERATION**.

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

The same Representative **PRESENTED** House Amendment "A" (H-540) which was **READ** by the Clerk and **ADOPTED**.

The Bill was **PASSED TO BE ENGROSSED** as Amended by House Amendment "A" (H-540) in **NON-CONCURRENCE** and sent for concurrence.

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

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

**UNFINISHED BUSINESS**

The following matters, in the consideration of which the House was engaged at the time of adjournment Friday, May 30, 2003, had preference in the Orders of the Day and continued with

such preference until disposed of as provided by House Rule 502.

Bill "An Act To Authorize the State To Establish a Multijurisdictional Lottery or Lottery Games"

(S.P. 515) (L.D. 1536)

(C. "A" S-147)

- In Senate, Bill and accompanying papers **INDEFINITELY POSTPONED**.

**TABLED** - May 16, 2003 (Till Later Today) by Representative RICHARDSON of Brunswick.

**PENDING - PASSAGE TO BE ENGROSSED**.

Subsequently, the Bill was **PASSED TO BE ENGROSSED** as Amended by Committee Amendment "A" (S-147) in **NON-CONCURRENCE** and sent for concurrence. **ORDERED SENT FORTHWITH**.

Bill "An Act To Protect Moderate-value and High-value Bird Habitats"

(H.P. 908) (L.D. 1234)

- In Senate, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-372) AS AMENDED BY HOUSE AMENDMENT "A" (H-506)** thereto.

**TABLED** - May 30, 2003 (Till Later Today) by Representative DUPLESSIE of Westbrook.

**PENDING - ADOPTION OF HOUSE AMENDMENT "B" (H-539)** (Roll Call Ordered)

The **SPEAKER**: A roll call having been previously ordered. The pending question before the House is adoption of House Amendment "B" (H-539) to Committee Amendment "A" (H-372). All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 200**

YEA - Adams, Ash, Barstow, Bennett, Blanchette, Bliss, Brannigan, Breault, Bull, Bunker, Canavan, Churchill E, Clark, Cowger, Craven, Cummings, Dudley, Dunlap, Duplessie, Duprey G, Earle, Eder, Faircloth, Finch, Fischer, Gagne-Friel, Grose, Hatch, Hutton, Jackson, Jennings, Kane, Ketterer, Koffman, Laverriere-Boucher, Lemoine, Lerman, Lessard, Makas, Marley, McGowan, McKee, McLaughlin, Mills J, Norbert, Norton, O'Brien L, O'Neil, Paradis, Patrick, Pellon, Percy, Perry A, Perry J, Pineau, Pingree, Piotti, Rines, Sampson, Saviello, Simpson, Smith N, Smith W, Sullivan, Suslovic, Thomas, Thompson, Usher, Walcott, Watson, Wheeler, Wotton, Mr. Speaker.

NAY - Annis, Austin, Berry, Berube, Bierman, Bowen, Bowles, Brown R, Browne W, Bruno, Bryant-Deschenes, Campbell, Carr, Churchill J, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Daigle, Duprey B, Fletcher, Glynn, Goodwin, Greeley, Heidrich, Honey, Hotham, Jacobsen, Jodrey, Joy, Kaelin, Landry, Ledwin, Lewin, Lundeen, Maietta, McCormick, McKenney, McNeil, Millett, Mills S, Moody, Moore, Murphy, Muse, Nutting, O'Brien J, Peavey-Haskell, Rector, Richardson E, Richardson M, Rogers, Rosen, Sherman, Shields, Snowe-Mello, Stone, Sukeforth, Sykes, Tobin D, Tobin J, Trahan, Treadwell, Vaughan, Young.

ABSENT - Andrews, Davis, Dugay, Gerzofsky, Mailhot, Marraché, McGlocklin, Richardson J, Tardy, Twomey, Woodbury. Yes, 73; No, 67; Absent, 11; Excused, 0.

73 having voted in the affirmative and 67 voted in the negative, with 11 being absent, and accordingly **House Amendment "B" (H-539)** to **Committee Amendment "A" (H-372)** was **ADOPTED**.

**Committee Amendment "A" (H-372)** as Amended by **House Amendment "A" (H-506)** and **House Amendment "B" (H-539)** thereto was **ADOPTED**.

The Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-372) as Amended by House Amendment "A" (H-506) and House Amendment "B" (H-539)** thereto in **NON-CONCURRENCE** and sent for concurrence.

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

The House recessed until the Sound of the Bell.

(After Recess)

The House was called to order by the Speaker.

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

**UNFINISHED BUSINESS**

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

**SENATE DIVIDED REPORT - Majority (7) Ought to Pass as Amended by Committee Amendment "A" (S-204) - Minority (6) Ought Not to Pass - Committee on HEALTH AND HUMAN SERVICES on Bill "An Act To Protect Against Unfair Prescription Drug Practices"**

(S.P. 194) (L.D. 554)

- In Senate, Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-204)**.

**TABLED - May 30, 2003 (Till Later Today)** by Representative BRUNO of Raymond.

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

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

Representative **KANE**: Mr. Speaker, Men and Women of the House. We have entered a new era of public accountability for private sector activities which impact on public interest. LD 554 is a reflection of that. In the wake of the Enron scandal and its abuse of public trust and the aftermath of the pervasive and flagrant Wall Street violations of ethical standards by failing to disclose multiple conflicts of interest that defrauded countless thousands of investors, the public is indeed demanding a much higher level of public accountability and oversight for their protection. They do expect us to respond. In fact, they demand that we respond.

The bipartisan support for OPEGA in this chamber is testimony to our commitment as a body to establish mechanisms to assure public accountability. Public accountability can be best assured by a clear definition of ethical standards, establishment of policies and procedures to assure compliance with these standards and public disclosure, which makes business practices sufficiently transparent to provide for public oversight. We have an opportunity to avoid in the business of prescription drug commerce the kinds of abuses that occurred both in the corporate world and on Wall Street.

In fact, in last Friday's issue of *USA Today*, it was reported that because of abuses of investors, ethical standards will be imposed on those representing them in the securities business. The Securities and Exchange Commission will consider requiring that funds disclose commissions and funds traded and arrangements made with respect to other entities that have an interest in the transaction.

LD 554, "An Act to Protect Against Unfair Prescription Drug Prices" would establish ethical standards and disclosure requirements for pharmacy benefits management companies that contract the state's insurance companies and employers to manage prescription drug benefits.

Over the past decade health plans have contracted with PBMs to win price breaks from drug manufacturers based on volume discounts. This strategy initially worked, but the savings have dwindled and today prescription drug spending is the fastest growing sector of health care spending in the United States. It now appears that PBMs once considered the key to cutting costs have become part of the problem.

LD 554 would restrict practices of PBMs, that cost consumers money and raise ethical questions. What are these questionable practices? Conflicts of interests. If you go to a lawyer for a divorce and the lawyer already represents your spouse, that is a conflict of interest. The same rules should, but don't apply to PBMs who have a direct and indirect financial tie with pharmaceutical manufacturers that create significant conflicts of interest. It is estimated that 10 percent of the \$161 billion spent by Americans on prescription drugs in 2002 paid for side deals in undisclosed payments from drug companies to PBMs.

The State of Arkansas Employee Health Plan was recently refunded nearly \$5 million for only three months of over billing involving generic drugs. Medco recently offered \$42 million to settle a class action suite filed against it by individual municipal and corporate clients that say that the PBM held back \$2.85 billion in rebates and other fees from 1995 to 1999 and another \$1.29 billion in 2001.

The West Virginia Employees Insurance Agency accused Medco of withholding \$12 million in rebates between 2000 and 2002. Pending lawsuits accuse PBMs of steering clients to higher priced drugs for their own profit. For example, in a three-month period, Medco, which is owned, by the way, by Merck, a pharmaceutical manufacturer. Medco persuaded doctors to switch more than 71,000 prescriptions from Lipitor made by Pfizer to Zolcor a more costly drug made by Merck.

LD 554 clarifies that a PBM works for its clients, whether it is the health care plan and by extension individuals covered by the health care plan and not the drug manufacturers. Conflicts of interest and financial information must be disclosed to health plan administrators and savings from deals negotiated with manufacturers past along to them. This legislation will protect patient's health by discouraging practices such as drug switching and certain formularies that are designed to enhance drug makers and PBM profits, but not necessarily promote improved medical outcomes.

The Attorney General would be given authority under the Maine Unfair Trade Practices Act to enforce these protections. The amended version of the bill avoids conflicts with interstate commerce provisions by applying it only to transactions and activities that take place within Maine. This legislation will protect patients and save millions of dollars for business, consumers and state government. In fact, the State of Maine Employees Association is currently negotiating a \$4 million contract with Express Script PBM to manage the pharmaceutical benefits for Maine state employees. In other words, we have as a state a direct and significant investment in ensuring that Express Scripts

will be ethical and will protect our best interests. Even though the proposal has been reviewed and approved for its legal provisions by the Attorney General, the legislation, like Maine RX, will likely be challenged in court and, like Maine RX, it will hopefully prevail. In continuing our commitment to lowering the cost of health care in Maine, especially prescription drugs, I urge your support for LD 554. Thank you Mr. Speaker.

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

Representative **SHIELDS**: Mr. Speaker, Ladies and Gentlemen of the House. When our committee was presented with this bill, it was very poorly written and very flawed. Thank God for the amendment, which replaces the bill. It is a lot clearer to understand. This bill does not concern Enron who was lying to its stockholders. It doesn't concern Medco who was giving physicians information about medications. This bill concerns a business contractual arrangement between two parties who are doing business together. The Pharmacy Benefit Manager procures the medications for the entity and the group that uses them. Their payment schedules and everything else filled out in a contract, which any two businesses would prudently do.

Let's go over some of the requirements in this bill that are very simple. It says the Pharmacy Benefit Manager performs its duties with care, skill, prudence and diligence in accordance with certain standards. Of course, I don't think you have to put that in the law. Absolutely it says that the Pharmacy Benefit Manager will have his primary purpose to provide benefits to the covered individuals and defray the reasonable expenses. They should inform them of a conflict of interest and they should provide the covered entity all financial and utilization information. It goes ahead to indicate that the pharmacy benefit manager should transfer any benefit or payment from a volume discount or from any other situations. Any business that does business with a Pharmacy Benefit Manager puts that into the contract. That is a business arrangement between individuals. I don't know why we need a law that says that this is what you have to do. Certainly the State of Maine is competent on arranging for business transactions.

I feel that this bill is absolutely unnecessary. It is the state sticking its nose in the private business between contracting powers. I would hope that you would vote to defeat it. Mr. Speaker, I would ask for a roll call.

Representative **SHIELDS** of Auburn **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: The Chair recognizes the Representative from Scarborough, Representative Curley.

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

The SPEAKER: The Representative may pose her question.

Representative **CURLEY**: Thank you Mr. Speaker. To anyone who can answer, as to follow up to what the Representative from Auburn said, the State of Maine is currently looking at entering into a contract with a PBM and the current cost of which would be \$40 million. In the testimony of the hearing of this bill, we understood that the State of Maine could save up to \$70 million by using a PBM. Could anybody explain that to me please?

The SPEAKER: The Representative from Scarborough, Representative Curley has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Auburn, Representative Shields.

Representative **SHIELDS**: Mr. Speaker, Ladies and Gentlemen of the House. The other major flaw in this bill is it says that the Pharmacy Benefit Manager has a fiduciary duty to the covered entity. We have had adequate legal testimony from more than one party that ARISA does not allow the Pharmacy Benefit Manager to have a fiduciary duty. This is against the ARISA law.

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

Representative **LEMOINE**: Mr. Speaker, Men and Women of the House. This amended version of the bill that is before us has removed any reference to ARISA law. I hope that allays some of the concerns that the Representative from Auburn has expressed. Let me go on to say that what we are talking about is, in keeping with a theme that we in Maine have been pursuing for some time and that is to add information to the market place on prescription drugs. The system that we work under now works very well for those who sell prescriptions. It has not worked well for those who purchase prescriptions. In the case before us, the pharmacy benefit managers have entered into the world of sales as the middlemen. In the great American tradition have found all kinds of ways to make profits as they get further into this and the market matures. What we are looking for at this point is not any way to stop the profits they are making. We simply are trying to add information to those entities who are using PBMs to do their drug purchases. This information will allow a better market to develop over the course of time. Those entities can share those reduced prices with their payors or their insureds. We believe in the long run that this is a major step toward making the prescription drug market function more normally and be more responsive to the needs of consumers, not simply of manufacturers.

I agree with the work that the committee has done on this, the majority of the committee. I am an enthusiastic supporter of this legislation. I hope this House will endorse its effort. Thank you Mr. Speaker.

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

Representative **BRUNO**: Mr. Speaker, Men and Women of the House. This is truly a bill that I wasn't going to debate and here I am standing up debating it. I have been in this industry for over 25 years and I would dare say that I probably know it better than anyone in this chamber and probably anyone in this building because I am involved with it. I am reading this green sheet here saying that we are going to save Maine consumers \$70 million. Can someone tell me how this piece of legislation saves \$70 million? Being in the business and actually running a PBM, the only one in Maine, I can't figure it out how you are going to save anyone any money. What this does is this bill takes away any incentive for a PBM to negotiate further discounts. You must remember that a PBMs charge is to negotiate discounted prices with pharmacies. What this bill does is it takes away that incentive. How does this bill, that is a question through the chair to the good Representatives on this green sheet, please explain to me, someone who has been in the business for 25 years, who runs a PBM, save any Maine consumer any money? Thank you Mr. Speaker.

The SPEAKER: The Representative from Raymond, Representative Bruno has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Old Orchard Beach, Representative Lemoine.

Representative **LEMOINE**: Mr. Speaker, Men and Women of the House. Not all prescription drugs in this state are delivered by a single Pharmacy Benefits Manager. There are a number



who are involved in the market place. Many of those are subject to contracts that do not necessarily benefit the third-party payor. It is the estimate that is put forward here that many of these out-of-state Pharmacy Benefit Managers will be more clear about where their profits are coming in the event that this bill passes so that the savings will come from our Maine insurers and Maine prescription drug users who will then know where the profits are coming and be able to negotiate with information to get a better deal.

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. 201**

YEA - Adams, Ash, Barstow, Bennett, Blanchette, Bliss, Brannigan, Breault, Bull, Bunker, Canavan, Carr, Clark, Cowger, Craven, Cummings, Dudley, Dunlap, Duplessie, Duprey G, Earle, Eder, Faircloth, Finch, Fischer, Gagne-Friel, Gerzofsky, Goodwin, Grose, Hatch, Hutton, Jackson, Jennings, Kane, Ketterer, Koffman, Landry, Laverriere-Boucher, Lemoine, Lerman, Lessard, Lundeen, Makas, Marley, McKee, McLaughlin, McNeil, Moody, Norbert, Norton, O'Brien L, O'Neil, Paradis, Patrick, Pellon, Percy, Perry A, Perry J, Pineau, Pingree, Piotti, Richardson J, Rines, Sampson, Saviello, Simpson, Smith N, Smith W, Sukeforth, Sullivan, Suslovic, Thomas, Thompson, Trahan, Twomey, Usher, Walcott, Watson, Wheeler, Wotton, Mr. Speaker.

NAY - Annis, Austin, Berry, Berube, Bierman, Bowen, Bowles, Brown R, Browne W, Bruno, Bryant-Deschenes, Campbell, Churchill E, Churchill J, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Daigle, Dugay, Duprey B, Fletcher, Glynn, Greeley, Heidrich, Honey, Hotham, Jacobsen, Jodrey, Joy, Kaelin, Ledwin, Lewin, Maietta, McCormick, McGowan, McKenney, Millett, Mills J, Mills S, Moore, Murphy, Muse, Nutting, O'Brien J, Peavey-Haskell, Rector, Richardson E, Richardson M, Rogers, Rosen, Sherman, Shields, Snowe-Mello, Stone, Sykes, Tardy, Tobin D, Tobin J, Treadwell, Vaughan, Young.

ABSENT - Andrews, Davis, Mailhot, Marraché, McGlocklin, Woodbury.

Yes, 81; No, 64; Absent, 6; Excused, 0.

81 having voted in the affirmative and 64 voted in the negative, with 6 being absent, and accordingly the Majority Ought to Pass as Amended Report was **ACCEPTED**.

The Bill was **READ ONCE**. Committee Amendment "A" (S-204) 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" (S-204) in concurrence.

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

The House recessed until 2:30 p.m.

(After Recess)

The House was called to order by the Speaker.

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

**SENATE PAPERS**

The following Joint Order: (S.P. 582)

ORDERED, the House concurring, that Bill, "An Act to Simplify Calculation of Legal Interest," H.P. 835, L.D. 1132, and all its accompanying papers, be recalled from the Governor's desk to the Senate.

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

**ENACTORS**

**Acts**

An Act To Redefine "Muzzle-loading Firearm"  
(H.P. 867) (L.D. 1170)  
(C. "A" H-537)

An Act To Authorize the Department of Audit To Perform Other Audits and Reviews  
(H.P. 1048) (L.D. 1429)  
(C. "A" H-369; S. "B" S-246)

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 Protect Public Health by Reducing Human Exposure to Arsenic  
(H.P. 963) (L.D. 1309)  
(C. "A" H-490)

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

On motion of Representative DAIGLE of Arundel, was **SET ASIDE**.

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

Representative **DAIGLE**: Mr. Speaker, Ladies and Gentlemen of the House. I continue to be concerned that the bill, although containing several good parts of it, contain a ban on the sale of arsenic treated wood, which would be detrimental to the environment and detrimental to our economy. For that reason, Mr. Speaker, I ask for the yeas and nays.

Representative DAIGLE of Arundel **REQUESTED** a roll call on **PASSAGE TO BE ENACTED**.

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

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

Representative **MCNEIL**: Mr. Speaker, Ladies and Gentlemen of the House. I feel like I am really between a rock and a hard spot with this bill. I agree with all of the bill. As a mother and a grandmother I am concerned about the arsenic situation, but as somebody who lives on the coast, we need to have CCA lumber for marine uses. My small lumber companies will not, because of the ban and the litigation problems, will not be able to carry that. I wonder if anybody can tell me where this will be available in the State of Maine without going to New Hampshire or another state to get this type of lumber that is crucial to marine environment without hurting that environment also? I was wondering if somebody could answer that question.

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 Bar Harbor, Representative Koffman.

Representative **KOFFMAN**: Mr. Speaker, Ladies and Gentlemen of the House. The answer to the question is that this action to eliminate the restocking of arsenic treated wood to our retail stores applies to residential use of the material and it never applied to commercial use, for fishing piers, for example. The material will still be sold and available for commercial application, but will not be allowed for residential use.

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

Representative **MCNEIL**: Mr. Speaker, Ladies and Gentlemen of the House. I would like to thank the Representative from Bar Harbor, Representative Koffman. However, my lumber companies have assured me that they will not carry it do to the ban. It would put them at a liability and they would not feel that they could carry this lumber safely. Therefore, I am respectfully going to have to vote against it. I hope that somehow somebody would please put on some type of an amendment so that it would make it possible for all of us to do the right thing. Thank you.

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

Representative **KOFFMAN**: Mr. Speaker, Ladies and Gentlemen of the House. In an effort to win the vote of the Representative from Rockland, I wanted to answer what I felt like a question to me. The actual ban of arsenic treated wood is going to be taking place under the EPA. It is an agreement with industry to stop producing it as of December. It will not be available for residential uses once that agreement takes place in December and it is no longer manufactured, whatever is left in the marketplace will be sold and then it is over for that particular wood for residential purposes. The agreement with EPA is just covering residential use. Every lumberyard from Home Depot to EBS will not have that material available in the foreseeable future. Perhaps another year will go by before they get rid of their last stick. That is a national effort. Every lumberyard in the United States is going to have to stop selling. It is going to stop being manufactured. The license from the EPA, because this is a registered pesticide has already been pulled. We are in a phase out now nationally. Your comments are well taken. This bill would accelerate that pace of removing arsenic treated wood and replacing it with alternative pressure treated wood at a faster pace. Thank you Mr. Speaker.

On motion of Representative KAELIN of Winterport, 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" (H-490)** was **ADOPTED**.

The same Representative **PRESENTED House Amendment "B" (H-545)** to **Committee Amendment "A" (H-490)** which was **READ** by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Winterport, Representative Kaelin.

Representative **KAELIN**: Mr. Speaker, Ladies and Gentlemen of the House. The amendment that I am offering

removes Section 2 of the bill, which considers the ban on the sale of CCA treated wood between now and the time that the product would no longer be available for sale under the terms of the agreement of the industry and the EPA. I do this because it would remove the liability that is associated with this ban in statute. Many, many retailers are very, very concerned that this provision in Section 2 would provide them significant financial liability. If, for example, pressure treated wood that was being sold to a contractor for commercial purposes and we need to keep in mind that the purpose of the ban and the purpose of the agreement with the EPA is to, in fact, remove this product from the home. If someone was to sell this product to a contractor and it later ended up in a home and let's say that person owned a home in Maine and lives in Massachusetts, they certainly would be available to go to court in another jurisdiction and claim some liability to that retailer. There are very valuable provisions in this bill and all of us, I think, want to protect ourselves and our families from the potential for arsenic exposure from pressure treated wood and water and so forth. I in no way intend to affect the good provisions of the bill.

My amendment would simply remove the liability that our wood products dealers would have extended to them with the amendment as written. I urge the adoption of this amendment. I thank you Mr. Speaker.

Representative **KOFFMAN** of Bar Harbor moved that **House Amendment "B" (H-545)** to **Committee Amendment "A" (H-490)** be **INDEFINITELY POSTPONED**.

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

Representative **KOFFMAN**: Mr. Speaker, Ladies and Gentlemen of the House. I appreciate the good Representative from Winterport's interest in the substance of the bill and all its aspects. I can respect his concern about that particular element of this bill, which seems to be increasing the livelihood and prosperity of the lobbyists in the State House this past week. I actually find it ironic because there is such a concern about small retail outlets and wholesalers and installers perhaps getting sued in Maine because of the use of this arsenic treated wood. This is really taking action in Maine. It is taking place on a much larger arena, nationally. Not only is the EPA moved now with the agreement of the industry to stop producing this wood as of December 2003, but a number of states have already taken actions to actually ban the use. We never used the word ban, although maybe it is a ban in our legislation that proposes to accelerate the elimination of arsenic treated wood in Maine. We didn't intend to call it a ban. Others have been calling it a ban. It certainly has been banned in other states and in other countries. The legal climate is already volatile. I would suspect, although I am not a lawyer, I know there are a lot in the room, that when those lawsuits are filed as class action suits, they are going to go to the manufacturers. Just as was the case with asbestos when we had the problems with asbestos back in the '60s, '70s and '80s. They didn't go after the person who was the dealer. They didn't go after the installer. They went after the manufacturer. With lead in gasoline, if there were suits, it wasn't going to be against the local hardware store who sells it. Smoking, I don't know that my grocery store is contributing to the tobacco settlement.

Likewise, MTBE in gasoline, we haven't gone after our gas stations. The chlorofluorocarbon ban, the chemical that eroded our ozone, we don't have cancer victims from Australia suing the sales people for those chemicals. I think this is a bit of red herring, although I do empathize with the concerns.

Ironically we are the only state that put into its statute by request of the Maine lumber retailers, at their request, we brought

into work session language to provide protections for Maine wholesalers, retailers and installers. Find a state in the United States that has done that in its actions on this material. You won't find one. I would have thought that there would have been some satisfaction from our retailers since they are caught up in this larger national drama that at least their state is protecting them or trying to protect them if it can through the language that is in this current statute. Take it away, strip it out, what protections do they have? They are in with the rest of the stream nationally, of every retailer in the United States if they are vulnerable and I suspect they are not, at least Maine folks will be somewhat protected, I would hope.

Someone in the hall said, what if someone from out of state who had a place on Mt. Desert Island and has a deck built of pressure treated wood and decides to sue from the Fifth Avenue Law Firm in New York. I'm sorry. Our bill can't go that far. We can't protect against suits from other states. We can at least protect our retailer.

This bill, in a way, had its genesis when our state toxicologist at the Bureau of Health was contacted by the Recreation Department in Kennebunk. In 1998, they had read a story in a magazine about problems with arsenic treated wood and asked the Bureau of Health, is there a problem with all the benches we have been installing with pressure treated wood through the Recreation Department? Frankly, the Bureau of Health here had no idea about arsenic treated wood and how it might wipe off or leach out of the wood product and went down to do a study. I won't drag on with this story, but it turned out that their research into the ability of arsenic to wipe off, dislodge from the wood or leach out of the wood, that study became a pilot study that the EPA was very interested in because they were just getting involved in this issue back in 1998 and they invited our very own state toxicologist to come down and be on the scientific advisory panel on this very subject. It all comes around full circle. Maine has been a leader in doing the research on this, it turns out, but now the research is going on around the world. Several countries have now banned arsenic treated wood. Many others are considering it. Many states are considering it. Some states have banned some of the use of this, particularly in playgrounds.

I agree with the good Representative from Winterport that there are some very strong and positive aspects of this bill that have nothing to do with that time frame. I hope we can hold onto those. Thank you.

Representative **KAELIN** of Winterport **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "B" (H-545) to Committee Amendment "A" (H-490)**.

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 Winterport, Representative Kaelin.

Representative **KAELIN**: Mr. Speaker, Ladies and Gentlemen of the House. I am not a lawyer and I appreciate the good Representative from Bar Harbor's thinking that this likely isn't going to cause a problem and so forth. I did distribute a letter to each member. It is at your desk now from the Director of Legislative and Regulatory Affairs from the Lumber Dealers Association of Maine. They go on to say, if you read the second paragraph, I won't read it to you. We all certainly can read here. There are some real, real questions about this liability issue and all you gain in this bill by keeping that sales ban in there is a three-month window that would otherwise be closed with the federal agreement. To me, the risk is significant and something that we should avoid.

I wasn't going to go into a lot of detail about the science behind whether or not this wood, which I would rather call chromate copper arsenate. Arsenate is not arsenic. It is a totally different thing. In fact, the information that I have tells me that our own state toxicologist explained to the Natural Resources Committee that the real threat here in Maine was from private wells and that a child would have to lick a piece of wood every day for 10 years to develop a risk from CCA treated wood, a risk. We have seen risk analysis at our desk in the past that shows that the real risk to our children from arsenic, not the arsenate that is actually in the pressure treated wood if from food and from water, very, very real risks.

In addition, we also know that the EPA itself has not concluded that this wood poses unreasonable risks to the public for existing CCA treated wood being used around or near the homes or wood that remains available in stores. They don't believe there is any reason to remove or replace CCA treated structures, including decks or playground equipment. We have done that in our communities and it didn't take an act of the Legislature to do that. The EPA is not recommending that existing structures or surrounding soils be removed or replaced. I didn't stand here today to debate the merits of whether or not chromate copper arsenate wood should be banned or not. I think that my amendment speaks directly and only to the aspect of the bill that puts a significant legal burden on our lumber dealers. For that reason, I hope that you will defeat the motion to Indefinitely Postpone my amendment. Thank you Mr. Speaker.

The **SPEAKER**: The Chair recognizes the Representative from Hallowell, Representative Cowger.

Representative **COWGER**: Mr. Speaker, Men and Women of the House. I hope you will join me and the majority of the Natural Resources Committee in supporting the pending motion. I just want to add a couple more facts on the record. I would like to directly quote from the state toxicologist. With all due respect to the good Representative from Winterport, this is what the state toxicologist feels. "It is noteworthy that the risks from arsenic and CCA treated wood is as high as risks from arsenic in drinking water at the maximum contaminate level, which are considered excessive." The state toxicologist has confirmed on numerous occasions that exposure from pressure treated wood, arsenic treated wood, is dangerous, especially to young children. Earlier this year, just in February, the US Consumer Products Safety Commission confirmed that arsenic treated play structures posed significant cancer risks to children. The National Consumer Products Safety Commission recommends that parents and caregivers thoroughly wash children's hands with soap and water immediately after playing on CCA treated wood structures.

Don't these facts confirm that arsenic treated lumber is hazardous to our children and to all of us? I hope you will join me in defeating the pending motion when it reappears on the screen and going on to support the bill. Thank you.

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

Representative **TWOMEY**: Mr. Speaker, Men and Women of the House. Again, I think it bears repeating about the accumulative affect. It is when Johnny goes to school and then goes on the playground and then they put their hands in their mouth and then he goes to his cousin's house after school and then he goes home. It is when they go everywhere. It is accumulative. It is in the background of dirt if they play in the dirt. We have arsenic in background levels. What we have to look at is the accumulative affects of all this. To say that it bears taking a risk, you know, I had my husband die of cancer. I wouldn't wish that on anyone. I certainly don't want to watch my grandchildren

go through what my husband went through. Why take the risk if we can do it now. Let's stop it. Please support this. Thank you.

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

Representative **BERRY**: Mr. Speaker, Men and Women of the House. My good seatmate chose not to speak on the chemistry of, but I am going to speak on the chemistry of. I do know a little bit about chemistry. Just a hair. First of all, chromated copper arsenate is not arsenic. Arsenic itself, the element itself, behaves as a metalloid, behaving either as a metal or a non-metal depending on its environment.

If you are going to create an arsenate, then you are going to take the arsenic. You are going to bond four oxygen molecules to it. As you bond those atoms of oxygen to that system, you are going to create a tetrahedron, which can then bond because of the negative charge of it to copper, which is positively charged and to chromate, which is positively charged. The oxygen surrounds the arsenic. This is not free arsenic. Don't stand up and tell me about a church in northern Maine and arsenic. That was arsenic, but that probably was not pure arsenic either. It is very hard to find pure arsenic.

When this Earth was created water and 90 elements were also created in that process. One of those happened to be arsenic. The water that was created on this Earth, even that stuff sitting out in that thing we call an ocean now, was most likely fresh water. It became salty water because of the rocks of the Earth. That is no big lesson to any of you I would hope. That entire process of erosion and deposition of elements in water is the same thing that is taking place in the process right now dealing with arsenic in our water supply. Last week in our committee we dealt with the water supply in North New Portland, which is contaminated with uranium. I don't know if it has enough so that we can mine it, but we had to deal with it because the standard was placed there. In my own area in Northport there is a high level of arsenic in the water supply. Ladies and gentlemen, that arsenic did not get there because everybody built a pressure treated deck. That arsenic was there long before pressure treated wood. That arsenic is in that granite rock that is in that area of the space. That is arsenic. That is not bonded with oxygen. It stands alone arsenic. Therefore, we just passed some legislation here to allow that community to move into a different water supply and a different source.

When we are talking about arsenate, we are not talking about free arsenic. We are not talking about something that is free to move. The largest component of pressure treated wood still happens to be cellulose, wood itself. It is not some other material. That chemical is fixed. That term fixed in chemistry means bonded to, not free to be moved, but bonded to the system.

Lastly, when we talk about the toxic affects of material, I just want to point this out to you. We use a standard in chemistry that is called the oral rat LD 50. The oral rat LD 50 means we give it to them and half of them die at a given level. The LD 50 for caffeine, for those of you who like caffeine, is 192 milligrams per kilogram body mass. The LD 50 for pure arsenic is 763 milligrams per kilogram body mass. If you base arsenic on those figures, then we should be naturally legislating coffee out of the system. It contains a higher amount of caffeine at a lower rate of toxicity than water probably made in that coffee that contained natural arsenic from the Earth. When you look at 192 and 763 milligrams, you are looking at a significant, you are looking at a significant difference between these two things.

This probably has very little to do with lumber. This has a great deal more to do with actions that are taking place all over this country and what is the next material? Ladies and

gentlemen, this is a bonded product. It is not free. The end result, the replacement product for this may be of greater harm than the products we now have. It is apt to free up copper at a much higher rate.

Therefore, let's not throw a ban on this thing. Let's let the industry do what the industry is smart at doing and they are doing it. For those of you drinking all those cups of coffee, I would be very aware of the accumulative affect of that caffeine too. Thank you.

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

Representative **WATSON**: Mr. Speaker, Ladies and Gentlemen of the House. I am not a chemist, but I play one on TV. No, I haven't done that either. I am an attorney. I have handled product liability cases. There is nothing in this law that will jeopardize your constituent lumber dealers. The idea of a lawsuit arising in Massachusetts that would reach back to the retailer in Maine because he sold material during this window to a contractor who then built a deck out of pressure treated wood is hard for me to imagine. I doubt that retailer would ever get past the motion to dismiss. The idea of it is just bizarre. The liability protection in this bill, as written, prevents the plaintiff attorney from using as evidence the fact that this material is banned in the State of Maine. That, in itself, from a plaintiff's point of view is unobjectionable. I can't imagine standing in front of a jury saying my client deserves a great award because the State of Maine has issued a ban on this very material. It is not any kind of threat that really deserved protection. It is a concern that is being raised to you by people who are exaggerating the facts.

With regard to the chemistry of this, we are not in a position to argue that. The EPA has already established that. The industry has already agreed that this stuff will stop being made and sold in the country shortly. What we are talking about is shutting off the supply of it in Maine three months early. The reason the industry has not come in and said that won't happen or that shouldn't happen here in Maine is a purely economic one. I guarantee you that if this amendment passes, what we will see is a fire sale on this material as the national manufacturers dump it on the State of Maine before the deadline goes into effect elsewhere. That is the only reason they want a window open here, to be able to dump this material, the large suppliers, not the small suppliers, and dump it on the public before it becomes illegal. I encourage you to support the motion for Indefinite Postponement. Thank you.

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

Representative **HATCH**: Mr. Speaker, Ladies and Gentlemen of the House. I would like to take just a little bit away from the theoretical, maybe not so theoretical chemistry to give an actual case study in this. I want to tell you a little bit about a man named Greg Soule. He works in the mill in Hinkley. He came in contact with this material. He got a big splinter in his leg, several inches long and they didn't get it all out at first and left a little bit in there. Eventually, but nevertheless they got it out. They had to do some fancy surgery to get rid of some of the damage that had been done. His leg swelled up so big that the skin was splitting because it couldn't stretch anymore. That went on for quite some time. He got blood poisoning and nearly died from that. He got fed through the arms for quite some time. He went through that whole process because of the blood poisoning. This happened about four years ago. He spent six or seven months, this was a young man with a young family that couldn't afford to do this, but he spent six or seven months not being able to work. It was that long before he could even go back on light duty. It upset his entire system.

I don't think I need to go any further, but when you say that this isn't dangerous, no matter whether you are talking about the compound or free arsenic, you are talking about a very poisonous material. I think it ought to be stopped as soon as we can possibly make it happen. Thank you.

The SPEAKER: The Chair recognizes the Representative from Bowdoinham, Representative Hutton.

Representative HUTTON: Mr. Speaker, Men and Women of the House. This weekend I was reading the Sunday paper and out of the Sunday paper came an advertisement for one of our large hardware lumber companies in the State of Maine and elsewhere. One of the previous speakers spoke of dumping grounds and fire sales is what I would call it. On the front page, pressure treated southern yellow pine lumber \$1.96 for an eight foot length for a 2 x 4. Inside more sales on pressure treated wood. I don't think it is going to happen in the future. I think it is happening now. I think the lumber is coming here. They are trying to dump and sell as much as they can before this ban goes into effect. We are going to end up in the State of Maine with the problem of trying to treat it continuously forever because you can't stop or trying to find new lined landfills to put it in. One Representative said that I can put it out to recycle. You can't do that. The person down the line is going to have the problem that you have. We are going to have untreated wood out there in our environment. It is not what I want for me. It is not what I want for my children or the children in the State of Maine. I urge you to vote for the Indefinite Postponement of this amendment. Thank you.

The SPEAKER: The Chair recognizes the Representative from Winterport, Representative Kaelin. 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 KAELIN: Mr. Speaker, Ladies and Gentlemen of the House. There are just a couple things that I think I need to speak to. Nothing in this bill bans the sale of pressure treated wood in Maine. The intent of the bill is to ban the sale of pressure treated wood in residential environments. It is going to remain available in commercial use because it saves people a lot of money to use pressure treated wood. Until I came to the Legislature this year, I thought pressure treated wood was a good thing because if you build a deck out of pressure treated wood, it lasts twice as long. Put that aside, our contractors are going to be able to continue to use this product. Our marine contractors, in particular, will continue to use it so that they don't put copper in the water, which is the alternative that they are using that we use at home. If you have this stuff at home, you can coat it.

My amendment does nothing. It doesn't argue against the science behind the idea that residential sales will be prohibited after the EPA agreement goes into effect. It will not do that at all.

On the issue of the splinter, I have been in the fish business a long time. If you get a fish bone in your arm and you don't treat it with penicillin, pretty soon your arm is swelling up and you are on a helicopter on the way to the doctor. A splinter is a splinter is a splinter. I don't know if that gentleman got arsenic poisoning or not, I doubt it. I am not sure how relevant that is. It is not relevant to my amendment. My amendment only seeks to limit the liability of the people who sell this stuff in the State of Maine until that window is closed under the federal agreement.

Yes, it does allow them to sell their inventories, which is a good thing. That costs them money if they can't do that. It is an economic issue. This is coming and everybody is preparing for it, but we should not further risk economic impacts to our dealers in

this state. My amendment doesn't speak to the science. In fact, if my amendment passes, I will happily vote for the bill. I thank you for the time, Mr. Speaker.

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

Representative RICHARDSON: Mr. Speaker, Ladies and Gentlemen of the House. Once again, I think this is a bill that isn't going to accomplish a great deal. First of all, if I understand the process, this bill won't take effect, because it is not an emergency bill, until 90 days after if it is passed. This would bring us into September. This is a little less than four months before the federal prohibition takes affect. This bill then has no real consequence for the State of Maine. Can you imagine how much can be built in the way of items that would be harmful to children? Is this what we are trying to do in this length of time? It isn't going to do anything in terms of additional harm to children. Whatever harm is out there is already there.

The one thing that might happen is we might set up a legal problem for the future. Why do we want to set up a problem? If we have a bill that isn't going to accomplish its stated purpose, let's not pass the bill for the sake of passing a bill. Let's think in terms of what we are doing and what the consequences could be and certainly will be in terms of legal liability. I urge you to vote against this.

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "B" (H-545) to Committee Amendment "A" (H-490). All those in favor will vote yes, those opposed will vote no.

#### ROLL CALL NO. 202

YEA - Adams, Barstow, Blanchette, Bliss, Brannigan, Breault, Bull, Bunker, Canavan, Clark, Cowger, Craven, Cummings, Dudley, Dunlap, Duplessie, Duprey G, Earle, Eder, Faircloth, Finch, Fischer, Gagne-Friel, Gerzofsky, Goodwin, Grose, Hatch, Hutton, Jackson, Jennings, Kane, Ketterer, Koffman, Landry, Laverriere-Boucher, Lemoine, Lerman, Lessard, Mailhot, Makas, Marley, McGlocklin, McGowan, McKee, McLaughlin, Mills J, Norbert, Norton, O'Brien L, O'Neil, Paradis, Patrick, Percy, Perry A, Perry J, Pineau, Pingree, Piotti, Richardson J, Sampson, Simpson, Smith N, Smith W, Sullivan, Suslovic, Thomas, Thompson, Twomey, Walcott, Watson, Wheeler, Wotton, Mr. Speaker.

NAY - Annis, Ash, Austin, Berry, Berube, Bierman, Bowen, Bowles, Brown R, Browne W, Bruno, Bryant-Deschenes, Campbell, Carr, Churchill E, Churchill J, Clough, Collins, Courtney, Cressesey, Crosthwaite, Curley, Daigle, Duprey B, Fletcher, Glynn, Greeley, Heidrich, Honey, Hotham, Jacobsen, Jodrey, Joy, Kaelin, Ledwin, Lewin, Lundeen, Maietta, Marraché, McCormick, McKenney, McNeil, Millett, Mills S, Moody, Moore, Murphy, Muse, Nutting, O'Brien J, Peavey-Haskell, Richardson E, Richardson M, Rines, Rogers, Rosen, Saviello, Sherman, Shields, Snowe-Mello, Stone, Sukeforth, Sykes, Tardy, Tobin D, Tobin J, Trahan, Treadwell, Usher, Vaughan, Young.

ABSENT - Andrews, Bennett, Davis, Dugay, Pellon, Rector, Woodbury.

Yes, 73; No, 71; Absent, 7; Excused, 0.

73 having voted in the affirmative and 71 voted in the negative, with 7 being absent, and accordingly **House Amendment "B" (H-545) to Committee Amendment "A" (H-490) was INDEFINITELY POSTPONED.**

Representative KAELIN of Winterport **REQUESTED** a roll call on the motion to **ADOPT Committee Amendment "A" (H-490).**

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 Adoption of Committee Amendment

"A" (H-490). All those in favor will vote yes, those opposed will vote no.

**ROLL CALL NO. 203**

YEA - Adams, Barstow, Bierman, Blanchette, Bliss, Brannigan, Breault, Bull, Bunker, Clark, Cowger, Craven, Dudley, Dunlap, Duplessie, Duprey G, Earle, Eder, Faircloth, Finch, Fischer, Gagne-Friel, Gerzofsky, Goodwin, Grose, Hatch, Hutton, Jackson, Jennings, Kane, Ketterer, Koffman, Landry, Laverriere-Boucher, Lemoine, Lerman, Lessard, Mailhot, Makas, Marley, McGlocklin, McKee, McLaughlin, Mills J, Mills S, Moody, Moore, Norbert, Norton, O'Brien L, O'Neil, Paradis, Patrick, Percy, Perry A, Perry J, Pineau, Pingree, Piotti, Richardson J, Sampson, Simpson, Smith N, Smith W, Sullivan, Suslovic, Thomas, Thompson, Twomey, Walcott, Watson, Wheeler, Mr. Speaker.

NAY - Annis, Ash, Austin, Berry, Bowen, Bowles, Brown R, Browne W, Bruno, Bryant-Deschenes, Campbell, Carr, Churchill E, Churchill J, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Daigle, Duprey B, Fletcher, Glynn, Greeley, Heidrich, Honey, Hotham, Jacobsen, Jodrey, Joy, Kaelin, Ledwin, Lewin, Lundeen, Maietta, Marraché, McCormick, McGowan, McKenney, McNeil, Millett, Murphy, Muse, Nutting, O'Brien J, Peavey-Haskell, Richardson E, Richardson M, Rines, Rogers, Rosen, Saviello, Sherman, Shields, Snowe-Mello, Stone, Sukeforth, Sykes, Tardy, Tobin D, Tobin J, Trahan, Treadwell, Usher, Vaughan, Wotton, Young.

ABSENT - Andrews, Bennett, Berube, Canavan, Cummings, Davis, Dugay, Pellon, Rector, Woodbury.

Yes, 73; No, 68; Absent, 10; Excused, 0.

73 having voted in the affirmative and 68 voted in the negative, with 10 being absent, and accordingly **Committee Amendment "A" (H-490) was ADOPTED.**

The Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-490).**

The Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate. **ORDERED SENT FORTHWITH.**

**REPORTS OF COMMITTEE**

**Divided Report**

Majority Report of the Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-542)** on Resolve, Regarding the Criminal Records of Certified Nursing Assistants

(H.P. 224) (L.D. 281)

Signed:

Senators:

BRENNAN of Cumberland

WESTON of Waldo

Representatives:

EARLE of Damariscotta

SHIELDS of Auburn

KANE of Saco

DUGAY of Cherryfield

WALCOTT of Lewiston

CAMPBELL of Newfield

LEWIN of Eliot

LAVERRIERE-BOUCHER of Biddeford

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

Signed:

Representative:

CURLEY of Scarborough

**READ.**

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

The Resolve was **READ ONCE. Committee Amendment "A" (H-542) was READ** by the Clerk and **ADOPTED.**

Under 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 as Amended by Committee Amendment "A" (H-542)** and sent for concurrence. **ORDERED SENT FORTHWITH.**

**ENACTORS**

**Acts**

An Act To Protect Against Unfair Prescription Drug Practices (S.P. 194) (L.D. 554) (C. "A" S-204)

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.

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:

**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 Ensure that Maine's Unemployment System is Responsive to the Needs of Today's Workforce

(H.P. 195) (L.D. 240)

(H. "A" H-528 to C. "A" H-482)

TABLED - May 30, 2003 (Till Later Today) by Representative DUPLESSIE of Westbrook.

PENDING - **PASSAGE TO BE ENACTED.**

Representative TREADWELL of Carmel **REQUESTED** a roll call on **PASSAGE TO BE ENACTED.**

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

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

Representative **TREADWELL:** Mr. Speaker, Ladies and Gentlemen of the House. I would encourage you to stick with your vote on the 30th, last week, where we failed to pass this bill to be enacted. It is not a good bill. I think it would be wise to stick with your vote.

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

Representative **SMITH:** Mr. Speaker, Ladies and Gentlemen of the House. We have already taken four votes on this. The last number of votes have been in favor of passage of this. There have been no changes in circumstances. This is still a bill that is not going to impose any great cost on the unemployment system. It is a bill, which gives unemployment assistance to the part-time workers who dearly need it. We ask you to continue your vote on this bill. Thank you.

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. 204**

YEA - Adams, Ash, Barstow, Bennett, Blanchette, Bliss, Brannigan, Breault, Bull, Bunker, Canavan, Clark, Cowger, Craven, Cummings, Dudley, Dunlap, Duplessie, Duprey G, Earle, Eder, Faircloth, Finch, Fischer, Gerzofsky, Goodwin, Grose, Hatch, Hutton, Jackson, Jennings, Kane, Ketterer, Koffman, Landry, Laverriere-Boucher, Lemoine, Lerman, Lessard, Lundeen, Mailhot, Makas, Marley, Marraché, McGlocklin, McKee, McLaughlin, Mills J, Norbert, Norton, O'Brien L, O'Neil, Paradis, Patrick, Pellon, Percy, Perry A, Perry J, Pineau, Pingree, Piotti, Richardson J, Rines, Sampson, Saviello, Simpson, Smith N, Smith W, Sullivan, Suslovic, Thomas, Thompson, Twomey, Usher, Walcott, Watson, Wheeler, Wotton, Mr. Speaker.

NAY - Annis, Austin, Berry, Bierman, Bowen, Bowles, Brown R, Browne W, Bruno, Bryant-Deschenes, Campbell, Carr, Churchill E, Churchill J, Clough, Collins, Courtney, Cressej, Crosthwaite, Curley, Daigle, Duprey B, Fletcher, Gagne-Friel, Glynn, Greeley, Heidrich, Honey, Hotham, Jacobsen, Jodrey, Joy, Kaelin, Ledwin, Lewin, Maietta, McCormick, McKenney, McNeil, Millett, Mills S, Moody, Moore, Murphy, Muse, Nutting, O'Brien J, Peavey-Haskell, Rector, Richardson E, Richardson M, Rogers, Rosen, Sherman, Shields, Snowe-Mello, Stone, Sukeforth, Sykes, Tardy, Tobin D, Tobin J, Trahan, Treadwell, Vaughan, Young.

ABSENT - Andrews, Berube, Davis, Dugay, McGowan, Woodbury.

Yes, 79; No, 66; Absent, 6; Excused, 0.

79 having voted in the affirmative and 66 voted in the negative, with 6 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

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**DIVIDED REPORT - Majority (11) Ought to Pass as Amended by Committee Amendment "A" (H-442) - Minority (2) Ought Not to Pass - Committee on LEGAL AND VETERANS AFFAIRS on Bill "An Act To Extend Term Limits"**

(H.P. 945) (L.D. 1273)

TABLED - May 20, 2003 (Till Later Today) by Representative CLARK of Millinocket.

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

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

Representative GLYNN: Mr. Speaker, Ladies and Gentlemen of the House. I rise in opposition of the pending motion to accept this report. I urge you to vote against sending this measure out to the people of Maine. This bill has changed dramatically since the bill was first introduced to the committee by the sponsor. This bill will extend term limits of people including those who are currently in office. I believe that this will be seen as a very self-serving measure when put out onto the ballot. It is something that I don't believe we could all be proud to put our name behind. This election is going to be held in November 2003 to assure that we can run for reelection in 2004. It is not from the people, the people that put term limits in. It does not firm up the confidence that they have in us. I urge you to defeat this motion and vote Ought Not to Pass. Mr. Speaker, I request the yeas and nays.

Representative GLYNN of South Portland **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: The Chair recognizes the Representative from Millinocket, Representative Clark.

Representative CLARK: Mr. Speaker, Ladies and Gentlemen of the House. I rise this afternoon on a very tough issue for all of us in this chamber. It is one that was passed by the people in 1993. It is called term limits. Back in 1993 there was an initiative by the citizens to have term limits to get rid of the people here in Augusta. The voter turnout back then in 1993 was 25 percent. It was a non-election year. Sixty-seven percent of the vote passed term limits with a retroactive clause stating that in 1994 those people that had a total of eight years would be termed out. I have to be truthful with you, if it wasn't for term limits, I probably would not be here today. Although we have the same name, my father would probably still be in this seat instead of myself and probably a lot of people would like that.

The good Representative from North Haven presented this bill to do with term limits to extend it to 12 years. It has been 10 years now since term limits was passed. The good Representative came and presented the testimony in favor of extending it to 12 years. We had two other bills by a person in the other body and also another person from this body. Another bill was to get rid of term limits all together, up or down. All three proposals would be sent out to the people, either this November or next November. The committee, an 11 to 2 report in favor of the Majority Ought to Pass as Amended decided to send it out this November. We will be having a lot of people going to the polls come November 2003. The people that looked at this did not think that it was going to be a very low turnout in 2003. We have the casinos. We have the bond issues. We have a tax reform proposal, which, by the way, ladies and gentlemen, if we as a body act on a proposal that is either done from the second floor, which wasn't brought up here by the people, by a competing measure, we do that here in Augusta. That will bring a lot of people to the polls come November 2003. That is why a majority of the people thought it should go out November 2003.

Now the retroactive part of it, which a lot of people have big concerns about. They say it is self-servant. Ladies and gentlemen, if you think you come up here without having a self-serving conscience for your constituents, you have another thing coming. Everybody up here that comes to Augusta either comes to Augusta for their constituents, tries to get the best things for their constituents to help them back home. People in Washington call it pork. People in Augusta call it pork also, but we try to do the things that are better off for our constituents.

Remember back in the article when we had the debate with the President of the United States on tax reform and a member of the United States Senate on tax reform. There was a big political advertisement in the newspaper. We liked both people's ideas. Keep them going. Keep them fresh. That is what we are losing if we lose term limits. You lose the institutional memory that we have here.

After term limits was passed and the first class came in 1996, they spent 30 minutes on a \$3.5 billion budget. The year after that they spent 25 minutes on a \$5.3 billion budget. Back in 1994 before term limits, they spent six and a half hours debating the budget that was about \$3 billion back then. I don't know if people see this like I do. I was here as a page before I got elected. We have people that don't have a knowledge or a protocol up here that goes on in these halls. We have people that have been here for eight years and still doesn't know how to make a correct motion on the floor.

When you vote today, I hope you will support the Majority Ought to Pass as Amended Report. It has a lot of good things for the people. If it passes here, it goes out to the people in 2003. They will be able to have a chance. We have at least three

people in this body that got elected from term limits. They sat out one term and got reelected or they are in the other body. That means that if your constituents like you, they should be able to vote for you. My feeling when I first got elected is I was against term limits all together. If people want to vote for you, they should have the opportunity to, not by a write-in vote and challenge the Constitution of Maine or challenge the Supreme Court. It should be legal for you to vote for the person that you like, whether they are termed out or not.

We thought long and hard upstairs in committee of what road to take. When you vote today, I wish that you would vote for the Majority Ought to Pass as Amended Report. Thank you.

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

Representative **DUNLAP**: Mr. Speaker, Ladies and Gentlemen of the House. Since I have been in office, it happens at least once every couple of months when I am home or out and about in the public where somebody will approach me and say, you have been down in Augusta for a while now, what do you think about term limits? I guess my response has been hammered down to a simple response of, I think term limits is the law of the land. It doesn't really matter what I think about term limits. It is what it is. We have four terms that we are entitled to. I think people on the outside of the Legislature see it as insider baseball. They don't get it when we talk about institutional memory and loss of institutional power. We understand that. Term limits is not good for this institution. I don't think it has proven itself to be useful. I am not sure what is contained in the Majority Report really gets to that matrix of problems. I think the idea of extending term limits to 12 years has some merit. From what we have seen in our experience as legislators what people are asked to learn and understand, comprehend and then deal effectively with it is really an awful lot to expect of people to grasp as much as they have to grasp in so short of a time.

This year we spent a fair amount of time on legislative redistricting. We were very, very conscience of members of this body and of the other body being matched up against each other in potential primaries and incumbent match ups and we have had a fair amount of discussion about that already in this chamber in this session.

When we are putting together our unified plan, we were mindful of certain numbers of us who have reached the end of our rope as to the standing state law regarding term limits. It made it a little bit easier because you know that some people weren't going to be around to run for reelection. Accepting this report and extending term limits back to those of us who are anticipating retirement, as well as those on the outside also anticipating our retirement, would throw a little bit of a wrench in those works.

I reflect on the statements of my good friend from Millinocket, Representative Clark, about the obvious lack of understanding of parliamentary process in this chamber. I, for one, do understand what is going on here even after a short time of eight years. I could make a couple of really interesting motions on this bill right now. I don't think that would be respectful of the committee process so I will not. However, I don't think that I could accept this legislation as it has been amended by the committee. I look forward to continued debate on this and ask you to consider very thoughtfully the words that are offered on this floor today.

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

Representative **BLANCHETTE**: Mr. Speaker, Ladies and Gentlemen of the House. Having been on the Majority Report of this committee report that came out of Legal and Vets, I feel that I need just to remind you of a couple of reasons why we are in this

situation that we are in and why I am extremely comfortable, have no problem defending my position to anyone in this House or anybody in the State of Maine as far as extending and going back retroactively.

Term limits came about in the State of Maine as a result of dirty politics that started in Washington DC with the Watergate scandal and a number of things that went on. Lo and behold, we had Watergate in a much smaller fashion here in Augusta, Maine. Leadership was entrenched. It was overbearing. It was overpowering. It was not wrong, but it was there. It was a fact. It was like leadership in any house. If you do not bring new blood to the leadership table, it becomes one person's domain. This is not a healthy atmosphere for any elected body. The people that I talked to on a daily basis and fortunately for me, I talk to hundreds of people every day in my job.

I think term limits have hurt us as far as the institutional memory. If you think the people out there don't understand what institutional memory means, go back and talk to them about what happens when their elected selectmen in their home town or their elected councilors change over every three years and they have newbies sitting there making decisions. What you do is reinvent the wheel all over again.

Its time has come to put it back out. If we pass this legislation, and I hope we do, we are not making the final choice on this. Once again, it is going to be left to the wisdom of the voters of the State of Maine. I have to tell you they had courage enough to send this body here in the 121st. They will have courage enough to voice their opinion, whether for or against when they go to the polls in November. Don't discount the knowledge that your voters have. They know what they want for the State of Maine. They will express it very loudly and very clearly in the voting booth, as it should be. Let's give them the opportunity once again to speak their mind. Thank you Mr. Speaker.

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

Representative **HOTHAM**: Mr. Speaker, Ladies and Gentlemen of the House. I look back on the work that was done in committee on this bill. It was a very comprehensive bill that was put together and crafted very nicely by the good Representative from North Haven. This bill was voted on twice in committee. The first time it was a majority vote. It was a 12 to 1 report. I was in the majority on that report. A committee amendment came forth after we voted to reconsider and the amendment was to make this change, if decided upon by the voters in November, retroactive to those who were serving their final term here in Augusta. I then changed my vote. For me, this is very simple. I seem to talk a lot this session about perception. Perception is reality. I believe we should change and lengthen term limits. I like term limits because I think it gives new ideas and fresh blood an opportunity to participate in this process as elected officials. I do think that four terms is too short. I would like it extended to six terms. I think it was a very effective bill as written. It becomes tainted. It becomes tainted by being self-serving. I am offended by that. If this is right, let it not be tainted. Let it go to the people as purely an attempt to extend term limits, not an attempt to feather our own beds. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Dover-Foxcroft, Representative Annis.

Representative **ANNIS**: Mr. Speaker, Ladies and Gentlemen of the House. At the end of the last term I noticed that of those who left this august floor, over half only had three terms. I don't have any problem with being termed out after four terms. In the last election I took over 64 percent of the vote and I felt pretty good about that. However, on a survey I sent out, I said, would



you be in favor of abolishing term limits for state Senators and Representatives? Fifty-six percent said no. Apparently they don't like me any longer than four terms. We will see. This is a bill that I just can't go along with and I shan't. Thank you very much very much.

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

Representative **SHERMAN**: Mr. Speaker, Ladies and Gentlemen of the House. I really don't care on how you vote on this bill. We are here. Some of us have been here eight years and some of us six. If you review what we have done or haven't done, that is what we should be focusing on. I would vote for this in a minute if we would pass a Constitutional Amendment to cap spending in this state, which got killed. I have been here while Governor King passed budgets, we had something to do with raising the budget by 60 percent. In the 120th Legislature we passed a budget with a number of finaglings where we had a billion dollar shortfall and now we have to take care of that. We stand here and debate science questions. The science questions become Democrat and Republican. How silly can we be? Nineteen million dollars missing in DHS and we are sitting here talking about term limits. I'm sorry. I think we need to forget about the business here and have the guts to do those things we need to do while we are here. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Waterville, Representative Canavan.

Representative **CANAVAN**: Mr. Speaker, Men and Women of the House. If I may pass onto you just a little bit of institutional memory, the term limit bill came before the people of Maine as an initiative when I was serving as Director of the State Ethics Commission. I would point out to you that in some ways the political landscape then was vastly different than it is today. I would submit that it was the people of Maine's support of the term limit initiative because of certain factors that no longer play a role in the political realm today.

For one thing, back in 1993 when the law was passed by voters, it was much more difficult for an incumbent to be defeated in an election. The reason for that was a significant influence of private campaign contributions that existed then. Remember, the Clean Election Law didn't exist then and the only source of funding for candidates was private money. Furthermore, the campaign contributions were much higher and as a result more money was out there in circulation.

An individual could give up to \$1,000 to a candidate in an election then. One thousand in the primary and \$1,000 in the general for a total of \$2,000 for the entire election. PAC corporations and party committees could give up to \$5,000 in an election. A PAC could give up to \$10,000 in the entire election. As a result of these relatively high limits, a lot of money flowed directly to candidates and it flowed much more readily to incumbents, a fact that any political insider will tell you happens in the realm of campaign finance. Some Senate races cost up to \$80,000. In fact, the average amount spent by a winning candidate then was \$24,000. Senate races could cost up to \$80,000 or more. For the most part, incumbents were the beneficiaries of the money donated by special interest groups for obvious reasons. It behooves them to support a winner. Power begets money and money begets incumbency. Back in 1996 Maine people passed the Clean Election Act and the political landscape here in Maine began to change. It leveled the playing field. Clean election funds give each candidate who agrees to the terms of the law sufficient funding to get out his or her message, whether or not a candidate is an incumbent. Money plays much less of a role in the political process now and

incumbency is no longer guaranteed by a special interest contributions.

Today, here we are with term limits. It is, in fact, arguable as to whether or not we really need them anymore, because we have the Clean Election Act that levels the playing field and because money is less the factor in the election process. I will confess to you that as a perennial observer of how entrenched power works, I voted for term limits. Now, as a relative novice in this body, I guess I can see things from both sides now. As someone who has struggled to learn about the nuances of insurance law and tax law and environmental law and liquor laws and the lottery laws and as a novice who has found myself tripped up more than once by parliamentary procedure and as a novice who wants to do the very best I can for the people I represent, but who recognized that I can't learn it all in just one, two or three terms, I guess I see the error of my ways.

This is a difficult job. Someone has alleged that the people aren't ready to decide this issue again. I don't know who they have spoken with. Over and over again the folks I have talked with out there at the grassroots level have urged me to work to get rid of term limits and that is why I am speaking to you now. I would urge you to support the Majority Ought to Pass as Amended Report.

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

Representative **BRUNO**: Mr. Speaker, Men and Women of the House. I speak to you as someone who supported term limits early on in my political career and now I am opposed to them. I will not be supporting this bill. The reason is I am term limited this time and I also sat out a term and got reelected and came back. The fact of the matter is this was initiated by the people of the State of Maine. They are the ones who brought forward an initiated bill and put in term limits. If there was such a problem, they would do it again. They would initiate a bill and bring it forward to this legislature and send it back out to the people and let them vote whether or not they want term limits or not. It should be up to them. They don't see anything wrong with what we are doing up here or there would be a big outcry and they would do that. The fact of the matter is, you talk about institutional memory, we had a part-time unemployment bill that just passed. My institutional memory from five terms said that bill would come up every session and soundly be defeated. We just passed it. What is the point of institutional memory? There is no point to it. Every session you have a different legislature and people make up their own minds when they are given the facts. One way or the other bad bills were passed, good bills were passed. It is up to you as a Legislature to learn the process, learn about bills. It doesn't matter if you have been here one term, five terms or 20 terms. A good bill is a good bill and a bad bill is a bad bill. Having sat here for five terms now, I have seen them all. This time we have passed some bad bills. We have also passed some good bills. It doesn't matter if I was sitting here or somebody else who was a novice, those good bills would still pass and those bad bills sometimes will slip through the cracks.

I will not support this bill because I really don't mind being term limited this time around. If I sit out a term and decide I need to come back, I will make that decision. Until the people of Maine decide that we have screwed up so badly that we need to get rid of term limits, I will not support any bill that does it through this body. Thank you Mr. Speaker.

The **SPEAKER**: The Chair recognizes the Representative from North Haven, Representative Pingree.

Representative **PINGREE**: Mr. Speaker, Men and Women of the House. I appreciate the comments of the good

Representative from Raymond, but I just want to make sure that everybody in this body remembers that this does, again, go out to the voters for their approval. The voters will have the final say over this issue.

As a freshman, as many of you have mentioned here, we are learning parliamentary procedure. I am learning about the way the committee process works, what happens to your bills as they go through. I just want to remind everybody that accepting the Majority Ought to Pass as Amended Report is accepting the bill as Ought to Pass, but it is not accepting the committee report. It is accepting the Majority Ought to Pass Report. We still have the option to vote up and down on the committee report. I will be voting yes on the Majority Ought to Pass Report. I know I can't go any further on this, but I encourage you to vote with me. I think many of you here know, like I do, that term limits is not the best thing for this institution. I have talked to people on both sides of the aisle who are worried about the impact of turning people out after eight years or more likely turning people out even more quickly than that. I think the average Representative serves four to five years here, on average.

In the last election on our side of the aisle we had 11 incumbents lose. I know that this is not necessarily a problem for everybody, but this means that we have a very high turnover rate. Right now we are serving in a Legislature with 61 members of the House and four Senators with no prior legislative experience. No offense to any of the very good looking and beautiful members of this body, but we have many new members. We are on our fifth one-term Speaker. I believe the statistics on leadership are similar in the Senate. This year nearly every leader in the House and Senate from Senate President to the House Assistant Majority Leader are serving in their current position for the first time. I believe our eight-year limit forces good legislators to have to think about leadership too quickly. Realistically a Senator who is interested in being Senate President or Majority or Minority Leader would have to consider running for assistant leader in their second or at the latest third term. We are not allowing our leaders the time they need to learn how to be effective legislators and leaders in the political process.

Few members in the House and Senate have a firm grasp of parliamentary procedure, not all. Obviously we have our experts, but as many of you know, it is complicated to grasp. These comments aren't meant to criticize. I am extremely impressed with our leadership on both sides of the aisle. We are electing leaders who are normal people like the rest of us, people who need time to learn how to do their jobs, people who need time to learn the full extent of both their position, the power of their branch and the party that they represent.

I don't believe a change in term limits is a partisan issue. I don't believe this bill would negatively or positively affect either party or either body. I believe that extending term limits to 12 terms would give leaders more time to learn. It would give all legislators more time to serve their districts. It would ultimately improve the process we are all sent to be a part of here by the people of the State of Maine. Ultimately this bill asks voters, again, the same folks who asked us to limit legislative terms in the first place, for their agreement. Again, I ask you to accept the Majority Ought to Pass Report for this bill. Thank you.

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

Representative DUPREY: Mr. Speaker, Men and Women of the House. Let me start by saying my position on term limits. I am personally opposed to term limits. I believe that every election is a term limit. Just ask the 12 incumbent members who failed to return last year. They think it was a term limit. That being said, I must tell you why I am voting against this bill and

against sending it out to the people. Maine voters are very smart. They knew exactly what they were doing when they voted overwhelmingly to limit our service to eight consecutive years in the chamber. Today we are saying to them that we think you made a mistake on term limits. Can we please stay in power an extra four years, please? Voters know we are the reason taxes are too high. They know we are the blame for the state's budgetary problems. They also know the longer we stay in power, the bigger spenders we become. Over the last three years I have seen many bills that tinker with the Maine Clean Elections Law. I am not a big fan of that law either, but I do support the fact that it was a citizen-initiated bill. I have seen many efforts over the years to change the Clean Election Law and the argument I hear is we shouldn't mess with that law because it was passed by the people. I hear the same people in this chamber arguing to send this back out are the same people that are saying we should not mess with Clean Elections Law because the people passed that.

I also heard during the gaming bill we had the other day that we shouldn't mess with the citizen's initiative process. If a group wants to extend term limits, let them get the proper signatures and do it the proper way. Ladies and gentlemen of the House, people spoke on term limits. We are telling them today as a body that we didn't quite hear what they said. If you vote for this bill, you are telling voters that you think they were confused a few years ago. Let's send a message to them today that we heard them loud and clear. After all, they are the ones who sent us here in the first place. Thank you Mr. Speaker.

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

Representative GERZOFSKY: Mr. Speaker, Ladies and Gentlemen of the House. Term limits, I think it is one of the loudest things we ever did to the people in the State of Maine. I remember the fight pretty well. I thought it was pretty much of a one-sided argument. We had a fellow from Auburn that had a lot of money and wanted to run around the state saying we needed term limits. As I remember term limits coming about, it came out of Washington in the Contract on America and it went all over the United States. This is one of the states that it has stuck in. We got stuck with it. I can stand here as an old staffer and look around and see a lot of young staffers now, that were younger then, that have been here. They have a lot of history in this building. I look around and see Representatives that don't have much. I look around the halls when we have nice bills to debate and see a lot of lobbyists out there. They were all legislators that got termed out.

It seems to me that with this building, and this is the people's building, there is a bunch of lobbyists that used to be legislators and staff people that earn a little bit of money just to work a whole lot more. They keep us looking good. Term limits is not good for the State of Maine. It has never been good for the State of Maine. It is an artificial method of controlling who is going to sit in this body that the people send us here. A good legislator should be able to serve as long as the people say they are doing their job. A bad legislator, somebody that comes up here and doesn't do his job, doesn't care about his constituents, doesn't do his constituent work, he shouldn't make it the first two years. The Constitution says he gets that much time to straighten out. Term limits are artificial. Term limits are no good. I don't care if we extend them to 12 years and get rid of them entirely. I think sooner or later we should, but don't be misrepresented that this was brought here by the people. It was brought here through Washington, through a crusade, to take control of this building, to get rid of one person who sat in leadership too long for some and the only way they could see to get rid of that was term limits. It

was a one-sided argument. This time why don't we truly make it a two-sided argument? Why don't we truly get up and be legislators and to lead? My people are tired of term limits. They don't want them. They don't like to replace the guy I replaced. They would just as soon let him run for another term or two. I hope they feel the same way about me.

It should be up to the people who run their government, elected officials or non-elected officials. That is what it all boils down to. When the pedal hits the medal on this building, the Legislature should be run by the people who are elected to be here. They are the only ones who should be held accountable and that is who should be here. If they are good, they should be able to stay here as long as they are good. When they are bad, they ought to be able to have the people vote them out, because that is what the Constitution says. That is what this government was founded on and this building was built by the people, for the people, to be represented here. That is whom we should be representing. Term limits is artificial. I hope everybody will pass what should be passed and kill what should be killed and let's get on with it. Thank you very much for your time.

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

Representative **MOODY**: Mr. Speaker, Ladies and Gentlemen of the House. I have made an attempt here over the past six months to be as bipartisan as I could in my votes. I have made an attempt to evaluate each bill on its merits. I have heard a couple of things here this afternoon that make me question the value of institutional memory. First we were told that the term limits bill came about as a result of the Watergate Scandal, which I recall in my history was 1972. Term limits came about in 1993. Secondly, we have just been told that term limits came as a result of the Contract on America, which in my history book was 1994. Term limits were 1993. I recall, maybe my memory is not as good as others, that term limits in 1993 came about as a result of political abuses right here in this chamber.

I don't know whether term limits is the answer to our prayers or not. I do know this, anybody who is about to be termed out and votes for this, is going to be rightly accused of pulling the ladder up behind them. Thank you.

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

Representative **SHERMAN**: Mr. Speaker, Men and Women of the House. I thank the good Representative Moody for his comments. I think it brings clarity to what we are talking about here. Listening to this debate, I hear a number of expressions. I have heard mistakes, know how, not all the information, didn't know how to handle the parliamentary procedure. We are talking in generalities. I wish someone would get up and tell me what specific thing they now regret that they have voted for and would have voted in a different way. What specific things do you think being here for 10 years would make in your voting pattern that hasn't already been made? I have been talking to Representative Carr, and I shouldn't bring this up because I don't have the book here, I was reading the presidential papers and you will have to pardon me, I don't have much else to do in a rainstorm. There was a President in an inaugural address who was talking about term limits, of all things. He said, "It is a disease. The longer you are here, the more you get this disease. It gets stronger and stronger." He swore that he would term limit himself and he did so. He said the lust for this power you have here in some interesting place was like the lust for gold. It is insatiable. I hear some of the same things here over and over. We will do different. It will be wonderful. It will be great. Tell me? Lay it out there. Give us four or five bills that you would

change your votes on that you didn't vote correctly in the first place in your mind. Thank you.

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

Representative **DAIGLE**: Mr. Speaker, Ladies and Gentlemen of the House. My good friend from Hodgdon, Representative Sherman, asked for some examples. I can think of one that comes to mind immediately. That is my department oversight. We sit here as freshman and we get a department in front of us, a very complicated one, in my case the Department of Environmental Protection. They sit there and they lay a multi-million dollar budget on our face and they say, do you agree with this? Frankly, I don't know. I only know if I can think of a question to ask, they will give me a truthful answer. I always wonder what question was I supposed to ask that I didn't. In my second term I was a lot better at it. In my third term, I think I am quite a bit better at it. If I come back next time, I think I will be pretty darn good at it. I don't think people should lose that experience. Term limits is back to us. We say be the people, in reality my history tells me it was pretty much funded by a single individual who had a lot of money and wished to do something right. He gave it to some people who spent it to achieve this agenda. That is an unrealistic scenario to have happen again. The right way is the way that is before us now. This is why I will be voting in support of the pending motion.

The SPEAKER: The Chair recognizes the Representative from North Haven, Representative Pingree.

Representative **PINGREE**: Mr. Speaker, Men and Women of the House. At risk of just repeating myself, which is what I am about to do, I just want to remind you all again that if you support extending term limits to 12 years, I ask you to vote yes on the pending motion. Whether or not you support retroactivity is not the question at hand right now. That is Committee Amendment "A," which we may or may not have a chance to do. You can decide what you want on that. If you support extending to 12 years, whether or not it is retroactive, I ask you to vote yes. You will have an option to vote yes or no on retroactivity. Thank you.

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

Representative **CLARK**: Mr. Speaker, Ladies and Gentlemen of the House. A previous speaker said, I believe it was the Representative from Manchester, that if we vote for this and we are termed out then we are sending a ladder up behind us. If I vote for this, I am a termed out legislator, but I am not doing this for myself. I am doing it for everybody else. I probably will not run in 2004, simply put. One, the population of my hometown is dwindling so they consolidated the districts together. Everybody knows what primaries are like. If this was to pass, I would have a primary with a person that is already in the House. I probably wouldn't do that. I probably won't run for the other body, because all they do is eat muffins and cream puffs and things like that. I wouldn't run for that body either because I would have a primary. I am not doing this for myself, ladies and gentlemen. I know a lot of people in this body have reservations about that. It is for the people to go to 12 years, to extend term limits from eight years to 12 years. My personal philosophy is to get rid of them all together, up or down. Send it out to the people. Let them decide up or down to eliminate term limits.

We could not come up with a consensus on that. Everybody knows in this room that the committee process is trying to build consensus. Like the Representative from Raymond said, we passed bills that are good ideas and we pass bills that are bad ideas.

When I first set foot in this building, I had honorable intentions to make sure that we try to repeal 500 laws for every

law that we pass. There are too many laws in the state now. I think almost all the legislators in this building think the same way. Does it happen? No. Everybody comes to you with good intentions when they first step in here, no matter if you are here for your first term, your fourth term or your eighth term.

This term limit bill was put here because of some bad apples in a bunch, simply put. When people get up and say that you are doing it for yourself and you are self-glorifying the people back home. If you are self-glorifying, you shouldn't be in this body, simply put. Like I said before, you are here to try to get higher GPA for your schools back home. You are trying to have workers' comp killed. You are trying to make pharmaceutical companies be accountable for what they have for the prices. You are having loggers all across the state trying to bargain. These people, day in and day out, we have 151 of us in this body that have self-interest day in and day out. If you say this is self-serving, ladies and gentlemen, all you are is talking about yourself.

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

Representative GLYNN: Mr. Speaker, Ladies and Gentlemen of the House. I would like to point your attention to the drafting of the original bill and the drafting of the Committee Amendment that you are about to vote on. Under the original bill that was presented to our committee, the referendum question that would have gone to the voters was a very straightforward question. I will read it to you. It says, "Do you favor increasing term limits to 12 years for elected officials and Constitutional Officers?" That was the question that was asked. The committee report that you took the vote on has a very slanted and a very biased question put to the voters. I would like you to read the committee consensus question. This is it. "Do you support improving Maine's term limit law to provide a balance of new and experienced members by extending the limit of legislative service from four two-year terms to six two-year terms?" That is not an unbiased question, but that is what the consensus in our committee gave us.

I would also like to pose a question to any member of the House that would care the answer. My question is, if extending term limits to 12 years makes sense, as a committee why did we not recommend doing that also for the Executive, the Governor?

The SPEAKER: The Representative from South Portland, Representative Glynn has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Millinocket, Representative Clark.

Representative CLARK: Mr. Speaker, Ladies and Gentlemen of the House. The answer to the question that the good Representative from South Portland asked is, it was never offered.

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

Representative HOTHAM: Mr. Speaker, Ladies and Gentlemen of the House. Earlier when I spoke on this bill, I referred to the great work of the bill's author, the Representative from North Haven. I have heard what she has had to offer us this afternoon. I must tell you that I am prepared to vote in favor of the Majority Ought to Pass as Amended Report. I look forward to the next step in this procedure. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Waterford, Representative Millett.

Representative MILLETT: Mr. Speaker, Ladies and Gentlemen of the House. I am very much interested in this debate. I have listened to both sides. I thank the members who have spoken for helping to clarify this. I am sitting here comparing how conditions were when I left here in 1973 to how I

viewed them when I worked here in 1993 and how I am viewing them here in 2003 as a freshman returning member.

I must say that things are much different now than they were 30 years ago. I came here as a teaching principal on a leave of absence with four young children serving two term and getting \$2,500. I was serving in the majority and working with the Chief Executive from the other party and borrowing money to make ends meet. I think those two terms taught me more than any course at the graduate or under graduate level in college that I had ever taken. I think we passed some great laws then. We worked in harmony with the Chief Executive of the opposite party. I think back to the demographics of that Legislature in the 104th and 105th and it was much different than we are today. It was basically made up of a lot more retirees than there are around here now, a lot more professional people and seasonally employed people who had a business back home and very few people in their 20s and early 30s. I had four children and I think that I could have counted on one hand the number of people who were less than 35 who had children and who didn't have a substantial income base at their other occupation.

We passed some things that changed life forever then. We repealed the big box, which at that time was entry to the upper side of the alphabet to run in many of the cities and to be elected without much campaigning and without a lot of money spent or visible effort to get elected. We also passed the 18-year-old voting rights. I was very proud of that. At the time, we also began looking at the issue of legislative compensation. I left here because I couldn't afford to stay. I left here hoping that someday I could afford to come back again and I needed to make a living. I did that in the Executive Branch. I watched what happened after I left here in the early '70s. We began to see a lot of people right out of college running for the Legislature and thank God they did. They brought a lot of new ideas and a lot of fresh thinking.

We began to see the early beginnings of money being spent on the media. Television was becoming a medium and people began to go door to door and spend money on the media to become elected. They also began to raise the compensation level. It began to become more and more for people who could not have afforded it previously, an opportunity to serve their state and still avoid what I went through and that was borrowing money to make a contribution. It began to become I think a little bit out of control and a tendency toward making this a legislative career when we got into those contentious years in the late '80s and early '90s. I am pleased that the Representative from Manchester clarified the chronology. This, to me, had nothing to do with Watergate or anything to do with the Contract for America. It had to do with how things had deteriorated in the late '80s and early '90s.

I want to say to the gentleman across the aisle, the Representative from Millinocket, I served in the Executive Branch with his dad and he was not the cause of this. The cause of this was people who had become too engrained, too long serving and too much into the power game that troubles me here this year. These are the people that felt that everything was about winning. You didn't come here necessarily to make a contribution to good legislation. You came here first and foremost to preserve your party's status, to make sure that you won more than you lost and to make sure that you could actually assure that your party remained in power. That, sadly, reflected itself in the lack of civility and in the way we treated each other. It became so bad at points in time that I was almost ashamed to say that this was a citizen Legislature because it certainly didn't feel and didn't look that way to the folks back home.

The people that initiated this change, it is not analogist to the situation we are in today. The people initiated the change in 1993. They initiated it because they did not feel good about the government that they were paying for and the people that were representing them here in Augusta. I try to keep that in the back of my mind because I want to make sure that I don't ever reject the thought that was in the voter's minds, notwithstanding the fact that it was not a huge turnout, that went to the polls in 1993 and voted in the four-term eight-year limit. They did what they felt was right and based on what they knew at the time, I think they did what was right.

Here we are in the beginning of a new administration. Again, we have this issue of institutional memory, the quality of legislation we are voting on, the time we are spending on critical issues and the whole issue of whether we are here to self-serve or whether we are here to do the right thing. I know that I am not reflecting on comments made earlier in criticism because I don't believe they were said in the narrow way that I first thought they might have been said.

I would not judge the quality of what we do or have done thus far in the last five months on the basis of time we have spent on any issue. I think when we dealt with budgets and bond issues and other serious issues, we have generally taken the time and usually have ended up making the right decision. I would not think that we have suffered from institutional memory, in my own narrow view of things. I think we have benefited from each other's perspective. The freshman class here is enormously talented and have brought many new perspectives, broadened ideas and well qualified people in my judgment. I don't think any of us are looking at our term here as self-serving. I confess that in the last few weeks I have become, at times, very frustrated about my voting record and about the quality of the outcomes that I have voted on. There have been times in the last two to three weeks when I think the only time that I have been on the right side of a vote is when I voted on a quorum call. This is frustrating. I can tell you this, not because I object to losing, I think it is good for character to lose occasionally. It seems like when we have lost, I am speaking collectively for many of the labor management issues and my caucus, we felt that we have lost because the issue was all about winning. It was not about always doing the right thing. It was about winning. I suggest to you that it is not as important that we always win, but more important that we do the right thing.

I believe turnover is healthy. I don't intend to stay, at my age, that long. I hope we bring some perspective as well as some institutional memory. I hope as this new administration spreads its wings and gets its feet placed, that they are benefiting by what each and every one of us bring to that institutional memory, however short term our memory may be.

I am very respectful of the Representative from North Haven. I am glad she clarified the two pieces. I have stronger objections to the retroactivity notion of this legislation as it stands before us than I do to the extension of the number of terms. I really feel that if we step back and we think about why we are here, what we bring to this process and what the folks back home judge us on, I suggest to you it is not on the length of service or the number of times we win or lose, it is on the quality of insight, opinion and judgment that we bring to this process. I believe that institutional memory is alive and well. I urge you to retain what we have and build upon it. Thank you.

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

Representative **BUNKER**: Mr. Speaker, Men and Women of the House. As many of you know, I stayed out a little while and I

am back in. I am quite concerned that most of us know how we are going to vote and 12 years might be over before the vote is taken. Thank you.

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

Representative **KANE**: Mr. Speaker, Men and Women of the House. As a fourth term, I look forward to the pleasure of achieving some closure to my career. It is not with the view of hanging on to anything, but having been here four terms and having witnessed the turnover of our leadership and the impact of the term limits on the quality of our long-term plans, our long-term analysis, our long-term planning and the impact of our decisions in the long term. I think there is something lacking.

For the record, I don't idealize, as perhaps my friend Representative Millett, the origins of term limits, which go back to a millionaire, Elizabeth Noyce who was president and had a very prosperous Libra Foundation and got involved very often in public social causes. It was in tandem with the issues that were taking place here in Augusta that she funded, under wrote the cost of the campaign, a professional, very well marketed campaign to achieve term limits. I think that, in fact, the people did respond very, very effectively. Let us not presume that there was not a very significant campaign to accomplish the objectives of term limits.

As we look upon the merits, pros and cons of the Majority Ought to Pass Report, I encourage us to look beyond and I know we will look beyond our own self-interests. Whether we call it institutional memory or whether we call it stability and avoid making repeated mistakes, I think it really is incumbent upon us to protect the quality, the long-term quality of leadership of this institution. Thank you Mr. Speaker.

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. 205

YEA - Barstow, Bennett, Blanchette, Brannigan, Breault, Brown R, Bunker, Canavan, Clark, Cowger, Craven, Cummings, Daigle, Dudley, Duplessie, Earle, Faircloth, Fischer, Gagne-Friel, Gerzofsky, Grose, Hotham, Hutton, Jackson, Jennings, Kane, Ketterer, Koffman, Landry, Laverriere-Boucher, Lundeen, Mailhot, Makas, McGlocklin, McLaughlin, Moore, Norton, Paradis, Patrick, Pellon, Percy, Perry A, Perry J, Pineau, Pingree, Piotti, Richardson J, Rines, Sampson, Simpson, Smith N, Smith W, Sullivan, Suslovic, Thomas, Thompson, Twomey, Watson, Wheeler, Wotton, Mr. Speaker.

NAY - Adams, Andrews, Annis, Ash, Austin, Berry, Bierman, Bowen, Bowles, Browne W, Bruno, Bryant-Deschenes, Bull, Campbell, Carr, Churchill E, Churchill J, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Dugay, Dunlap, Duprey B, Duprey G, Eder, Finch, Fletcher, Glynn, Goodwin, Greeley, Hatch, Heidrich, Honey, Jacobsen, Jodrey, Joy, Kaelin, Ledwin, Lemoine, Lerman, Lessard, Lewin, Maietta, Marley, Marraché, McCormick, McKee, McKenney, McNeil, Millett, Mills J, Mills S, Moody, Murphy, Muse, Norbert, Nutting, O'Brien J, Peavey-Haskell, Rector, Richardson M, Rogers, Rosen, Saviello, Sherman, Shields, Snowe-Mello, Stone, Sukeforth, Sykes, Tardy, Tobin D, Tobin J, Trahan, Treadwell, Usher, Vaughan, Walcott, Young.

ABSENT - Berube, Bliss, Davis, McGowan, O'Brien L, O'Neil, Richardson E, Woodbury.

Yes, 61; No, 82; Absent, 8; Excused, 0.

61 having voted in the affirmative and 82 voted in the negative, with 8 being absent, and accordingly the Majority Ought to Pass as Amended Report was **NOT ACCEPTED**.

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

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

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

**ORDERS**

On motion of Representative PINEAU of Jay, the following Joint Order: (H.P. 1208)

**ORDERED**, the Senate concurring, that Bill, "An Act To Improve Enforcement of the State's Natural Resource Protection, Timber Theft and Trespass Laws," H.P. 1059, L.D. 1447, and all its accompanying papers, be recalled from the Governor's desk to the House.

**READ and PASSED.**

Sent for concurrence. **ORDERED SENT FORTHWITH.**

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

Representative **CANAVAN**: Mr. Speaker, Men and Women of the House. Had I been present, I would have voted yea on Roll Call Number 203.

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On motion of Representative GOODWIN of Pembroke, the House adjourned at 5:02 p.m., until 9:00 a.m., Tuesday, June 3, 2003.