

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
SECOND SPECIAL SESSION
21st Legislative Day
Friday, March 19, 2004

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

Prayer by Reverend Elizabeth Nordgren, The Old Red Church, Standish.

National Anthem by Amy Proulx, Auburn.

Pledge of Allegiance.

Doctor of the day, Adele Carroll, D.O., Limerick.

The Journal of yesterday was read and approved.

SENATE PAPERS

Non-Concurrent Matter

JOINT ORDER - Directing the Joint Standing Committee on Inland Fisheries and Wildlife To Report Out Legislation Regarding Lead Discharges into State Waters

(H.P. 1348)

READ and **PASSED** in the House on January 8, 2004.

Came from the Senate **READ** and **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**.

On motion of Representative DUNLAP of Old Town, the House voted to **RECEDE AND CONCUR**.

Non-Concurrent Matter

JOINT ORDER - Authorizing the Joint Standing Committee on Inland Fisheries and Wildlife To Report Out a Bill Regarding Lead Discharges into State Waters

(H.P. 1355)

READ and **PASSED** in the House on January 15, 2004.

Came from the Senate **READ** and **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**.

On motion of Representative DUNLAP of Old Town, the House voted to **INSIST** and **ASK** for a **COMMITTEE OF CONFERENCE**. Sent for concurrence.

Non-Concurrent Matter

Bill "An Act To Exempt Unemployment Benefits from State Income Tax" (EMERGENCY)

(H.P. 1267) (L.D. 1745)

Majority (7) **OUGHT NOT TO PASS** Report of the Committee on **TAXATION** **READ** and **ACCEPTED** in the House on March 11, 2004.

Came from the Senate with the Minority (6) **OUGHT TO PASS AS AMENDED** Report of the Committee on **TAXATION** **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-755)** in **NON-CONCURRENCE**.

On motion of Representative CLARK of Millinocket, **TABLED** pending **FURTHER CONSIDERATION** and later today assigned.

Non-Concurrent Matter

Bill "An Act To Clarify Prequalification Criteria for Public Improvements"

(H.P. 1305) (L.D. 1783)

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-666) AS AMENDED BY HOUSE AMENDMENT "A" (H-735) thereto in the House on March 4, 2004.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-666) AS AMENDED BY SENATE AMENDMENT "A" (S-428)** thereto in **NON-CONCURRENCE**.

On motion of Representative McLAUGHLIN of Cape Elizabeth, the House voted to **RECEDE AND CONCUR**.

COMMUNICATIONS

The Following Communication: (S.C. 510)

MAINE SENATE

121ST LEGISLATURE

OFFICE OF THE SECRETARY

March 18, 2004

Honorable Patrick Colwell

Speaker of the House

2 State House Station

Augusta, ME 04333

Dear Speaker Colwell:

In accordance with Joint Rule 506 of the 121st Maine Legislature, please be advised that the Senate today confirmed the following nominations:

Upon the recommendation of the Joint Standing Committee on Judiciary, the nomination of Jadine O'Brien of Portland, for appointment to of the Maine Human Rights Commission.

Upon the recommendation of the Joint Standing Committee on Insurance and Financial Services, the nomination of Allesandro Iuppa of Yarmouth for reappointment as the Superintendent of Insurance.

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

READ and **ORDERED PLACED ON FILE**.

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

ORDERS

On motion of Representative RICHARDSON of Brunswick, the following Joint Resolution: (H.P. 1440) (Under suspension of the rules, cosponsored by Senator LAFOUNTAIN of York and Representatives: ADAMS of Portland, BARSTOW of Gorham, BREault of Buxton, BROWN of South Berwick, CANAVAN of Waterville, CLARK of Millinocket, CLOUGH of Scarborough, DUNLAP of Old Town, DUPLESSIE of Westbrook, DUPREY of Medway, FINCH of Fairfield, GERZOFSKY of Brunswick, GOODWIN of Pembroke, GREELEY of Levant, HOTHAM of Dixfield, HUTTON of Bowdoinham, JENNINGS of Leeds, KETTERER of Madison, LANDRY of Sanford, LORING of the Penobscot Nation, MARLEY of Portland, MARRACHÉ of Waterville, McLAUGHLIN of Cape Elizabeth, O'NEIL of Saco, PATRICK of Rumford, PELLON of Machias, PINGREE of North Haven, SAMPSON of Auburn, SIMPSON of Auburn, SMITH of Monmouth, THOMAS of Orono, THOMPSON of China, WHEELER of Kittery)

JOINT RESOLUTION RECOGNIZING MAINE'S CREDIT UNIONS

WHEREAS, Maine's credit unions are locally owned financial cooperatives dedicated to serving their members. Each and every credit union member is an owner and has an equal voice in the operations of the credit union. Serving members in all 16 Maine counties and in hundreds of communities, large and small,

Maine's credit unions are committed to the nearly 600,000 Maine consumers that belong to credit unions; and

WHEREAS, Maine's credit unions are consistently recognized for serving their members, as indicated by the consistently high marks for performance and customer satisfaction that consumers assign to Maine's credit unions. The important financial role that credit unions play in serving as the primary financial institutions of choice is indicated by the fact that Maine has been ranked as the nation's 5th strongest credit union state in the nation for the past 4 years. Nearly one in every 2 Maine residents belongs to a credit union; and

WHEREAS, the more than 1,800 full-time and part-time employees of Maine's credit unions and the hundreds of unpaid volunteers that serve on credit union boards and committees continue to support and demonstrate the core credit union values, philosophy and mission of Maine people helping Maine people and contribute to the communities they serve; and

WHEREAS, Maine's credit unions are very active within their communities, and they have raised more than \$1,530,000 to help end hunger in Maine. One hundred percent of all money that is raised through the Maine Credit Unions' Campaign for Ending Hunger stays in Maine and goes directly to assist thousands of Maine families and individuals who otherwise would go hungry. As a result of Maine's credit unions' unwavering dedication to this cause, Maine is a leading state in the nation in increasing awareness about the problem of hunger. Maine's credit unions have also contributed hundreds of thousands of dollars to positively affect the lives of the many Maine Special Olympians from across the State. Additionally, Maine's credit unions voluntarily contribute thousands of dollars to organizations and agencies in their own communities and donate countless hours on a daily basis to enrich the lives of the citizens in the communities in which they serve; and

WHEREAS, since 1921, Maine's credit unions have been part of the economic fabric and source of assistance in helping thousands of Maine people in communities across the State achieve financial success. Throughout Maine, credit unions continue to make a difference in the lives of individuals and remain a constant source of pride and spirit in the communities they serve; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Twenty-first Legislature now assembled in the Second Special Session, take this occasion to recognize the Maine Credit Union League and Maine's credit unions for having a positive and profound impact on the lives of Maine citizens and their communities for 83 years. Your service and dedication to this State is a tribute to many of those values and principles that we all hold dear; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Maine Credit Union League and its 77 affiliated credit unions.

READ and ADOPTED.

Sent for concurrence.

On motion of Representative SIMPSON of Auburn, the following Joint Resolution: (H.P. 1441) (Under suspension of the rules, cosponsored by Senator DOUGLASS of Androscoggin and Representatives: BARSTOW of Gorham, BENNETT of Caribou, BLISS of South Portland, BROWN of South Berwick, BRUNO of Raymond, BULL of Freeport, CLOUGH of Scarborough, Speaker COLWELL of Gardiner, COURTNEY of Sanford, CRAVEN of Lewiston, DAIGLE of Arundel, DAVIS of Falmouth, DUDLEY of Portland, DUNLAP of Old Town, DUPLESSIE of Westbrook, FAIRCLOTH of Bangor, FISCHER of Presque Isle, GERZOFKY

of Brunswick, GLYNN of South Portland, LEDWIN of Holden, LERMAN of Augusta, LUNDEEN of Mars Hill, McCORMICK of West Gardiner, McKEE of Wayne, McLAUGHLIN of Cape Elizabeth, MOODY of Manchester, NORBERT of Portland, PARADIS of Frenchville, PATRICK of Rumford, PERCY of Phippsburg, PERRY of Bangor, PINGREE of North Haven, RICHARDSON of Brunswick, SAMPSON of Auburn, STONE of Berwick, SULLIVAN of Biddeford, TARDY of Newport, THOMAS of Orono, TWOMEY of Biddeford, WALCOTT of Lewiston, WOODBURY of Yarmouth, Senators: BLAIS of Kennebec, BRENNAN of Cumberland, BROMLEY of Cumberland, GAGNON of Kennebec, HATCH of Somerset, MARTIN of Aroostook, NASS of York, PENDLETON of Cumberland, ROTUNDO of Androscoggin, SAWYER of Penobscot, STANLEY of Penobscot, STRIMLING of Cumberland, President Pro Tem TREAT of Kennebec)

JOINT RESOLUTION COMMEMORATING THE VICTIMS OF THE TERRORIST TRAGEDY IN MADRID, SPAIN

WHEREAS, on March 11, 2004, the gruesome bombing of 10 commuter trains in Madrid, Spain by terrorists killed more than 200 people, men, women and children and injured more than 1,400 others, including people from many nations, in one of Europe's deadliest and bloodiest terrorist bombings; and

WHEREAS, Spain is an old and venerable nation, a nation that has had a great influence on our own country and is one of the pillars of Western civilization, an ally of the United States of America and an original member of the NATO alliance; and

WHEREAS, on March 11, 2004, exactly 2 1/2 years after the tragedy of September 11th, the people of Spain suffered a horrific and senseless tragedy of their own, and we join with all Spaniards in heartfelt mourning of the victims of this cowardly attack on innocent life; and

WHEREAS, millions of Spaniards poured into the streets the day after the bombings, grief-stricken at the loss of life and protesting the carnage that was done in their country, and nations around the world join Spain in protesting this terrorist action; and

WHEREAS, we in the State of Maine and the United States of America share mutual democratic ideals and goals with Spain, and we also sincerely share their current sorrow; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Twenty-first Legislature now assembled in the Second Special Session, on behalf of the people we represent, take this opportunity to extend our deepest sympathy and our condolences to the people of Spain on the extreme loss of life and casualties suffered by that noble nation; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Spanish Ambassador to the United States, Mr. Javier Ruperez, as a token of our sympathy.

READ and ADOPTED.

Sent for concurrence.

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

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-767)** on Bill "An Act To Create Guidelines To Promote Good Science in Rulemaking"

(H.P. 699) (L.D. 942)

Signed:

Senator:

GILMAN of Cumberland

Representatives:

McLAUGHLIN of Cape Elizabeth

PEAVEY-HASKELL of Greenbush

CROSTHWAITE of Ellsworth

SUSLOVIC of Portland

STONE of Berwick

BARSTOW of Gorham

SUKEFORTH of Union

BOWEN of Rockport

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

Signed:

Senators:

ROTUNDO of Androscoggin

LAFOUNTAIN of York

Representatives:

BUNKER of Kossuth Township

KETTERER of Madison

READ.

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

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

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

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

ROLL CALL NO. 341

YEA - Andrews, Annis, Austin, Berry, Berube, Blanchette, Bliss, Bowen, Bowles, Brannigan, Brown R, Browne W, Bruno, Bryant-Deschenes, Campbell, Churchill E, Churchill J, Clough, Collins, Courtney, Cressey, Crosthwaite, Cummings, Curley, Daigle, Davis, Duplessie, Duprey B, Earle, Finch, Fischer, Fletcher, Glynn, Grose, Hatch, Heidrich, Honey, Hotham, Jackson, Jacobsen, Jodrey, Joy, Kane, Landry, Ledwin, Lemoine, Lessard, Lewin, Lundeen, Mailhot, McCormick, McKenney, McLaughlin, Millett, Mills S, Moody, Moore, Murphy, Muse, Nutting, O'Brien J, O'Neil, Patrick, Pellon, Perry A, Rector, Richardson E, Richardson J, Richardson M, Rogers, Rosen, Saviello, Sherman, Shields, Smith N, Snowe-Mello, Stone, Sukeforth, Sykes, Tardy, Tobin D, Tobin J, Trahan, Treadwell, Vaughan, Watson, Wheeler, Woodbury, Wotton, Young, Mr. Speaker.

NAY - Adams, Ash, Barstow, Beaudette, Bennett, Bull, Bunker, Canavan, Clark, Craven, Dudley, Dunlap, Duprey G, Eder, Faircloth, Gagne-Friel, Gerzofsky, Goodwin, Hutton, Jennings, Ketterer, Koffman, Lerman, Makas, Marley, McGlocklin, McKee, Norbert, Norton, O'Brien L, Paradis, Percy, Pineau, Pingree, Piotti, Simpson, Suslovic, Thomas, Thompson, Twomey, Walcott.

ABSENT - Bierman, Breault, Carr, Cowger, Dugay, Greeley, Kaelin, Maietta, Marraché, McGowan, McNeil, Mills J, Peavey-Haskell, Perry J, Rines, Sampson, Smith W, Sullivan, Usher.

Yes, 91; No, 41; Absent, 19; Excused, 0.

91 having voted in the affirmative and 41 voted in the negative, with 19 being absent, and accordingly the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-767)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Monday, March 22, 2004.

Representative DUNLAP of Old Town assumed the Chair.

The House was called to order by the Speaker Pro Tem.

Majority Report of the Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-768)** on Bill "An Act To Authorize the Deorganization of the Town of Atkinson"

(H.P. 1247) (L.D. 1671)

Signed:

Senator:

GILMAN of Cumberland

Representatives:

PEAVEY-HASKELL of Greenbush

CROSTHWAITE of Ellsworth

KETTERER of Madison

STONE of Berwick

SUKEFORTH of Union

BOWEN of Rockport

BUNKER of Kossuth Township

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

Signed:

Senators:

ROTUNDO of Androscoggin

LAFOUNTAIN of York

Representatives:

McLAUGHLIN of Cape Elizabeth

BARSTOW of Gorham

SUSLOVIC of Portland

READ.

Representative McLAUGHLIN of Cape Elizabeth moved that the House **ACCEPT** the Minority **Ought Not to Pass** Report.

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

Representative **McLAUGHLIN**: Mr. Speaker, Men and Women of the House. This bill before us, LD 1671, is "An Act to Authorize the Deorganization of the Town of Atkinson." State and Local Government Committee has heard a lot about the Town of Atkinson. We have heard a lot about the deorganization process.

This request seems simple and straightforward. However, let me assure you that it is the tip of the iceberg. Why is she saying that? The more we listened to them, the more information came out. I followed that up with phone calls to superintendents for the administrative unorganized territories. I followed up with phone calls to town managers and then people started calling me, people from Atkinson, giving me more and more information, peeling down through the layers of what the real issues are here.

The issues that I want to tell you about today are schools and taxes. I am sure that sounds familiar to every single person sitting in this chamber. The Town of Atkinson is part of an SAD, SAD 41. It also includes the Towns of Milo, Brownsville and LaGrange. The Town of Atkinson has previously tried to

withdraw from that SAD. They were unsuccessful. A number of Atkinson residents have their children going to the adjacent SAD, SAD 68, which is located in Dover-Foxcroft. When the bill first came to committee, the contract with the Department of Education was for the transportation to be paid for all Atkinson students to go to SAD 68, the one in Dover-Foxcroft, not where they go now. That raised a few antennas. We asked them to go back and not withdraw from their current SAD in this kind of fashion. They did another referendum vote in the town and it was with the contract being that all of their student's transportation would be paid only to their existing school district. The vote indicated that that was fine. Let me assure you that the rumblings I am hearing from that town do not lead me to believe that was fine. When I talked to the superintendents involved, I hear the superintendent in Dover-Foxcroft telling me that we have some students right now under a superintendent's agreement. We did have one superintendent's agreement that I in Dover-Foxcroft turned down. It was for a special ed student. It was going to cost us in the realm of \$50,000. We turned that one down. That student is still the responsibility of the Milo district. If they do de-organize we have plenty of room. We would welcome them. In fact, we will even run a school bus right up to the town line so we can pick them up. The parents won't have to transport them the whole way. We understand the new contract. It is not paying for those students to be transported to our school. If they de-organize, they get choice of the school they want to go to and they will be tuitioned under the unorganized territory.

That is part of what is going on. It is about schools. It may not be on the surface, but I have become convinced that it is about schools. There is also the curious fact that SAD 68, Dover-Foxcroft, has applied for a new elementary school. I was told by the superintendent that they had enough room to absorb the students coming from Atkinson. I am hearing a couple of different messages there. I will leave you to draw your own conclusions.

If the deorganization proceeds, the Town of Atkinson where right now the mil rate is in the \$19 range will decrease by about half. Why wouldn't you want to do that? I will tell you why. If that happens, they are going to stick it to the existing school district therein. The Towns of Milo, Brownville and LaGrange will have to pick up anywhere from \$126,000 to \$360,000. That range depends on where the Atkinson students would go if deorganization were in place. I am not in good conscience able to let that happen, to impose that kind of financial burden on a group where you already have agreement. Their taxes would shift to the rest of the unorganized territory. All of their students, including their special ed students tuition would be picked up totally by the unorganized territory within their counties and Atkinson is in the county of Piscataquis. You are going to be raising some taxes on other people. Eventually we will get to a tipping point, ladies and gentlemen, not necessarily with Atkinson, but eventually. Remember, it is schools. It is taxes. Do you want to shift the tax burden to somebody else? Is that the way we play in Maine? I hope not. Thank you Mr. Speaker.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Union, Representative Sukeforth.

Representative SUKEFORTH: Mr. Speaker, Ladies and Gentlemen of the House. I am standing to oppose the pending motion of the Minority Report. If you look in your calendar, myself, along with a majority of the committee, had a Majority Report of Ought to Pass as Amended. The Town of Atkinson, to me this is a local issue, has jumped through all the hoops, all the legal requirements. They have had local votes to de-organize. They came to our committee with their plan and as the good Representative from Cape Elizabeth, our committee chair

explained, our entire committee had concerns about the school issue. We raised that concern to them. The Town of Atkinson then went back home. They had a special town meeting, public hearing and changed the school part so that it now reads that they would go and stay in the Milo district and not provide transportation to Dover-Foxcroft.

I can't stand here and tell you that there is not going to be an issue, but I think that the money figures that the Representative from Cape Elizabeth stated were dependent on all the students moving from Milo from Dover-Foxcroft and I don't expect that to happen. I am sure some students will go to Dover-Foxcroft, but I am sure many of them will still be going to Milo.

Again, it is a local issue. If there is rumblings in Atkinson, if we defeat this pending motion and pass the Majority Report, remember that it is not a done deal. It still goes back to the Town of Atkinson. If the Town of Atkinson doesn't like this change in the school thing, they will vote it down. It takes a two-thirds local vote in the Town of Atkinson to continue and proceed with this. Even if we pass the Majority Report, it is still going to go to the Town of Atkinson and they will have to decide. I just feel like they have jumped through all the hoops. They have met all the legal requirements and yes, it will lower their mil rate about half. There was a dairy farmer that came to our committee paying about \$12,000 a year in property taxes. His property tax bill will now be \$6,000. Sure he is for this. Again, it is a local issue and I ask you to defeat the pending motion and move on to the bipartisan, tripartisan I guess, Majority Report and let the people of Atkinson decide what is best for them. Thank you.

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

Representative ANNIS: Mr. Speaker, Ladies and Gentlemen of the House. I would just like to remind the House that this is not a done deal. What we are going to do today doesn't mean that Atkinson will de-organize. It has to be voted on in November by the people of Atkinson and a two-thirds majority vote is needed for approval. Mr. Speaker, I would ask for the yeas and nays.

Representative ANNIS of Dover-Foxcroft **REQUESTED** a roll call on the motion to **ACCEPT** the Minority **Ought Not to Pass** Report.

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

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

Representative BUNKER: Mr. Speaker, Men and Women of the House. This is an awful difficult position because this is kind of a historical moment as far as how people de-organize. I don't know if any of you folks know that deorganization is a very personal small town issue that is very troubling for any small town to go through the process and to finally decide that we give up as a small community and need to de-organize and lose our identity. It is not done lightly. It is not done without a lot of thought and some concern by the local folks. The most important thing is, it is a local people decision. I know if I am standing here as a Representative and you are from Kittery, Fort Kent or from Cape Elizabeth and you have a water district and you have a deorganization issue and you have a small town backyard issue, I know one thing, I am going to support you and your family in your backyard because that is the proper thing to do in this body. As everybody here has indicated, the town after we get done still has to vote by two-thirds to agree to abide by the plan that is before them.

What most folks haven't heard here today yet is with the old rules we just basically rubber stamp technically the permission to do this. With the new set of rules that the Joint Standing Committee on State and Local has put together, we have decided

it is proper because we don't want all these towns to be rolling down the slippery slope of deorganization. They put in a lot higher standards and we also have to look at other areas surrounding that individual town and there are a lot of hoops to jump through. Nobody in this room ought to be concerned that this is the tip of the iceberg of people de-organizing, because it is going to be very, very difficult for your towns to do it in the future.

They are right. The students are now currently going to both school districts through superintendent agreements. The unorganized territory is overseen by the superintendent of the UT as well as by the Commissioner of Education. The Commissioner of Education has written a plan that says your children will primarily go to SAD 41. What somebody hasn't spoke about here is the elementary group, it is not only busing that is paid for, but also by that plan the only school district that will be paid for for elementary kids is SAD 41. That is how the elementary system works in the UT situation. Yes, there is some concern and there was some misinformation in the newspaper that people would be able to flip flop and go back and forth. That may only apply to a limited number of high school students who after they reach the ninth or tenth grade decide they may want to go to Dover-Foxcroft for some reason. I see very little, if any, impact because of the plan that our committee asked the town to go back and change and they adopted. When we tell them to do something and they do it, I ask you to honor that.

The other thing is, we are the court of last resort folks. The people came to us and asked us to approve this plan in accordance with existing statute and policies, we did that. They jumped through the hoops. They changed. They jumped through new hoops. They came back and did it right and now in the eleventh hour we are going to say, even though you jumped through all the hoops, we are not going to honor the commitment we have with you. I think that is just inherently wrong. The next town will have all these extra hoops and concerns that the good chair had brought up complied with and be part of the decision making process, but let's not judge this deorganization request on the new rules. Let's honor the old rules as we should. I hope you oppose the pending motion and move on the pass the Majority Report. Thank you.

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

Representative **SUSLOVIC**: Mr. Speaker, Men and Women of the House. Just briefly, in looking at this issue, clearly the folks from Atkinson made a very compelling argument about the challenges they are facing, not only the tax burden, but also the human resource burden of running their town. It is just getting harder and harder for them to do it. I am not unsympathetic to their cause. It must be addressed. However, I believe it ought to be addressed, but not at the expense of the surrounding communities. I believe strongly that there are other options for Atkinson to consider in terms of annexing with another community as opposed to de-organizing. I feel that the folks who will be impacted, the taxpayers in the unorganized territory ought to have some say in whether or not their taxes should go up in order to equalize the burden that the folks in Atkinson face now. I urge you to vote against this motion and support the Ought Not to Pass.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Gorham, Representative Barstow.

Representative **BARSTOW**: Mr. Speaker, Men and Women of the House. I would like to concur with my good colleague from Portland, Representative Suslovic, the reason why I support this Minority Ought Not to Pass Report out of my committee is for the reason that regional options have not been looked at by this community. We did hear testimony. The points brought forth

were very good and even if you do not support the idea of annexing or consolidation of towns, there is the simple look at choosing regional options for delivery of services. Atkinson could still maintain its town identity and possibly offer services from a more regional approach.

We had a dairy farmer come in and testify before our committee and one of the questions that I posed to that farmer was if your fire truck or if your plow truck had a different town seal on the side of it or a county seal on the side of it, would it matter to you so long as we found a way to lower your property tax burden? The said it did not.

I would urge you to support the Minority Ought Not to Pass Report that is before us, the pending motion and at least have them look at the other options. I would be in favor of them going through local control and choosing deorganization if those other options were sought. Thank you Mr. Speaker.

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

Representative **DUPREY**: Mr. Speaker, Ladies and Gentlemen of the House. I have some serious concerns with the deorganization of the Town of Atkinson. Milo, a neighboring community to Atkinson is one of the larger towns in the district in which I represent. SAD 41 is in the Town of Milo. They take students from several neighboring communities, one of which is Atkinson. Atkinson would like to de-organize. I have no problem with self control or local control, but when it is at the expense of other neighboring communities, then that is where I think, we, as a body, should stop and look and see what negative impact this could have on other communities, such as Brownville, Milo, LaGrange and others. Presently Milo's tax rate is in excess of \$25 per thousand. Brownville is \$23 or \$24 if I remember correctly. If Atkinson were to de-organize, in addition to deorganization they also this time want to take their students and send them to SAD 61, which is Foxcroft Academy in Dover. Doing so would cause a financial problem to the remaining communities in excess of \$300,000, of which the remaining towns, Milo, Brownville and LaGrange would have to absorb. We cannot do this or allow this to happen to those communities. Like I said, I am all for local control, but at what expense. I would ask you to consider the Ought Not to Pass and support that motion. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Rockport, Representative Bowen.

Representative **BOWEN**: Mr. Speaker, Ladies and Gentlemen of the House. I won't spend a whole lot of time, but the question here is really pretty simple. State law stipulates what towns must do in order to de-organize. There is a list of things they have to do. We have already established that. We have looked at the parameters. We have looked at all the impacts that need to be considered. We have even changed the law this last session to make it a little tougher than it was before. Our friends from Atkinson, however, have come in under the wire and they are sort of going by the old rules, but they have done everything that they were told to do. They have followed the law and the way the book reads, they have done what they have to do. Our job is to let them do it. This is a local control issue. We shouldn't be leaving here with the impression that these people are trying to think of how to use this hole in state law to de-organize and then our taxes will go down, like some kind of gimmick or something. They don't want to do this. This is destroying their town, but they cannot do anything else. They are enduring a brutally high tax rate. Eighty some odd percent of the land in that town is in tree growth so everybody who lives there is bearing this tremendous property tax burden. They didn't come in and say, here is an easy way to get out of our property tax bill,

make somebody else pay for it. They didn't come in there with that type of attitude. They don't want to do this, but they don't have any choice. They went through the very hurtful process, as my colleague from Kossuth Township said, a very personal, painful process for them of going forward. They have come to get our permission to go forward with the final vote. They have dotted every I and crossed every T. They have followed the law and I think we ought to let them make the choice that is ultimately their choice to make. Thank you.

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

Representative KETTERER: Mr. Speaker, Ladies and Gentlemen of the House. I just wanted to add a couple things that haven't been said. I am in agreement that the Town of Atkinson should be able to de-organize. It is a town that has a population of 323 people. There are about 52 students that go to school in Milo. There are only about six or seven that presently go to Dover-Foxcroft. The people from the town didn't seem to think that was going to change at all. Their mil rate is \$19 and climbing. As the good Representative told you earlier, there was a dairy farmer who came to testify and he paid practically half his salary in taxes and probably will go under and lose his farm if they are not allowed to de-organize.

The other thing that wasn't mentioned is the unorganized territory's mil rate will go up about \$1.42 with the deorganization of Atkinson. Their tax rate is fairly low in comparison to Milo, Atkinson and some of the other towns. I would ask you to support this bill. Thank you.

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

ROLL CALL NO. 342

YEA - Adams, Barstow, Blanchette, Bliss, Brannigan, Bull, Craven, Cressey, Cummings, Dudley, Dunlap, Duplessie, Duprey G, Faircloth, Gerzofsky, Hutton, Kane, Koffman, Lemoine, Lerman, Lundeen, Makas, Marley, McLaughlin, Mills J, Mills S, Norbert, Norton, O'Brien L, O'Neil, Pellon, Percy, Perry A, Pingree, Richardson J, Sampson, Saviello, Simpson, Smith N, Suslovic, Twomey, Walcott, Watson, Wheeler, Woodbury.

NAY - Andrews, Annis, Ash, Austin, Beaudette, Bennett, Berry, Berube, Bierman, Bowen, Bowles, Brown R, Browne W, Bruno, Bryant-Deschenes, Bunker, Campbell, Canavan, Churchill E, Churchill J, Clark, Clough, Collins, Courtney, Crosthwaite, Curley, Daigle, Davis, Duprey B, Earle, Eder, Finch, Fischer, Fletcher, Gagne-Friel, Glynn, Goodwin, Greeley, Grose, Hatch, Heidrich, Honey, Hotham, Jackson, Jacobsen, Jennings, Jodrey, Joy, Ketterer, Landry, Ledwin, Lessard, Lewin, McCormick, McGlocklin, McKee, McKenney, Millett, Moody, Moore, Murphy, Muse, Nutting, O'Brien J, Paradis, Patrick, Pineau, Piotti, Rector, Richardson E, Richardson M, Rines, Rogers, Rosen, Sherman, Shields, Snowe-Mello, Stone, Sukeforth, Sykes, Tardy, Thomas, Thompson, Tobin D, Tobin J, Trahan, Treadwell, Vaughan, Young.

ABSENT - Breault, Carr, Cowger, Dugay, Kaelin, Maietta, Mailhot, Marraché, McGowan, McNeil, Peavey-Haskell, Perry J, Smith W, Sullivan, Usher, Wotton, Mr. Speaker.

Yes, 45; No, 89; Absent, 17; Excused, 0.

45 having voted in the affirmative and 89 voted in the negative, with 17 being absent, and accordingly the Minority Ought Not to Pass Report was NOT ACCEPTED.

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

The Bill was **READ ONCE**. **Committee Amendment "A" (H-768)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Monday, March 22, 2004.

Six Members of the Committee on **JUDICIARY** report in Report "A" **Ought to Pass as Amended by Committee Amendment "A" (H-774)** on Bill "An Act To Promote the Financial Security of Maine's Families and Children"

(H.P. 1152) (L.D. 1579)

Signed:

Senators:

PENDLETON of Cumberland

CATHCART of Penobscot

Representatives:

NORBERT of Portland

BULL of Freeport

SIMPSON of Auburn

GERZOFKY of Brunswick

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

Signed:

Senator:

WOODCOCK of Franklin

Representatives:

BENNETT of Caribou

SHERMAN of Hodgdon

CARR of Lincoln

DUPREY of Hampden

BRYANT-DESCHENES of Turner

One Member of the same Committee reports in Report "C" **Ought to Pass as Amended by Committee Amendment "B" (H-775)** on same Bill.

Signed:

Representative:

MILLS of Farmington

Representative LORING of the Penobscot Nation - of the House - supports Report "A" **Ought to Pass as Amended by Committee Amendment "A" (H-774)**.

READ.

Representative NORBERT of Portland moved that the House **ACCEPT** Report "A" **Ought to Pass as Amended**.

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

CONSENT CALENDAR

First Day

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

(S.P. 620) (L.D. 1688) Bill "An Act To Clarify the Law Regarding Interpreting Services for People Who Are Deaf or Hard-of-hearing" Committee on **LABOR** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-430)**

(H.P. 1237) (L.D. 1661) Bill "An Act To Ban the Sale of Novelty Batteries Containing Mercury" Committee on **NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-780)**

(H.P. 1269) (L.D. 1747) Bill "An Act To Amend the Medicaid Drug Rebate Program and the Elderly Low-cost Drug Program" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-778)**

(H.P. 1270) (L.D. 1748) Bill "An Act To Amend the Rule-making Authority of the Department of Human Services to Ensure Cost-effective Operation of State Medical Services Programs and Compliance with Federal Requirements" (EMERGENCY) Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-777)**

(H.P. 1372) (L.D. 1846) Resolve, Regarding Legislative Review of Portions of Chapter 895: Underground Facility Damage Prevention Requirements, a Major Substantive Rule of the Public Utilities Commission (EMERGENCY) Committee on **UTILITIES AND ENERGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-776)**

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

CONSENT CALENDAR
Second Day

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

(S.P. 622) (L.D. 1690) Bill "An Act To Authorize the STARBASE Program" (C. "A" S-423)

(H.P. 1271) (L.D. 1749) Bill "An Act To Provide for the Assessment of the Mahogany Quahog Resource" (EMERGENCY) (C. "A" H-769)

(H.P. 1308) (L.D. 1786) Bill "An Act Making Amendments to the Uniform Commercial Code Covering Provisions Dealing with Negotiable Instruments and Bank Deposits and Collections" (C. "A" H-772)

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

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

BILLS IN THE SECOND READING
Senate as Amended

Bill "An Act To Provide Safe Staffing Levels for Patients and To Retain Registered Nurses"

(S.P. 225) (L.D. 616)
(C. "A" S-427)

House

Bill "An Act To Clarify Departmental Reporting Requirements for Developmental Disability Prevention Activities"

(H.P. 1437) (L.D. 1940)

House as Amended

Bill "An Act To Provide Assistance to Municipalities Regarding Downtown Rehabilitation Building Codes"

(H.P. 1239) (L.D. 1663)
(C. "A" H-770)

Bill "An Act To Amend the Laws Relating to Corporations, Limited Partnerships, Limited Liability Companies and Limited Liability Partnerships" (EMERGENCY)

(H.P. 1289) (L.D. 1767)
(C. "A" H-771)

Reported by the Committee on **Bills in the Second Reading**, read the second time, the Senate Paper was **PASSED TO BE**

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

Bill "An Act To Support Clean and Efficient Energy for the Future of Maine's Economy and Environment"

(S.P. 407) (L.D. 1261)
(C. "A" S-424)

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

On motion of Representative BLISS of South Portland, was **SET ASIDE**.

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

ENACTORS
Acts

An Act To Update Laws Affecting the Military
(H.P. 1274) (L.D. 1752)
(C. "A" H-752)

An Act To Amend the Election Laws
(H.P. 1277) (L.D. 1755)
(C. "A" H-753)

An Act To Improve the Operations of the Department of Corrections and the Safety of State Correctional Facilities
(H.P. 1286) (L.D. 1764)
(C. "A" H-749)

An Act Concerning Technical Changes to the Tax Laws
(H.P. 1338) (L.D. 1816)
(C. "A" H-754)

An Act To Remove the Designation of the Lake Christopher Wildlife Management Area as a Wildlife Management Area
(S.P. 685) (L.D. 1842)

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

An Act To Create the Maine Military Family Relief Fund
(S.P. 657) (L.D. 1724)
(C. "A" S-422)

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

On motion of Representative RICHARDSON of Brunswick, was **SET ASIDE**.

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

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

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

An Act To Improve the Viability of Railroads Operating in Maine

(S.P. 757) (L.D. 1918)

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

On motion of Representative TWOMEY of Biddeford, was **SET ASIDE**.

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

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

The same Representative **PRESENTED House Amendment "A" (H-779)** which was **READ** by the Clerk.

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

Representative **TWOMEY**: Mr. Speaker, Men and Women of the House. This is a technical amendment being offered on behalf of the Committee on Engrossed Bills. It adds a fiscal note. Thank you.

House Amendment "A" (H-779) was **ADOPTED**.

The Bill was **PASSED TO BE ENGROSSED as Amended by House Amendment "A" (H-779)** in **NON-CONCURRENCE** and sent for concurrence. **ORDERED SENT FORTHWITH**.

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.

Expression of Legislative Sentiment in Memory of United States Army Sergeant Nicholes D. Golding, 24, of Addison
(HLS 1141)

TABLED - March 2, 2004 (Till Later Today) by Representative **GOODWIN** of Pembroke.

PENDING - ADOPTION.

Subsequently, the Expression of Legislative Sentiment was **ADOPTED** and sent for concurrence.

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

The Speaker resumed the Chair.

The House was called to order by the Speaker.

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

HOUSE DIVIDED REPORT - Report "A" (6) **Ought to Pass as Amended by Committee Amendment "A" (H-774)** - Report "B" (6) **Ought Not to Pass** - Report "C" (1) **Ought to Pass as Amended by Committee Amendment "B" (H-775)** - Committee on **JUDICIARY** on Bill "An Act To Promote the Financial Security of Maine's Families and Children"

(H.P. 1152) (L.D. 1579)

Which was **TABLED** by Representative **NORBERT** of Portland pending his motion to **ACCEPT** Report "A" **Ought to Pass as Amended**.

Representative **DUPREY** of Hampden **REQUESTED** a roll call on the motion to **ACCEPT** Report "A" **Ought to Pass as Amended**.

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

The **SPEAKER**: A roll call has been ordered. The pending question before the House is acceptance of Report "A" **Ought to**

Pass as Amended. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 343

YEA - Adams, Ash, Barstow, Blanchette, Bliss, Brannigan, Brown R, Bull, Canavan, Craven, Cummings, Dudley, Dugay, Dunlap, Duplessie, Earle, Eder, Faircloth, Finch, Fischer, Gagne-Friel, Gerzofsky, Grose, Hatch, Hutton, Jackson, Kane, Ketterer, Koffman, Lemoine, Lerman, Lessard, Mailhot, Makas, Marley, Marraché, McCormick, McGlocklin, McKee, McLaughlin, Moody, Norbert, Norton, O'Brien J, O'Brien L, O'Neil, Paradis, Patrick, Pellon, Percy, Perry A, Perry J, Pineau, Pingree, Piotti, Rector, Richardson J, Rines, Sampson, Saviello, Simpson, Smith N, Sullivan, Suslovic, Thomas, Thompson, Twomey, Walcott, Watson, Wheeler, Woodbury, Mr. Speaker.

NAY - Andrews, Annis, Austin, Beaudette, Bennett, Berry, Berube, Bierman, Bowen, Bowles, Browne W, Bruno, Bryant-Deschenes, Campbell, Churchill E, Churchill J, Clark, Clough, Collins, Courtney, Cressey, Curley, Daigle, Davis, Duprey B, Duprey G, Fletcher, Glynn, Greeley, Heidrich, Honey, Jacobsen, Jennings, Jodrey, Joy, Lewin, Lundeen, McKenney, Millett, Mills J, Mills S, Murphy, Muse, Nutting, Peavey-Haskell, Richardson E, Richardson M, Rogers, Rosen, Sherman, Shields, Snowe-Mello, Stone, Sykes, Tardy, Tobin D, Tobin J, Trahan, Treadwell, Vaughan.

ABSENT - Breault, Bunker, Carr, Cowger, Crosthwaite, Goodwin, Hotham, Kaelin, Landry, Ledwin, Maietta, McGowan, McNeil, Moore, Smith W, Sukeforth, Usher, Wotton, Young.

Yes, 72; No, 60; Absent, 19; Excused, 0.

72 having voted in the affirmative and 60 voted in the negative, with 19 being absent, and accordingly Report "A" **Ought to Pass as Amended** was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-774)** was **READ** by the Clerk and **ADOPTED**.

On motion of Representative **NORBERT** of Portland, the House **RECONSIDERED** its action whereby **Committee Amendment "A" (H-774)** was **ADOPTED**.

The same Representative **PRESENTED House Amendment "A" (H-782)** to **Committee Amendment "A" (H-774)**, which was **READ** by the Clerk.

Representative **DUPREY** of Medway **REQUESTED** a roll call on the motion to **ADOPT House Amendment "A" (H-782)** to **Committee Amendment "A" (H-774)**.

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 House Amendment "A" (H-782) to Committee Amendment "A" (H-774). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 344

YEA - Adams, Ash, Barstow, Beaudette, Blanchette, Bliss, Bowen, Brannigan, Brown R, Bull, Canavan, Craven, Cummings, Dudley, Dugay, Dunlap, Duplessie, Earle, Eder, Faircloth, Finch, Fischer, Gagne-Friel, Gerzofsky, Grose, Hatch, Hutton, Jackson, Ketterer, Koffman, Lemoine, Lerman, Lessard, Mailhot, Makas, Marley, Marraché, McCormick, McGlocklin, McKee, McLaughlin, Mills J, Mills S, Moody, Norbert, Norton, O'Brien J, O'Brien L, O'Neil, Paradis, Patrick, Pellon, Percy, Perry A, Perry J, Pineau, Pingree, Piotti, Rector, Richardson J, Rines, Rosen, Sampson, Saviello, Simpson, Smith N, Sullivan, Suslovic, Thomas, Thompson, Twomey, Walcott, Watson, Wheeler, Woodbury, Mr. Speaker.

NAY - Andrews, Annis, Austin, Bennett, Berry, Berube, Bierman, Bowles, Browne W, Bruno, Bryant-Deschenes, Churchill E, Churchill J, Clark, Clough, Collins, Courtney, Cressey, Curley, Daigle, Davis, Duprey B, Duprey G, Fletcher,

Glynn, Greeley, Heidrich, Honey, Hotham, Jacobsen, Jodrey, Joy, Lewin, Lundeen, McKenney, Millett, Moore, Murphy, Muse, Nutting, Peavey-Haskell, Richardson E, Richardson M, Sherman, Shields, Snowe-Mello, Stone, Sykes, Tardy, Tobin D, Tobin J, Trahan, Treadwell, Vaughan.

ABSENT - Breault, Bunker, Campbell, Carr, Cowger, Crosthwaite, Goodwin, Jennings, Kaelin, Kane, Landry, Ledwin, Maietta, McGowan, McNeil, Rogers, Smith W, Sukeforth, Usher, Wotton, Young.

Yes, 76; No, 54; Absent, 21; Excused, 0.

76 having voted in the affirmative and 54 voted in the negative, with 21 being absent, and accordingly **House Amendment "A" (H-782) to Committee Amendment "A" (H-774) was ADOPTED.**

Committee Amendment "A" (H-774) as Amended by House Amendment "A" (H-782) thereto was ADOPTED.

The Bill was assigned for **SECOND READING** Monday, March 22, 2004.

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

ORDERS

On motion of Representative HUTTON of Bowdoinham, the following Joint Resolution: (H.P. 1433) (Under suspension of the rules, cosponsored by Senator STRIMLING of Cumberland, President DAGGETT of Kennebec and Representatives: ADAMS of Portland, ASH of Belfast, BARSTOW of Gorham, BEAUDETTE of Biddeford, BLANCHETTE of Bangor, BLISS of South Portland, BRANNIGAN of Portland, BULL of Freeport, CANAVAN of Waterville, Speaker COLWELL of Gardiner, COWGER of Hallowell, CRAVEN of Lewiston, CUMMINGS of Portland, DUDLEY of Portland, DUNLAP of Old Town, DUPLESSIE of Westbrook, DUPREY of Medway, EARLE of Damariscotta, EDER of Portland, FAIRCLOTH of Bangor, FISCHER of Presque Isle, GERZOFKY of Brunswick, GOODWIN of Pembroke, GROSE of Woolwich, HATCH of Skowhegan, JACKSON of Fort Kent, JENNINGS of Leeds, KANE of Saco, KETTERER of Madison, KOFFMAN of Bar Harbor, LEMOINE of Old Orchard Beach, LERMAN of Augusta, LESSARD of Topsham, LORING of the Penobscot Nation, MAILHOT of Lewiston, MAKAS of Lewiston, MARLEY of Portland, McGLOCKLIN of Embden, McKEE of Wayne, McLAUGHLIN of Cape Elizabeth, MILLS of Farmington, NORBERT of Portland, NORTON of Bangor, O'BRIEN of Lewiston, O'NEIL of Saco, PARADIS of Frenchville, PATRICK of Rumford, PELLON of Machias, PERCY of Phippsburg, PERRY of Calais, PERRY of Bangor, PINEAU of Jay, PINGREE of North Haven, RICHARDSON of Brunswick, RINES of Wiscasset, SAMPSON of Auburn, SAVIELLO of Wilton, SIMPSON of Auburn, SMITH of Monmouth, SMITH of Van Buren, SULLIVAN of Biddeford, SUSLOVIC of Portland, THOMAS of Orono, TRAHAN of Waldoboro, TWOMEY of Biddeford, USHER of Westbrook, WALCOTT of Lewiston, WATSON of Bath, WHEELER of Kittery, WOTTON of Littleton, Senators: BRENNAN of Cumberland, BROMLEY of Cumberland, BRYANT of Oxford, CATHCART of Penobscot, DAMON of Hancock, DOUGLASS of Androscoggin, EDMONDS of Cumberland, GAGNON of Kennebec, HALL of Lincoln, HATCH of Somerset, MARTIN of Aroostook, MAYO of Sagadahoc, President Pro Tem TREAT of Kennebec) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 214)

JOINT RESOLUTION MEMORIALIZING THE PRESIDENT OF THE UNITED STATES AND THE CONGRESS OF THE UNITED

STATES TO ENSURE THE PROTECTION OF CIVIL LIBERTIES AND THE SECURITY OF THE UNITED STATES

WE, your Memorialists, the Members of the One Hundred and Twenty-first Legislature of the State of Maine now assembled in the Second Special Session, most respectfully present and petition the President of the United States and the United States Congress, as follows:

WHEREAS, the State of Maine recognizes that the Constitution of the United States is our charter of liberty and that the Bill of Rights enshrines the fundamental and inalienable rights of Americans, including the freedoms of religion, speech, assembly and privacy; and

WHEREAS, each of Maine's duly elected public servants has sworn to defend and uphold the Constitution of the United States and the Constitution of Maine; and

WHEREAS, the State of Maine denounces and condemns all acts of terrorism, wherever occurring; and

WHEREAS, attacks against Americans such as those that occurred on September 11, 2001 have necessitated the crafting of effective laws to protect the public from terrorist attacks; and

WHEREAS, any new security measures of federal, state and local governments should be carefully designed and employed to enhance public safety without infringing on the civil liberties and rights of any citizen of the State of Maine and the nation; and

WHEREAS, matters relating to immigration are primarily federal in nature; and

WHEREAS, certain provisions of the "Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001," commonly referred to as the USA PATRIOT Act, allow the Federal Government more liberally to detain and investigate citizens and engage in surveillance activities that may violate or offend the rights and liberties guaranteed by our state and federal constitutions; now, therefore, be it

RESOLVED: That We, your Memorialists, on behalf of the people we represent, take this opportunity to inform the President of the United States and the United States Congress that the Maine State Legislature supports the government of the United States of America in its campaign against terrorism and affirms its commitment that the campaign not be waged at the expense of essential civil rights and liberties of citizens of this country contained in the Constitution of United States and the Bill of Rights; and be it further

RESOLVED: That We, the Members of the Maine State Legislature reaffirm our sworn oaths to defend the Constitution of the United States and the Constitution of Maine and our solemn commitment to continue to protect and champion the rights and liberties of Maine citizens that are guaranteed under the state and federal constitutions, including freedom of expression; the right to free access to public information; freedom of association, including the ability to attend meetings without being monitored or belong to an organization without fear of reprisal; freedom from unreasonable searches and seizures, including wiretapping and monitoring of medical records and library records; due process protections, including protection against detention without charges or targeting based on race, religion, ethnicity or national origin; and the right to property, including protection against seizure or freezing of assets; and be it further

RESOLVED: That the Maine State Legislature urges the Federal Government to continue to exercise its jurisdiction over immigration matters and encourages the Federal Government to work cooperatively with the states to provide assistance and training necessary to protect our country; and be it further

RESOLVED: That laws passed by the United States Congress to specifically combat the threat of international

terrorism should not be used in conducting domestic law enforcement; and be it further

RESOLVED: That the Maine State Legislature implores the United States Congress to review provisions in the USA PATRIOT Act and other measures that may infringe on civil liberties and ensure any pending and future federal measures do not infringe on Americans' civil rights and liberties; and be it further

RESOLVED: That the Legislature calls upon our United States Representatives and Senators to monitor the implementation of the USA PATRIOT Act and related federal actions and, if necessary, repeal those sections of the USA PATRIOT Act and related federal measures that may infringe upon fundamental rights and liberties as recognized in the United States Constitution and its amendments; and be it further

RESOLVED: That official copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Honorable George W. Bush, President of the United States; the Honorable John Ashcroft, Attorney General of the United States; the Honorable John E. Baldacci, Governor of the State of Maine; Richard Cheney, President of the United States Senate; Dennis Hastert, Speaker of the United States House of Representatives; and each member of the Maine Congressional Delegation.

READ.

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

Representative **HUTTON:** Mr. Speaker, Men and Women of the House. At 342 pages in length, the USA Patriot Act is a constructive and complicated act. But the Act was passed in haste on October 26, 2001. One asks, how could this act have been drafted in such a short period of time. Many parts on this Act had been proposed before under the Clinton Administration. In Congress at that time, there was protest from both sides of the aisle for some of the measures proposed and the ideas were put on a shelf in the Justice Department.

In October 2001, Congress had very little debate on the act. Many members of congress had trouble obtaining printed copies of the Patriot Act to read before they had to vote. It was a frightening period in our history, to be so savagely attacked. But how we react, as a nation needs to be weighed carefully. Congress needs to review what they have passed into law and amend only those sections of the Act that may remove our civil liberties under the Constitution and Bill of Rights. We can protect ourselves without taking away our civil liberties.

In this State House, the issues are debated everyday, in every room, in every corner of this building. Our democracy is built on free speech and we strengthen that democracy with every debate.

Jack Dempsey, a former assistant counsel to the House Judiciary Subcommittee on Civil and Constitutional Rights, said in an article titled "Civil liberties in a time of crisis."

We protect freedom of speech not only because it allows room for personal self-expression but also because it promotes the stability that comes from the availability of channels for dissent and peaceful change." This Resolution calls on Congress to review this Act and debate the issues.

As to why we need a Resolution I would like to read you a quote from Associate Justice Stephen G. Breyer in his address to the Association of the Bar of the City of New York on April 14, 2003 in a speech regarding the USA Patriot Act said: "The American law-making process is one, not of law being dictated by judges or, for that matter, legislators. It is one of law bubbling up out of the interaction of groups of interested, affected individuals, experts, organizations such as private firms, unions, bar associations, and many others as well. Interactions take place

through discussion and debate in the press, in journals, at public meetings, at colloquia, at legislative hearings, and in dozens of other formal and informal ways. These interactions take the form of a national conversation, with proposals being made, criticized, and revised. And out of this conversation will emerge a legal product -- a product that often differs significantly from the original proposal."

I have been asked many times over the past months why another Resolution. As representatives of the people of the State of Maine, we have the responsibility to bring to the forefront the discussion that has been "bubbling up" from the citizens of Maine. Further, we must protest to the federal government when that cherished right to dissent and debate could be taken from the people.

The Resolution also speaks to this body stating that we reaffirm our sworn commitment to uphold the Constitution of the United States and the Constitution of the State of Maine. In the drafting of this Resolution I did not realize that I could have borrowed language from a great Maine politician.

I would like to read you another quote. This one is from Declaration of Conscience, June 1, 1950, by Margaret Chase Smith. "I think that it is high time that we remembered that we have sworn to uphold and defend the Constitution. I think that it is high time that we remembered; that the Constitution, as amended, speaks not only of the freedom of speech but also of trial by jury instead of trial by accusation. Whether it be a criminal prosecution in court or a character prosecution in the Senate, there is little practical distinction when the life of a person has been ruined. Those of us who shout the loudest about Americanism in making character assassinations are all to frequently those who, by our own words and acts, ignore some of the basic principles of Americanism -- The right to criticize; The right to hold unpopular beliefs; The right to protest; The right of independent thought."

So, to my critics, who have accused me of wasting time and money. I purpose that it is never a waste of time or money to use the tools that are available to you to send the strongest message possible. Especially, when you fear the unraveling of the very core of Americanism, our Constitution and Bill of Rights. And that when the debate and discussion amongst the people is bubbling up and calling to us to take action, we must respond. And we must especially take action, when the implementation of the Patriot Act begins to affect the lives of citizens of the State we represent. To ensure that, while safeguarding our freedom, we don't take it away that freedom.

And so, in this Resolution, we join with other States and cities around asking for Congress to review and amend the Patriot Act, before it is renewed. The Congress has before it bi-partisan legislation sponsored by Senator Craig and Congressman Otter, both Republicans, called the SAFE act which is a starting point for this review.

I would just like to stop here and I hope I don't get too emotional, but I did something I have never done before in February. I went down to the National Archives where our Constitution and our Bill of Rights is being held in safekeeping. There were people from all over the world in line, and this is off-season too. It wasn't the kid's vacation. We had to wait in line about a half hour in order to see it. It is just overwhelming. It is in a building in this size and it is laid out in front of you to read. I must say that one thing that impressed me was the guard who was standing there. His pride in that document was just incredible. Unfortunately if you look at the document it is fading. I am so glad we have copies of it and I am so glad that we can preserve it forever. I hope that we can continue to preserve it.

I ask for your vote not only to memorialize Congress but also to join with me to reaffirm our sworn oaths to defend the Constitution of United States and Maine, and our commitment to continue to protect and champion the rights and liberties of all Maine citizens.

Please, don't let our liberties fade away.

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

Representative **DUPREY**: Mr. Speaker, Men and Women of the House. Two weeks ago I had a Joint Order in front of us to define same-sex marriage and to define marriage. The debate was we didn't have enough time in this session to deal with that issue. Now we have time, the taxpayers are paying us to debate national policy, which we have no say or no power to do. Mr. Speaker, I move Indefinite Postponement of this partisan piece of crap.

The SPEAKER: The Representative is out of order. This chamber will observe decorum. If the Representative repeats that kind of offense, the Chair will refer that to the Ethics Committee of this body.

Representative **DUPREY** of Hampden moved that the Joint Resolution and all accompanying papers be **INDEFINITELY POSTPONED**.

Representative **DUNLAP** of Old Town **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE** the Joint Resolution and all accompanying papers.

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

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

Representative **DUNLAP**: Mr. Speaker, Ladies and Gentlemen of the House. As a citizen of the republic, I wish to express my gratitude to the Congress of the United States and to the Chief Executive of this country for taking what steps it deems necessary to protect the citizenry of the evil that is terrorism. It is a new form of warfare that we are not used to. Thoughtful men and women in our nation's history have striven to avoid this type of warfare. It targets men, women and children unsuspecting in their daily lives for the sole purpose of disruption and anarchy. However, though an accident of marriage, I am related to one of the founding fathers, Richard Henry Lee, well known as an anti-federalist and an opponent of the adoption of the United States Constitution. In his writings, he pled with those who were the proponents of the proposed Constitution in 1787 and he said to them, you say that you wish to protect individual rights, well, prove it to us. In the compromise that ensued, it was proven through the Bill of Rights. I fear that to spite the best intentions of the Chief Executive of the United States of America and a Congress with whom that Executive has worked, they may have over reached rather desperately in protecting us from the evil of terrorism. They have turned instead to protecting us from ourselves.

Freedom is only there if we are there to stand for it. We must never take this for granted. The Patriot Act, as well intended as it is, is seriously flawed and dangerous to ourselves. I fear that despite the best intentions with which it was enacted, it will be remembered along with the alien and sedition acts and the fugitive slave act as not being a compliment to freedom, but rather a detriment to it. I urge my colleagues to support the Resolution and oppose the pending motion.

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

Representative **DAIGLE**: Mr. Speaker, Ladies and Gentlemen of the House. I regret that I am forced to debate this

current motion. I certainly preferred the former. Nonetheless, I do have some points that I think this body needs to hear as it decides how to handle the motion in front of us. It has already been said about the significance of this action in context to the other matters we have handled and are due to handle. I want to start out by saying that I met yesterday with the sponsor of this Resolution. I am absolutely convinced that she is personally dedicated to this. She believes in it completely. I found her quite flexible in listening to my concerns about the matter. Eventually after coming to substantial agreement, we met the ideological rift that remains between us. I oppose the enactment of this Resolution and therefore that means to vote in favor of the pending motion.

I want to explain those points. One of the main points about this matter is trying to ensure that this is truly a neutral statement of this Legislature and politically neutral and on target to the subject, instead of being embroiled in other issues now surrounding us. Many of the handouts and writings we have heard about the Patriot Act, which were authored in 2003, you will find are not being offered today. Unfortunately this whole issue has been taken for us and has been pushed into the world of the upcoming national election for President in November.

Our current sitting President, for example, has called for the reauthorization of the Patriot Two in the State of the Union Speech. His opponent for the Democratic Party, Senator John Kerry of Massachusetts has heavily criticized the Patriot Act, has developed a platform specifically calling for much of the same points in this Resolution. In fact, on his website asks his supporters to speak on these very same points, in fact, even offers a sample letter to the editor making these very same points.

It is very difficult for this to be thought to be a matter of a subject and not a matter of partisan political matters when we find that the agenda has been pulled away and said please say this because that is what I want my supporters to say. How do I know if I am saying it because I am a supporter or because I believe it? Certainly the public will ask that question and the public will feel that way about whatever the outcome is from the vote later on this morning or this afternoon.

When I get to the subject of the Resolution itself and asking the question, is it fair and is it accurate. Much of what this Resolution is talking about is qualified language to saying may and should and so forth. Embedded in that is a pejorative assumption that there is a problem. The repeated statements that it may infringe on civil liberties, it may infringe upon fundamental rights and so forth remind me of the political example of when you ask somebody, when are you going to start beating your wife? Of course, the question can't be answered because the question presupposes in my analogy that one is beating his wife. The same problem with this Resolution and this is some of the language changes that I had hoped to put into the Resolution yesterday, but it is not my work product, it is the sponsor's. The repeated use of that mechanism of saying that it may infringe on this certainly is a statement to the reader that this is happening. Let's ask that question, is it happening? Is there a question of whether the Patriot Act provisions are an infringement upon fundamental rights or liberties or other preference in law? That has been answered. That has been asked and answered literally hundreds of times in two ways. Much of the Patriot Act is not new law. It is a compilation of provisions in federal law such as the surveillance act and other measures that have been added together. For example, sneak and peek, so to speak, delayed notification warrants. That has been used by organized crime for years. Now it is being applied here. The right to ask for documents and records, often called by the librarians as some

unusually new and offense requirement, has been in surveillance acts for many years also. Those have been taken to the court. They have been challenged and the courts have, in every single case to date, have found that they were not in violation of the Constitution and therefore allowed them to stand.

Again, this is not a question that needs to be asked and answered. It has been asked and answered numerous times. There has not been one single exception to the outcome that it is constitutional. While we may state that we prefer that it be otherwise, I think it is wrong for us to say it is a violation. The very phrase whether or not it is a violation of our Constitution in this document is what makes this a pejorative statement, which makes this appear to me and to others as an inflammatory partisan maneuver. That part could not be taken out. In fact, the whole essence of this being a complaint about the Patriot Act is, in fact, the problem here. In trying to offer to work with this document, I drafted alternate language avoiding the term Patriot Act, speaking affirmatively about these matters and avoiding all pejorative statements. I handed that to my good friend from Brunswick, Representative Richardson. I received a note back that essentially said, thank you, but no thank you. The reason given for the rejection of the proposal was I did not specifically call this the Patriot Act. The outcome of that is clear then. This Resolution to be endorsed must particularly call out the Patriot Act and therefore embroil us in this partisan bickering and this issue of precedent, which I mentioned a moment ago, was already settled by the courts.

If that is the only way it has to go, then let's be clear, to me and to many people, that this is not about civil liberties. I believe the sponsor believes it is about civil liberties, but it is not. This is a national election being debated here today in Augusta. Now, my last point is a question of whether this Resolution is even appropriate for us given the state of war that we are in. A fundamental difference perhaps between those who would support and oppose this Resolution is whether or not we believe this international war on terrorism is as serious as some of us feel or perhaps may be an exaggerated matter. Many believe that this is not truly a war, this is more of a law enforcement action. If you believe it is a law enforcement action, then you obviously are going to believe that the Patriot Act is unnecessary and dangerous to our liberties. I believe that those with this belief are wrong. I think we must understand that there are many among us who I would refer to as a political equivalent of Peter Pan. Peter is a nice guy, an ideological sole, but there is one thing about him, he refused to grow up and to recognize the responsibilities and difficulties of what is going on in the world and in his fantasy he wanted to live in Never Never Land where things were always good.

When two planes crashed into the Trade Center and killed 3,000 people, prior to that the bombings in our US embassies and the USS Cole afterwards the bombings in Madrid, very recently, and, of course, the almost daily event of a terrorist getting on a bus to kill themselves, children and other people, I think that the world has fundamentally changed. Being as horrible as this is perceived, it is no doubt to me that Peter Pan would rather stay in Never Never Land, but it is time to come out and that look at the reality that our world must reflect the dangers today and that means that we need documents like the Patriot Act.

We live in a free and open society and our government exists to preserve the life, liberty and pursuit of happiness within that society. We have an enemy that explicitly says that they love to die. We have an enemy who has a strategy of terror, which, of course, is the ultimate hate crime. This enemy is using the vulnerabilities of our open society to plot and conduct horrendous

murder of ourselves, our families and specifically our children. While we raise our children to grow and prosper, our enemy raises their children with the intent to die violently in the act of taking our human lives.

Our society needs to accept and react to this threat and from that comes the Patriot Act, as the tool to preserve our liberty and to provide the means for our own survival and protection.

My earlier comments mentioned the partisan nature of this. This is what is most disappointing. When our parents and grandparents fought World War II, we were a nation with a common enemy, but one that stood united in the pursuit of victory. Unfortunately that is not the case today. I see occasions on both sides of the aisle, here in this room and certainly I see them on the airwaves and I see them happening in Congress, with this crisis being used for political purposes. I regret that. I just don't want us to be a part of that. I believe this division can only encourage this enemy who sees this bickering as a lack of focus, us showing that we do not have the will to unify, of our being hesitant in the face of danger and not necessarily leaving vulnerabilities which they will exploit in order to succeed.

This Resolution by its origin, by its contents, by the way it was brought forward and what it means to all that will read it as well as all that wrote it today, can only divide us further. I believe that our citizens would rather see us working on matters directly impacting them and not this distraction and interference with our nation's effort to unify. I ask you to support the pending motion so that we can defeat this particular Resolution and go onto these larger issues and decide not to step off the windowsill with Peter Pan and recognize that the world has changed. It will never be the same and go forward to ensure our mutual protection. Thank you.

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

Representative FAIRCLOTH: Mr. Speaker, Men and Women of the House. I rise in support of this Resolution. I also rise in support of the rights of individuals to debate issues. Individuals like Michael Heath. I rise in support of his right to speak out. We had a broad debate recently about his actions and his statements. While he may have been broadly condemned, I note importantly that no law enforcement arm of the government sought out Michael Heath to take action against him. He had freedom to make the statements that he made. That is as it should be. Let us think for a moment, hypothetically, that if Michael Heath because of his sincere beliefs were to organize a meeting on Husson College campus with a number of people who are pro-life activists, I may not happen to share his views, but I feel very strongly that he should have the right to organize such a meeting. He should gather people together for such a purpose and should be able to do so on a college campus. How would we feel if an arm of government, a branch of government, were to request of Husson College a list of names of the people who attended this meeting organized by Mr. Heath and then went further than that and instructed this college to keep secret that they requested this list? I submit to you that that would be very problematic and chilling to our civil liberties. In a sense, that is not a hypothetical situation. This happened through the use of the purview of the Patriot Act at Drake University in Iowa. Instead of Michael Heath it was Catholic peace activists talking about the Iraq War.

I do not care about your personal opinion of that conflict one way or the other. What I care about is, regardless of the view, we cannot and should not in this society have a statute that has the law enforcement arm of the federal government going to universities and asking them for lists of names and instructing them to keep that secret. Universities are places of freedom of

thought. They are not places to act as arms of law enforcement about groups organizing about political issues and expressing their political voices.

Also, under the Patriot Act, they have a provision about providing expert advice and assistance to so-called foreign terrorists. I think we can all agree that our country has had a checkered history in terms of labeling people terrorists or not terrorists. A gentleman now, an American citizen, a peace activist, who works with a Kurdish group that has been bombed and terrorized in at least two nations, Turkey and Iraq. Under this Act, this American citizen speaking about peace activism to this Kurdish group could be under threat and feels under threat and actually a lawsuit was brought and found that this particular provision was unconstitutional.

We haven't had all the challenges of the USA Patriot Act. We haven't had time to see them go through the courts and see what challenges there are. I am convinced that when you have a situation where Ulanka Songome, a physician, a peace activist and an American citizen in our country goes out and speaks with people in Sri Lanka in hoping to advocate for peace to an organization there. It may be an organization that we do or do not approve of, but I am very concerned that he should be prohibited or be chilled in any way for engaging in that kind of conduct. This Resolution doesn't only speak to the Patriot Act, by the way, it also speaks to other issues, war power activities that have been engaged in since September 11. Think of the Padilla case, an American citizen, kept for extended periods of time without representation. This does challenge our basic form of government and the Constitution. It also challenges 800 years. It goes back to the Magna Carta. These things are valid questions. This Resolution brings forward valid questions about real situations that have not happened hypothetically, not in some hypothetical world, but right here in the United State of America.

I feel very proud of this country and I have heard a lot of comments about this flyer that has the picture of the point of impact on the two towers and it says, "We must not forget." I agree strongly. We must not forget. I revere and agree. I am glad this flyer was sent out. We should not forget what those terrorists did to us. We must not forget that we should bring them to justice, without question. I tell you that in World War II in the height of greatest danger to this country, right after World War II, what did this great nation do? We came forward with peace -- with the Marshall Plan. At the height of the Cold War, we came forward with the Peace Corp. We are a big nation, a proud nation, a brave nation and we, not by some terrorist, will not be scared out of our civil liberties. We will not be scared away from the greatness of our Constitution. We will stand strong for everything that is great and proud about this country and the most holy thing of all, is the Constitution of the United States of America.

I am very proud of this Resolution. I have never risen in support of a Resolution to the United States Congress and I am just honored to have the opportunity to speak in favor of it. Thank you.

The SPEAKER: The Chair recognizes the Representative from Oxford, Representative Heidrich.

Representative **HEIDRICH**: Mr. Speaker, Ladies and Gentlemen of the House. I want to thank the last two speakers. I think they were very eloquent. They hit many, many valid points. I am opposed to the Resolution for many reasons. They were mentioned so I am not going to bring them up again. Just imagine if we didn't do anything after 9/11 and we had another horrible experience like that somewhere in the country. Our government would be criticized so badly for not being there. Our

Commander and Chief was criticized that he didn't protect the nation when he was only in office for seven months.

You know if you go back in history a little bit, unfortunately, we have had some terrible wars. In the Civil War there were a lot of civil liberties that were abused. We are a smart enough nation and honorable enough nation to solve those problems as soon as that war was over.

I was around for World War II. Boy if you think civil liberties were abused, I can tell you about them. Just imagine, the worst of all of them, you got drafted. You even had a good opportunity to lose your life. I have stood up and I have raised my right hand many times to defend the Constitution of the United States as a volunteer fireman, as a United States Marine and am very proud to do it here in this chamber. The most important thing that I can do as a legislator is help with the preservation of this nation. There are things in the Patriot Act I might not like, but I don't like to see 3,004 people die tragically because of a philosophy somewhere else in the world that is so different than our nature that hate us with a passion.

Just imagine that 19 people caused this. Two of them went right through Portland Airport. I didn't see the first plane hit, but I saw the second plane hit. I remember saying to my wife, "God, we are war." She said to me, "Call you brothers." You see, the town I came from in New York, I could see the twin towers. Some of you know I was a volunteer fireman down there and most of my family was either New York City police officers or firemen and my greatest fear was that one of my nephews was buried underneath all that wreckage. As it turned out, they survived, but 40 of our friends didn't. Young men that I knew on Long Island that not only were so dedicated to the fire department as New York City firemen and rescue, Kevin O'Rourke was a volunteer fireman in my community. It was a privilege to know this young man. He dedicated so much to his home. His wife is now a widow and he left two wonderful children. Kevin was only one of them. The couple of other young men I knew, one a police officer, was actually blown out of the building, under a fire truck and the building collapsed on the fire truck. David Norman laid under that fire truck as the wreckage came down on top of it and the weight of the truck started to push him into the ground. He crawled into the transmission and survived. His memory, although he couldn't see because he was blinded by the dust, was total silence. The only thing he could hear was the bells on the scott packs going off on the dead firemen standing around him, laying around him. David crawled out from under the fire truck and thankfully a police officer saw him and ran to him and pulled him to an ambulance. He woke up in a hospital next to his brother who is a New York City fireman. Can you imagine, two brothers lying side by side out of all those casualties?

We worry about immigration and we always think of Mexico and all the immigrants coming over here trying what our forefathers did to have a wonderful, decent, beautiful life in this marvelous country. We have all kinds of freedoms and boy we have to defend them. You know, coming over the borders right now are other people. People that want to kill you, your children, our culture and our freedom. We have a Trojan horse sitting in the north called Canada. You know you can get into Canada just by saying I want political asylum. Let's assume that 99.5 percent of those people are good decent people like you and I that want to have a good life for their family. Never forget that other half percent. It only took 19 to do that picture of the twin towers.

I was sitting in Labor the other day when a big Federal Express truck pulled in. I watched them back up against the side of the building. I mentioned to the good Representative from Carmel, Representative Treadwell, just imagine if that is full of

fertilizer and fuel oil. I wonder who checks them when they come in here. The only advantage I will have is I will live a second longer than you. I checked with the Capitol Police and I found out. When these trucks pull in here, the television stations or any other vehicles pulls in the side of the building, I am sure you go out there and you check the contents. He said, "Are you kidding, we don't even check the backpacks that come in here." Just imagine what 10 backpacks did in Spain this week. Good decent human beings just like you and I who looked forward to a good life raising their children and families, people that didn't care one iota. They wanted them dead. It is a sin that we have to have a Patriot Act. It is a sin that we have to have so many crazy laws on the books taking all our freedoms away. Some of those freedoms were taken away in this chamber as well as every other State House in the country and in our capitol. Wouldn't it be wonderful if we lived in that wonderful land where we could all be brothers and sisters and raise our children and raise our families and our grandchildren, the very life of our nation?

I can't take the chance not having a Patriot Act, ladies and gentlemen. I have got to think that there is somebody out there that is watching that this building doesn't get flattened one day and none of us are here any longer. Imagine how easy it could be. Any school in our nation, any library, any shopping mall, I know, I said it before. I don't like all these laws we pass either. I love my family dearly. I love my country. I would die for it tomorrow if need be. Please, when you vote on this, it is a Resolution that wasn't necessary. What is necessary is that you all wake up tomorrow morning and next week and your grandchildren wake up 30 and 40 years from now. I have a feeling this war is going to last much longer than I will ever live. This is a war that is going to last maybe 20 or 30 years. When you give up your resolve and you look the other way and say it doesn't matter, that bomb will go off somewhere in this country and kill maybe some of our relatives.

I want to give you one more little story before I sit down. You know, I have the Seeds of Peace Camp in my town of Otisfield. It is a beautiful place where we bring Palestinians, people from Israel, all the Arab countries together. I have worked with them. I think the only way we will ever have peace in this world is through children. I have been a very, very strong supporter. The last time I was there, I think I had the Representative from Freeport, Representative Bull, was with us when we had several other legislators and we sat down there and we went into a conversation with some of these children. In attendance was a lady by the name of Mrs. Rosensweig. Mrs. Rosensweig's husband was on the first airplane that left Boston. He was killed in the building. I felt I should go over and say something. I went and told her how very, very sorry I was to hear that her husband died. I said, "I used to live in the sight of the World Trade Center on Woodmere, Long Island." She said, "Oh my God, I live in Far Rockaway." That is sort of Norway/South Paris. You are that close. She said, "My husband graduated from Hewlett High School." My daughter was with me that day. I said, "Norma, I want you to meet Mrs. Rosensweig. Her husband was killed. He went to Hewlett High School." My daughter said, "Oh, my God, not Peter." It constantly stabs and I feel that heartache. Please, this is something that should have never been here. This country is the most important thing in my life and all of you. Thank you, ladies and gentlemen.

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

Representative **NORBERT**: Mr. Speaker, Ladies and Gentlemen of the House. I am reluctant to speak after my good friend from Oxford, Representative Heidrich. He has such eloquent words. Whenever he speaks, I am always sure to pay

attention because he has seen a lot in his life and he served us very bravely. His is a perspective that I very much appreciate hearing.

I do disagree with him on the merits of this Resolution. I just wanted to register some of my thoughts. I know, like you, that it is important that we remain mindful of the tragedies of September 11, 2001. When I remember that day and when I think about our war efforts in Iraq and Afghanistan, for me, the message is that we must remain eternally vigilant about what makes this country so unique on the face of the Earth, so special. That is the fact that we were founded on an idea, unlike any other nation in this world, we are based on ethnicity or race or geography. We are very special. We are founded on this idea of we, the people, of equality, of a government that serves the people and not the other way around. That is why I feel it is entirely appropriate for us to register our protest on the Patriot Act. It is a very patriotic thing to do, to speak up and make sure that in the rush and in the madness, in wartime, that we keep what it is that we are fighting for, after all, very much alive. That is, these civil rights that I feel are threatened by this Act. I want to commend the sponsor of the Act and all those who worked so hard on it. I know she worked up to the last minute trying to make it palatable to more people, trying to make it not a partisan issue. I don't feel it is a partisan issue at all. I think there is blame to go around on both sides of the parties for having passed this act. I can't blame them entirely. It was a very difficult time. It was a very quickly put together bill. The fact is we have time now. We have hindsight to take a look at what is wrong with it and to ask for some changes, not to all of it, there are a lot of good parts of the Patriot Act. There are parts that I consider odious.

I guess the over breath of the Act is what concerns me the most. The fact that now without a warrant and without probable cause the FBI has the power to access your private medical records, your library records, your student records and they can prevent others from telling you that this is even done. Surveillance laws have vastly been expanded. The government now has increased authority to spy on us. It reduces the checks and balances on powers like judicial oversight, public accountability and our ability to challenge government searches in court. To me, the issue is not how affective this will be, let's be realistic. These Resolutions we send to Washington aren't read or considered. It is rather, shall we register our protest on behalf of our constituents who send us here, the folks we think about, to whom we have sworn an oath to uphold our Constitution. It is not a small thing at all. This isn't pie in the sky. This is the most basic thing we could be doing, at the heart of our country, at the heart of our system, defending the Constitution at the times of the greatest crisis. To me, that is a very appropriate thing to do.

I was thinking about the Constitutional Convention while folks were speaking. I am sure many of you know the story of Benjamin Franklin, the elder wise statesmen getting along in his years, being asked in the closing days, what is it we have wrought, Mr. Franklin? He answered, "A republic, if you can it?" That is what I am about today and that is what I know the sponsors are about today, making sure we keep our republic in the most difficult times. Thank you.

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

Representative **TRAHAN**: Mr. Speaker, Ladies and Gentlemen of the House. I think that you have heard some compassionate discussion about the reasons why we should leave the Patriot Act in place. I think it illustrates why we have to, in times of such crisis, bring more due diligence to the protections of the Constitution. You see, I believe when terrorists attacked this country, they do so to scare us, to frighten us, to bring such

horrible, horrific sights to our TVs, our homes. It scares us into changing our lives, the way we live, and our culture more to their thinking. I think that is what is happening in this case. That is why the terrorists strike us. They are jealous of our freedom, our Constitution, our Bill of Rights, the way that we live, the way that we share our thoughts with our neighbors freely. They fear that and they fear that if that comes to their country that somehow their power will be lost. They strike us and they strike us brutally.

That is the time that I believe that we have to recognize and remember and honor our Constitution. That is the time where we are apt to let our emotions change our culture and change our Constitution. That is when our freedom is at greatest threat. I know I worked very hard, myself, with the sponsor of this Resolution to try to make it as non-partisan as possible. I believe we did that. I won't be ashamed that I stand here today in support of this Resolution.

I will tell you basically why. I feel our country has divided. I am sad for that, but I feel that I must, if I believe, that our country is going in the wrong direction to stand and fight for it. If that means that I upset some people, well so be it. I care not for my position. I care more for the beliefs of this country and our Constitution. If it costs me, so be it. I think that we have to stand whenever we think we are under threat and speak to our freedoms, speak to what this country is based on. That is what I am doing here today. I don't have any partisan element to this. I don't believe that the people passionate on the other side do either. I just wish that things could be different. I wish in times of crisis instead of bickering and blaming, we could unify and fight in one common cause.

Today, ladies and gentlemen, I stand in support of this Resolution. I don't have any shame in that and I hope our country is better for it.

The SPEAKER: The Chair recognizes the Representative from Monmouth, Representative Smith.

Representative SMITH: Mr. Speaker, Men and Women of the House. My thoughts on this are very much in line with the thoughts just spoken from the Representative from Waldoboro, Representative Trahan. The tragedies of September 11th still horrify us all and none of us will ever forget that. The terrorists win when they change our behavior. That is their goal. This is a great country and in large part we are defined by the freedoms that we all enjoy. When we are so terrified, and that is why they are called terrorists that we are willing to forfeit our freedoms, they win. I am not Peter Pan. I am not Wendy. I am a citizen of the United States. I want my government to provide protections from these terrorists and I want my government to continue to protect our freedoms. These freedoms are the very basis of our country. Thank you.

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

Representative BRUNO: Mr. Speaker, Men and Women of the House. It is unfortunate that we are sitting here debating this Resolution today. My biggest concern is that if we were to just reinforce and to reaffirm our commitment to the Constitution of the United States that says, we want the Congress and the United States to be careful when they mess around with the Constitution that says, the pursuit of happiness, life, liberty, they never had to be a mention of the Patriot Act. That is all we had to say. They would have gotten the message. This is the Patriot Act that was passed in 2001. Here we are three years later. Could it be that it is a presidential election year? Why so long? I heard about some unconstitutionality. Well, the fact of the matter is, the Supreme Court has not ruled any matter of the Patriot Act unconstitutional. I heard about speaking on college campuses, is that the same Bates College campus that called college

Republicans thugs and there was not one voice of discern about that. I live my life as I want, because I am an American. I walk around wherever I want to go. I say whatever I want to say. Many of you realize I do that quite often.

The fact of the matter is it becomes a partisan issue. What I am really proud of though, is that this debate has turned into a civil debate about differences of opinion of whether or not this Resolution is needed. If this gets passed by a straight party line vote, it means nothing. We all know that. If we were able to say together, look at it in a different light, look at it in protecting the Constitutional powers that the people have given to you as a government, that is a whole different point.

Three years after the fact, during a presidential election year, this sends to me the wrong message. I am sorry for that. I know there was some effort to change the wording of this. Unfortunately it didn't succeed. Therefore, I will be voting against the Resolution by voting to Indefinitely Postpone. I wish this wasn't in front of us. We have too many other matters to speak about.

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

Representative HUTTON: Mr. Speaker, Ladies and Gentlemen of the House. I am reluctant to rise again, but I fear that I must and to just say that when I talk about the USA Patriot Act, I am not talking about the 300 and some odd pages that are excellent provisions to protect our nation. They are there and they are wonderful. We are talking about a small, small percentage of those sections that may need to be changed. As far as it goes, I will tell you that I am not a lawyer. I don't purport to be one. I have shown this to lawyers, in fact a member of the other side of the aisle, who said that this is a very, very complicated document. It refers in sections to other parts of other law and in order to understand those sections that I have looked at that I personally feel need to be changed, you have to refer back to many other different sections of law.

As far as timing, I think that the timing had nothing to do with politics, but everything to do with finally coming to understand what parts people had been talking about over the past three years and maybe it took me longer than most to get to that. It took me that long to understand. I started looking at this about a year ago. I probably could have tried to introduce a Resolution last session, but I hadn't learned enough. I had not learned enough about what was in it, to be competent enough to try and bring a Resolution forward.

As far as partisan, I really truly believe that as Democrats on this side we have to own up to the fact that our own members voted for this. If we look at criticism, we have to look at the entirety, not one party or the other. It was a bipartisan vote coming from parts of things that came from our own administration. I would tell you that the Congressman and the Senators in Washington who have called upon their own members to start looking at parts of it that they think might need to be changed are from both sides of the aisle. We are talking about Senator Craig who is a Republican, Senator Feinstein who is a Democrat, Senator Sununu who is a Republican and Senator Wyden who is a Democrat. The list goes on. You have something on you desk thanking his community for bringing it forth to him. When we look at this, I want you to understand that it is not partisan. The intent is not to debate who or who should not be president. In fact, I thank you Representative Daigle for bringing it to my attention that the good Senator Kerry has asked for the changes as well. I did not know that.

I ask you to please defeat the Indefinite Postponement of this and go on to pass the Resolution as is.

I did work hard with the other side of the aisle and changes were made in this document. I don't want people to think that we didn't make changes. I know that many of you had copies of the original Resolution and there were many changes made. I thank some members from the other side of the aisle and our side for helping me to work on it. Thank you Mr. Speaker.

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

Representative **EDER**: Mr. Speaker, Men and Women of the House. I don't regard this Resolution as partisan. As has been mentioned here, Congress, both Democrats and Republicans voted overwhelmingly to pass the USA Patriot Act. I think it was a terrible error and it is one that we must correct. I would be inclined to support a piece of legislation like that that was envisioned by the good Representative from Raymond, the Minority Leader, Representative Bruno, because I do believe that the Patriot Act is part of an incremental eroding of our civil liberties that has been going on for quite some time. In fact, the administration previous to the one in Washington right now dealt a very serious blow to our civil liberties in 1996 with the Homeland Terrorism Act. It was a bill that was very dangerous to civil liberties and was received with far less concern than this bill is being received. I will support this today, regardless of whose president is residing in the White House. I will evoke the words, the very challenging words, of Benjamin Franklin, who is with us today in this chamber. Over 200 years ago Benjamin Franklin said this, "They that can give up essential liberty to purchase a little temporary safety deserve neither liberty nor safety." Thank you.

The SPEAKER: The Chair recognizes the Representative from Sorrento, Representative Bierman.

Representative **BIERMAN**: Mr. Speaker, Ladies and Gentlemen of the House. This is a very tough topic for me to address for many reasons. Right now my heart is pounding inside very briskly, not because I am nervous to speak, but because this conjures up memories for me. The picture passed out by the good Representative Heidrich and things we have been discussing, the night of 9/11 when I was down there walking around picking bodies up and walking over what used to be the twin towers and surrounding buildings and when I looked at the expressions on the people's face around me and grown men that I respected sitting down next to me unable to function, because they fully collapsed from lack of ability to deal with what has happened, people that they had lost, there were things that I would have liked to have done after that experience. There are things that I would have liked to have addressed, changes that I would have liked to have made. I came home and ran for the Legislature because of what happened, but not to directly affect what had happened there, but to do what I could to help my community and my state. I would have loved to have maybe put something before this Legislature that was possibly more restrictive than the Patriot Act from the things that I saw, but I didn't, in my opinion, believe that this was the duty of the Maine State Legislature. I sat here for my first term so far and I have stayed quit through many of these debates. I am doing my best to address you now, feeling what I am feeling inside. I just would greatly appreciate it if this body could address the issues at hand and let another body at the federal level address their issues at hand. Thank you.

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

Representative **TWOMEY**: Mr. Speaker, Men and Women of the House. I appreciate the testimony here today and I want to thank Representative Hutton for bringing this about and for

working very, very hard on both sides of the aisle to bring her concerns and concerns that my constituents and I also have. Yes, it was a terrible thing on 9/11 and we are spending lots and lots and lots of money in the name of security, but I tell you that there are people going to sleep tonight being terrorized because they don't have health care. There are people going to sleep tonight that don't have jobs and food and they are terrorized. There comes a time when we have to look at those issues as well. I want to thank Representative Hutton again. I will be supporting this because my terror comes from losing my privacy. Thank you.

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

Representative **DAIGLE**: Mr. Speaker, Ladies and Gentlemen of the House. Very briefly, thank you for those of you who stayed on this Friday afternoon. I would just like to add some brief comments to what was said earlier by my good friend from Bangor, Representative Faircloth. I do mean to add to them and not to rebut them. He described a scenario where surveillance of one of our fellow citizens may seem chilling. In order for any of the provisions of the Patriot Act to apply, what first must happen is that it must be within a branch of the US Law Enforcement Agency that is authorizing the Patriot Act. For example, your local police do not have these powers. Your border guards do not have these powers. There are many branches of government that cannot access and implement these powers in the Patriot Act. It has to be only those specific government agents. Those government agents must then go to a special court located in Washington DC and then using provisions of the Foreign Intelligence Surveillance Act, an Act that was passed in 1970, it has been around for 34 years, asked permission to conduct this warrant, to do this surveillance, to ask for documentation or any of this stuff and then that court must then rule that they are eligible, two, that the investigation involves international terrorism. If it is anything other than international terrorism, the warrant shall not be issued. Upon granting the warrant by this court, that activity can then proceed. This court, of course, is under the jurisdiction of the federal government and under the oversight of Congress, both the Senate and the House of Representatives. To those of you who have told scary stories, I would like you to keep in mind what I have just related to you about how the Patriot Act really works and then wonder to yourselves why did this person bring you this story? What do they want you to feel with what they have told you and the way they have told you, because anything other than what I have described is not true? Thank you.

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

Representative **MOODY**: Mr. Speaker, Ladies and Gentlemen of the House. I am not a historian. I don't pretend to be one. I know of a couple of times in history, however, when constitutional rights were suspended. Once during the Civil War where Habeas Corpus was suspended and people were dragged out of their homes and imprisoned and incarcerated without due process of law. In World War II where Americans of Japanese descent were put into camps. I think those are the issues that we fear today. I leave it to the historians to decide whether those actions were appropriate or not. I was reminded of a line out of the Kipling poem, *If*, "If you can trust yourself when others doubt you and make allowance for their doubting to." I think we are all attempting to do that here this afternoon.

I just wanted to stand and commend the Representative from Waldoboro, Representative Trahan, for taking what I consider to be a courageous stand. It was a little more than a year ago where I was in the same position as is he today. I believe more

firmly than ever that my vote was the correct one. I just want to commend him for that and encourage him.

I ask one more question of the good Representative from Raymond, what concerns could we possibly have here that are more important than those of life, liberty and the pursuit of happiness? Thank you.

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

ROLL CALL NO. 345

YEA - Annis, Austin, Beaudette, Berry, Bierman, Bowen, Bowles, Browne W, Bruno, Bryant-Deschenes, Campbell, Churchill J, Clough, Collins, Courtney, Cressey, Curley, Daigle, Davis, Duprey B, Fletcher, Glynn, Greeley, Heidrich, Honey, Hotham, Jacobsen, Jodrey, Joy, Lewin, McCormick, McKenney, McNeil, Millett, Moore, Murphy, Nutting, O'Brien J, Richardson E, Richardson M, Rosen, Sherman, Shields, Snowe-Mello, Stone, Sykes, Tardy, Tobin D, Tobin J, Treadwell, Vaughan.

NAY - Adams, Andrews, Ash, Barstow, Blanchette, Bliss, Brannigan, Bull, Bunker, Canavan, Clark, Craven, Cummings, Dudley, Dugay, Dunlap, Duplessie, Duprey G, Earle, Eder, Faircloth, Finch, Fischer, Gagne-Friel, Gerzofsky, Grose, Hutton, Jennings, Kane, Ketterer, Koffman, Lemoine, Lerman, Lessard, Lundeen, Makas, Marley, Marraché, McGlocklin, McKee, McLaughlin, Mills J, Moody, Norbert, Norton, O'Brien L, O'Neil, Paradis, Patrick, Pellon, Percy, Perry A, Perry J, Pineau, Pingree, Piotti, Rector, Rines, Sampson, Saviello, Simpson, Smith N, Sullivan, Suslovic, Thomas, Thompson, Trahan, Twomey, Walcott, Watson, Wheeler, Woodbury, Mr. Speaker.

ABSENT - Bennett, Berube, Breault, Brown R, Carr, Churchill E, Cowger, Crosthwaite, Goodwin, Hatch, Jackson, Kaelin, Landry, Ledwin, Maietta, Mailhot, McGowan, Mills S, Muse, Peavey-Haskell, Richardson J, Rogers, Smith W, Sukeforth, Usher, Wotton, Young.

Yes, 51; No, 73; Absent, 27; Excused, 0.

51 having voted in the affirmative and 73 voted in the negative, with 27 being absent, and accordingly the motion to **INDEFINITELY POSTPONE** the Joint Resolution and all accompanying papers **FAILED**.

Subsequently, the Joint Resolution was **ADOPTED**.

Sent for concurrence.

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

On motion of Representative KOFFMAN of Bar Harbor, the House adjourned at 12:55 p.m., until 9:00 a.m., Monday, March 22, 2004 pursuant to the Joint Order (S.P. 772).