

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
32nd Legislative Day
Wednesday, April 7, 2004

The Speaker resumed the Chair.
The House met according to adjournment and was called to order by the Speaker.
Prayer by Reverend Richard A. Bamforth, Augusta (retired).
National Anthem by Katelyn Tracy and Kelsey Crowley, Ellsworth Middle School.
Pledge of Allegiance.
The Journal of Monday, April 5, 2004 was read and approved.

SENATE PAPERS

Non-Concurrent Matter

Bill "An Act To Change the Name of Township 17, Range 5, WELS, in the Unorganized Territory to Cross Lake" (EMERGENCY)

(H.P. 1425) (L.D. 1925)

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-812) in the House on March 30, 2004.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-812) AND SENATE AMENDMENT "A" (S-492)** in **NON-CONCURRENCE**.

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

Non-Concurrent Matter

Resolve, Regarding Legislative Review of Portions of Chapter 16: Foster Home Licensing Rule Regarding Smoking by Foster Parents, a Major Substantive Rule of the Department of Human Services (EMERGENCY)

(H.P. 1353) (L.D. 1830)

(C. "A" H-798)

FAILED of **FINAL PASSAGE** in the House on April 2, 2004.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-798) AND SENATE AMENDMENT "A" (S-493)** in **NON-CONCURRENCE**.

On motion of Representative KANE of Saco, the House voted to **RECEDE AND CONCUR**.

COMMUNICATIONS

The Following Communication: (H.C. 387)

STATE OF MAINE

**ONE HUNDRED AND TWENTY-FIRST LEGISLATURE
COMMITTEE ON APPROPRIATIONS AND FINANCIAL
AFFAIRS**

April 1, 2004
Honorable Beverly C. Daggett, President of the Senate
Honorable Patrick Colwell, Speaker of the House
121st Maine Legislature
State House
Augusta, Maine 04333

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

L.D. 164 An Act To Authorize a General Fund Bond Issue in the Amount of \$30,000,000 To Fund

Healthy Schools Through the School Revolving Renovation Fund

L.D. 908

An Act To Authorize a General Fund Bond Issue in the Amount of \$1,000,000 To Provide Funds to Riverfront Municipalities To Develop Riverfront Cultural Heritage Centers

L.D. 1089

An Act To Authorize a General Fund Bond Issue in the Amount of \$15,000,000 for Energy Conservation in State Buildings and Facilities

L.D. 1292

An Act To Authorize a General Fund Bond Issue in the Amount of \$20,000,000 for Capital Projects and Major Maintenance at State and Municipal Parks and Historic Sites, for Acquiring Land for Coastal and Inland Waterway Access and for Capitalizing a Revolving Loan Fund for Land Trusts and Municipalities To Acquire Land and Conservation Easements for Public Access

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

Sincerely,

S/Sen. Mary R. Cathcart

Senate Chair

S/Rep. Joseph C. Brannigan

House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 388)

STATE OF MAINE

**ONE HUNDRED AND TWENTY-FIRST LEGISLATURE
COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY**

April 1, 2004

Honorable Beverly C. Daggett, President of the Senate

Honorable Patrick Colwell, Speaker of the House

121st Maine Legislature

State House

Augusta, Maine 04333

Dear President Daggett and Speaker Colwell:

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

L.D. 1936

An Act To Amend the Laws Governing Blood Tests for Persons Suspected of Operating Under the Influence

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

Sincerely,

S/Sen. Ethan Strimling

Senate Chair

S/Rep. Patricia A. Blanchette

House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 389)

STATE OF MAINE

**DEPARTMENT OF AUDIT
66 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0066**

April 1, 2004

Honorable Beverly C. Daggett, Senate President

Honorable Patrick Colwell, Speaker of the House

and members of the State of Maine Legislature

Governor John E. Baldacci

General John W. Libby, Adjutant General

In accordance with 37-B M.R.S.A. § 395, I am pleased to report that the Department of Audit has conducted an audit of the financial records of the Maine Military Authority. We audited the compliance of the Maine Military Authority with the types of compliance requirements described in the U.S. Office of Management and Budget (OMB) Circular A-133 Compliance Supplement that are applicable to the Readiness Maintenance Center Grant for the year ended June 30, 2003. In addition, we substantiated the financial records as they are recorded in the State of Maine's accounting system.

Maine Military Authority activities

The Maine Military Authority was established as a body corporate and politic and an instrumentality of the Maine National Guard. Currently, legislation has been introduced that would re-structure the Maine Military Authority as an enterprise fund of the State of Maine. This legislation was introduced to facilitate the execution of for-profit contracts between the Maine Military Authority and other branches of the military.

The Maine Military Authority was created to recondition military vehicles, on behalf of the federal National Guard Bureau, in accordance with the terms of the Readiness Maintenance Center (Loring Rebuild Facility) Grant. These vehicles are shipped to Maine from all over the United States (and in some instances from foreign governments) and are rebuilt by Maine Military Authority employees. The refurbished vehicles are returned to their respective owners and the Maine Military Authority is reimbursed through the Maine National Guard by the federal government for actual costs incurred. The expenditures of this program for the fiscal year ended June 30, 2003 totaled \$13.4 million.

The Maine Military Authority was also established to enter into contracts with other military branches for refurbishing equipment that would allow for mark-up over the actual cost incurred. The potential profits that could be generated by these contracts would be earmarked for expenditures as set forth by 37-B M.R.S.A. § 399.

In addition to the primary objectives of the current and future reconditioning programs, Maine Military Authority also provides equipment storage services to other branches of the military. At present, contracts for storage are significantly smaller than the reconditioning activities, totaling \$147,592 during the fiscal year ended June 30, 2003.

Findings and Recommendations:

1) Finding: Inadequate internal control over cash management

The Maine Military Authority and the Department of Defense, Veterans and Emergency Management did not minimize the amount of time between the receipt of federal cash and associated expenditures as required by 31 CFR 205.20. In addition, daily cash balances fluctuated between excessive negative and positive amounts throughout the year, indicating insufficient cash management controls.

Recommendation:

We recommend that the Maine Military Authority and the Department of Defense, Veterans and Emergency Management implement a cash management system with appropriate controls that would ensure compliance with federal cash management requirements.

2) Finding: Inadequate controls over grant accountability

The Maine Military Authority did not periodically reconcile revenues, expenditures and cash balances recognized in

the State's accounting system to amounts reported to the federal government. Title 32 CFR 33.20 (a)(3) states, "Effective control and accountability must be maintained for all grant and subgrant cash...." Controls over the tracking of grant account activity for the Readiness Maintenance Center grant were in need of improvement during fiscal year 2003.

Recommendation:

We recommend that the Maine Military Authority and the Department of Defense, Veterans and Emergency Management implement a grant accountability system with appropriate controls that would ensure compliance with the grant requirements.

3) Finding: Inadequate internal controls over suspension and debarment certifications

The Maine Military Authority and the Department of Defense, Veterans and Emergency Management did not obtain signed certifications for any of the four vendors exceeding the established threshold for the fiscal year ended June 30, 2003. Title 32 CFR 25.510(b) states, "each participant shall require participants in lower tier covered transactions to include the certification in Appendix B to this part for it and its principals in any proposal submitted in connection with such lower tier covered transactions." All contracts with vendors for over \$25,000 require a signed certification. However, we noted that none of the four vendors in question appear on the listing of suspended and debarred parties provided by the federal government.

Recommendation:

We recommend that the Maine Military Authority and the Department of Defense, Veterans and Emergency Management implement a suspension and debarment certification system with appropriate controls that would ensure compliance with the certification requirements.

I would be pleased to answer any questions that you may have.

S/Gail M. Chase, CIA

State Auditor

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 390)

STATE OF MAINE

**ONE HUNDRED AND TWENTY-FIRST LEGISLATURE
COMMITTEE ON EDUCATION AND CULTURAL AFFAIRS**

April 5, 2004

The Honorable Beverly C. Daggett

President of the Senate

The Honorable Patrick Colwell

Speaker of the House of Representatives

121st Legislature

State House

Augusta, ME 04333

Dear Madam President and Mr. Speaker:

Pursuant to Title 3 Maine Revised Statutes, chapter 35, we are pleased to submit the findings of the Joint Standing Committee on Education and Cultural Affairs from the review and evaluation of the Maine Educational Loan Authority under the State Government Evaluation Act. In its review, the committee found that the Maine Educational Loan Authority is operating in accordance with its statutory authority and is meeting its statutory and administrative mandate.

Sincerely yours,

S/Senator Neria R. Douglass,

Senate Chair
S/Representative Glenn A. Cummings,
House Chair
READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 391)

**STATE OF MAINE
ONE HUNDRED AND TWENTY-FIRST LEGISLATURE
COMMITTEE ON EDUCATION AND CULTURAL AFFAIRS**

April 5, 2004
The Honorable Beverly C. Daggett
President of the Senate
The Honorable Patrick Colwell
Speaker of the House of Representatives
121st Legislature
State House
Augusta, ME 04333

Dear Madam President and Mr. Speaker:
Pursuant to Title 3 Maine Revised Statutes, chapter 35, we are pleased to submit the findings of the Joint Standing Committee on Education and Cultural Affairs from the review and evaluation of the Maine Health and Higher Education Facilities Authority under the State Government Evaluation Act. In its review, the committee found that the Maine Health and Higher Education Facilities Authority is operating in accordance with its statutory authority and is meeting its statutory and administrative mandate.

Sincerely yours,
S/Senator Neria R. Douglass,
Senate Chair

S/Representative Glenn A. Cummings,
House Chair
READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 392)

**STATE OF MAINE
ONE HUNDRED AND TWENTY-FIRST LEGISLATURE
COMMITTEE ON STATE AND LOCAL GOVERNMENT**

April 1, 2004
Honorable Beverly C. Daggett, President of the Senate
Honorable Patrick Colwell, Speaker of the House
121st Maine Legislature
State House
Augusta, Maine 04333

Dear President Daggett and Speaker Colwell:
Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on State and Local Government has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 1941 An Act To Authorize the Town of Millinocket To
Annex a Certain Parcel of Land

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

Sincerely,
S/Sen. Margaret Rotundo
Senate Chair
S/Rep. Janet L. McLaughlin
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (S.P. 799)

STATE OF MAINE

121ST MAINE LEGISLATURE

April 2, 2004
Sen. Peggy A. Pendleton
Senate Chair, Joint Standing Committee on
Judiciary
Rep. William S. Norbert
House Chair, Joint Standing Committee on
Judiciary
121st Legislature
Augusta, ME 04333

Dear Senator Pendleton and Representative Norbert:
Please be advised that, pursuant to Title 3 M.R.S.A. § 154, Governor John E. Baldacci has withdrawn the nomination of Thomas A. Santaguida for appointment as a member of the Maine Indian Tribal-State Commission. The withdrawal of this nomination is necessary due to scheduling conflicts for the confirmation process.

Sincerely,
S/Beverly C. Daggett
President of the Senate
S/Patrick Colwell
Speaker of the House

Came from the Senate, **READ** and **REFERRED** to the Committee on **JUDICIARY**.

READ and **REFERRED** to the Committee on **JUDICIARY** in concurrence.

The Following Communication: (S.P. 800)

**STATE OF MAINE
121ST MAINE LEGISLATURE**

April 2, 2004
Sen. Neria R. Douglass
Senate Chair, Joint Standing Committee on
Education and Cultural Affairs
Rep. Glenn A. Cummings
House Chair, Joint Standing Committee on
Education and Cultural Affairs
121st Legislature
Augusta, ME 04333

Dear Senator Douglass and Representative Cummings:
Please be advised that, pursuant to Title 3 M.R.S.A. § 154, Governor John E. Baldacci has withdrawn the nominations of William Bullock, Jr. and Elizabeth C. Warren for appointment as members of the Board of Trustees, Maine Maritime Academy. The withdrawal of these nominations is necessary due to scheduling conflicts for the confirmation process.

Sincerely,
S/Beverly C. Daggett
President of the Senate
S/Patrick Colwell
Speaker of the House

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

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

The Following Communication: (S.C. 558)

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

April 5, 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 Agriculture, Conservation and Forestry, the nominations of Norman G. Trask of Easton and James Tracy of Farmingdale for reappointment, Stanley P. Kuklinski of Farmington, for appointment to the State Harness Racing Commission; Katherine O. Musgrave of Orono, and Colon E. Durrell of Farmington, for reappointment to the Maine Milk Commission.

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

READ and ORDERED PLACED ON FILE.

ORDERS

On motion of Representative BARSTOW of Gorham, the following Joint Resolution: (H.P. 1458) (Cosponsored by Senator HALL of Lincoln and Representatives: BRUNO of Raymond, BULL of Freeport, DUPLESSIE of Westbrook, HOTHAM of Dixfield, RICHARDSON of Brunswick, RINES of Wiscasset, Senators: DAVIS of Piscataquis, MAYO of Sagadahoc) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 214)

JOINT RESOLUTION MEMORIALIZING THE FEDERAL GOVERNMENT TO NOT CUT THE BUDGET FOR EMERGENCY RESPONDERS

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 Congress as follows:

WHEREAS, after September 11, 2001, the Federal Emergency Management Agency, under the Department of Homeland Security, administered grants to assist local fire departments and emergency responders across the Nation with necessary funds to upgrade and prepare; and

WHEREAS, last year, Maine emergency responders received \$10.3 million in grants and hundreds of thousands of dollars have been provided to 23 Maine communities for their fire departments, which have purchased new protective fire-fighting clothing, training programs and materials, air compressors, vehicles and computers; and

WHEREAS, the current proposed federal budget calls for a reduction in funding of the grants from \$750 million to \$500 million, which will adversely affect communities throughout the State at a time when fire departments are still greatly in need of support; and

WHEREAS, these proposed cuts come at a time when safety and security concerns in Maine and in the Nation are still at a very high level, and the proposed cuts come at a time when we

should be remaining vigilant in preparing for emergencies; now, therefore, be it

RESOLVED: That We, your Memorialists, urge the President of the United States and the Congress to work together on this budget and to not cut the Federal Emergency Management Agency's funding source; and be it further

RESOLVED: That We, your Memorialists, urge the President of the United States and the Congress to work together to help ensure that the emergency responders in the State of Maine and throughout the Nation are fully equipped, trained and funded and ready to face all emergencies; and be it further

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

READ and ADOPTED.

Sent for concurrence.

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

SPECIAL SENTIMENT CALENDAR

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

Recognizing:

the members of the Erskine Academy Boys Basketball Team, of South China, who won the State Class B Basketball Championship. This is the team's first championship in the academy's 121-year history. We extend our congratulations to the team members on this victory: Matt Donar, Kevin Haskell, Steve Childs, Brandon Dow, Dustin Heath, Darrell Haskell, Josh Jones, James Liebowitz, Mark Fleming, Eric Kendall, Clint Peterson, Brett Bagdoyan, Levi Dennison and Duy Lyford; head coach Tim Bonsant; assistant coaches Bob Donar and Ben Willoughby; and managers Meghan Brann, Kaitie Gerrish, Steve Hannan, Derek Brown and Joey Burke;

(HLS 1424)

Presented by Representative THOMPSON of China.

Cosponsored by President DAGGETT of Kennebec, Senator HALL of Lincoln, Senator WESTON of Waldo, Representative BROWNE of Vassalboro, Representative PIOTTI of Unity, Representative RINES of Wiscasset, Representative TRAHAN of Waldoboro, President Pro Tem TREAT of Kennebec, Representative COWGER of Hallowell.

On **OBJECTION** of Representative THOMPSON of China, was **REMOVED** from the Special Sentiment Calendar.

READ.

The **SPEAKER**: The Chair recognizes the Representative from China, Representative Thompson.

Representative **THOMPSON**: Mr. Speaker, Ladies and Gentlemen of the House. It is a great pleasure for me to present Erskine Academy state champions. Erskine was founded in South China in 1883, which was nine years before basketball was invented. I just wanted to thank them for waiting so that I could be the one on the floor to recognize them. There are many things that came together for the team this year, which culminated in their state championship. Coach Bonsant himself is a graduate of Erskine Academy. When the coach asked, the boys delivered. There is an incredible skill and depth of the team. I have seen these boys do things that when I was in high school was only seen by the pros. In fact, to his credit, one of our

tri-captains, Matt Donar, from Vassalboro joined the 1,000-point club. The team does cover a wide geographic area and many towns are represented at our school. Other team tri-captains are Brandon Dow from Windsor, Kevin Haskell from China. There is a fellowship on the team. I think that is one of the most difficult skills to teach, fellowship. The boys would go to the coach's house for dinner. They would go to the Haskell's, the Dow's and they would have team suppers. They would do things off the court. Of course, there is a commitment to each other. As testimony, you could look at their shaved heads the nights that they played that famous game against Gorham. The deal was that if the team won, the coaches would get a trim too. I can tell you that at 2 am at center court in South China, there was a lot of hair on the court and some of it was gray.

I understand that there has been similar talk about making a wager like this with leadership regarding comprehensive tax reform. I think I have gotten us past that.

One other note that I think is worthy is our own Madame Clerk is a proud alumnus of Erskine Academy.

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

Representative **BARSTOW**: Mr. Speaker, Men and Women of the House. Being gracious in defeat and being the team that was the state runner up, I would like to take this opportunity to congratulate the Erskine boy's team for being state champions this year and further would like to compliment them on their fine sportsmanship, which we all know that once you leave the court and the final score has been posted is really what matters the most. It is a quality group of gentlemen. I must admit I do look forward to the rematch next year for the state championship. For this year, congratulations on this wonderful achievement. Thank you.

Subsequently, was **PASSED** and sent for concurrence.

Recognizing:

Eric Trinward, of Gray, who won the Slalom and Giant Slalom events at the State Class B High School Alpine Ski Championships on February 28, 2004. This win qualified him to be one of 8 male high school athletes to represent the State at the Eastern United States High School Championship at Okemo Mountain in Ludlow, Vermont. Eric's first-place victories at the Class B State races qualified him to compete in every Slalom run event, where he defeated the top 10 Class A, B and C athletes. We extend our congratulations to Eric on this athletic achievement and wish him continued success in future skiing events;

(HLS 1425)

Presented by Representative AUSTIN of Gray.
Cosponsored by Senator TURNER of Cumberland.

On **OBJECTION** of Representative AUSTIN of Gray, was **REMOVED** from the Special Sentiment Calendar.

READ.

The SPEAKER: The Chair recognizes the Representative from Gray, Representative Austin.

Representative **AUSTIN**: Mr. Speaker, Ladies and Gentlemen of the House. Thank the Lord for our youth and for the great student athletes of this state. They give us so many opportunities to reflect and rejoice. One such is my young man here today from Gray/New Gloucester High School. Eric took to the slopes this February like a storm. He won the slalom and the giant slalom at the Maine Class B High School Alpine Ski Championships. This enabled him to move on to compete and win every slalom event against the Class A, B and C top 10 athletes. Eric by family tradition has skiing in his blood, but it

takes self-determination and a great deal of discipline to move to the level he has achieved this year. All of this after last year having to sit on the sidelines for a good part of the season with a badly broken hand. It is with a great deal of pride and pleasure that I ask you to welcome this young man to our house and his today. Thank you Mr. Speaker.

Subsequently, was **PASSED** and sent for concurrence.

Recognizing:

the Waterville Senior High School Science Olympiad Team, who won the 2004 State Championship for the 9th year in a row. The team will attend the national competition in May, 2004. Science Olympiad is an international nonprofit organization devoted to improving the quality of science education, increasing student interest in science and providing recognition for outstanding achievement in science education. We congratulate the following members of the team: seniors Colin Donihue, Kristen Huber, Sean Anderson, Jon Janelle, Brian L'Heureux, Fei Tan, Eric Bellandi and Jake Nawfel; juniors Alicia Morgan, Brian Flood, Max Cohen and Elizabeth Webb; sophomores Sarah King, Adam Hunnewell, Amy Bureau and Katie Eaton; and director Martha Cobb. We extend our best wishes to the members of the team on their future endeavors;

(HLS 1428)

Presented by Representative CANAVAN of Waterville.

Cosponsored by Senator GAGNON of Kennebec, Representative MARRACHÉ of Waterville, Representative FINCH of Fairfield.

On **OBJECTION** of Representative CANAVAN of Waterville, was **REMOVED** from the Special Sentiment Calendar.

READ.

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

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-486)** on Bill "An Act To Encourage and Support Maine Owner-operated Small Businesses"

(S.P. 427) (L.D. 1325)

Signed:

Senators:

BROMLEY of Cumberland
HALL of Lincoln

Representatives:

SULLIVAN of Biddeford
AUSTIN of Gray
DUPREY of Medway
BEAUDETTE of Biddeford
O'BRIEN of Lewiston
PELLON of Machias
JACOBSEN of Waterboro
SMITH of Monmouth
ROGERS of Brewer

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

Signed:

Representative:

BERUBE of Lisbon

Came from the Senate with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-486).

READ.

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

The Bill was **READ ONCE**. Committee Amendment "A" (S-486) was **READ** by the Clerk and **ADOPTED**.

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

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-486)** in concurrence.

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

Majority Report of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-405)** on Bill "An Act To Require the Videotaping of Police Interrogations"

(S.P. 286) (L.D. 891)

Signed:

Senators:

STRIMLING of Cumberland
CARPENTER of York

Representatives:

BLANCHETTE of Bangor
GERZOFKY of Brunswick
GROSE of Woolwich
MAIETTA of South Portland
CHURCHILL of Washburn
MILLS of Farmington

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

Signed:

Senator:

HATCH of Somerset

Representatives:

LESSARD of Topsham
SNOWE-MELLO of Poland
GREELEY of Levant
SYKES of Harrison

Came from the Senate with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-405) AS AMENDED BY SENATE AMENDMENT "B" (S-490)** thereto.

READ.

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

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

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

The **SPEAKER**: The Chair recognizes the Representative from Poland, Representative SNOWE-MELLO.

Representative **SNOWE-MELLO**: Mr. Speaker, Ladies and Gentlemen of the House. I stand here today in opposition to LD 891. This is not a good bill. I know that Representative Berry is going to check me off on that one. It really isn't. This is not the

type of bill that we need to do in our criminal investigations. Requiring video taping for certain event interrogations according to the Criminal Law Advisory Committee and the Attorney General's Office is an exclusionary rule, not justified by the pattern and history of abuse. Recording protocol is not generally followed. This change in law would place the burden on prosecutors and create new areas of litigation. It also would put an unfair burden on our local communities, especially our rural areas. I am a very, very concerned about the unfunded mandate that we have here. In Illinois where they have the death penalty, they do do this because of the death penalty. There are problems in that state so that is why they do it. That is the only state that does this.

Ladies and gentlemen, I am asking you please not to put in the Majority and go for the Minority Report. Please do not support this bill. It is not necessary. The bill also changes law and it places an unfair burden on prosecutors and creates new areas of litigation. I am not sure if I said that. It is not necessary. If you want to get the information when you are interviewing these people and using videotapes, it is going to actually get the person you are interrogating to clam up and then you won't get the information that you so desperately need. Please do not support the Ought to Pass and vote no. Thank you.

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

Representative **BLANCHETTE**: Mr. Speaker, Ladies and Gentlemen of the House. I hadn't planned on trying to defend this bill today. I thought if anyone in the House has read the bill, read the amendments, they would see that taped interrogations will help protect both the public and the police. It is difficult to imagine that anything but good can come from the Senate bill that would require some police interrogations to be videotaped. If the House passes this bill, police would record all interrogations of murder, gross sexual assault and juvenile crimes. This is a great bill. It protects the police from being falsely accused of misconduct and it protects the people accused of crimes.

Maine would become the fourth state to enact such a law, along with Alaska, Illinois and Minnesota. The Portland Police Department already tapes all interrogations for Class A crime. I might also point out, so does the Bangor Police Department. Some who oppose the bill have concerns that it could put convictions in jeopardy if the taping wasn't done correctly. The bill, however, offers judges the leeway in such cases to decide whether to use the evidence in court. Convictions won't hinge on the tapes, but the tapes certainly will help secure convictions.

Such a practice will help situations such as that of Dennis Deschaine. Deschaine was convicted in 1988 for Sarah Cherry's murder, but is still fighting the conviction. Police said he confessed, but Deschaine denies it. A videotape of the interrogation would have ended the dispute one-way or the other. This system will help booster confidence in the criminal justice process and protect everyone involved. The House should follow the Senate's lead on this bill and pass what will be a good bill for everyone in the State of Maine. Thank you Mr. Speaker.

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

Representative **CARR**: Mr. Speaker, Ladies and Gentlemen of the House. I just wanted to have an opportunity to say a couple words on this. Basically this is a major change in rules of evidence. Rules of evidence obviously have been developed over a number of years. The thing that concerns me is allowing a lot more discussion on whether or not certain evidence is admissible in court and falling under what are termed fruits of the poisonous tree, which means that certain evidence collected would be thrown out. I think that before something like this is put

into law and becomes part of the rules of evidence in court procedure that it should be reviewed and it should come from the Attorney General's Office or some of the organizations that these type of things normally come from rather than a bill through the Legislature. I think that this is a very, very bad bill. I don't think that this is the way it should come. I know that most of the DAs that I have had a chance to speak to are very much opposed to this and haven't had the opportunity to speak to the Attorney's Office, but I would assume that they would be as concerned as some of the DAs are. Thank you Mr. Speaker.

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

Representative **BUNKER**: Mr. Speaker, Men and Women of the House. I was on the committee last year when we started this bill. It has been ongoing it seems like for two years trying to change it and refine it and modify it and twist a few arms over it, the State Police and the AG's Office. No matter what, however it came out, this was not something brought forward by the enforcement community in any way, shape or form. This was strictly a single person's idea. It was something they read that happened in the Midwest. We do not have a problem of proper protocol. The Attorney General's Office has a very strict and extensive set of protocols for murder that have developed over the last few years. They are strictly adhered to since the Attorney General has jurisdiction for all murders in these serious cases. Their testimony was in opposition to this bill. I know the other people, the District Attorneys, were too.

We do not need, ladies and gentlemen, to have people come in front of our committee a year from now or two years from now saying, why did that guy get away? Why did that guy that killed my daughter walk? Why did that person that raped, ran over, buried, left for dead, but she lived only get 10 years in jail or there was a technicality because somebody failed to videotape or somebody forgot to push the right button or somebody forgot to do some thing during the investigation whereas a normal judge during a normal suppression hearing will look at all those things. It is always obvious that every time you have a murder case you are going to have a suppression hearing. The defense attorney will try to get as much evidence suppressed as possible. This just adds a bigger kit to the defense attorney's bag of tools to suppress very valuable information that was voluntarily offered or was offered by the suspect. I do not disagree that with every chance in every process that the District Attorneys, the AGs, the people that are doing these serious investigations don't try to get a tape recorder or try to get some kind of means to record a confession, especially after giving them Miranda rights. We all try to do that every time we can.

To put it into law like this is just bad precedent. I don't think it is necessary. We don't have the death penalty here in the State of Maine. I just think that this bill came from a single source and it is not necessary in any way, shape or form.

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

Representative **NORBERT**: Mr. Speaker, Ladies and Gentlemen of the House. I rise to support the good work of the majority of the committee. I think we need to take a step back and take a look at the actual language of the amendments that have come out. I think it is a more measured bill than many may have been lead to believe. It is important to remember that this interrogation, this recording requirement is limited to those persons accused of murder or gross sexual assault. It is also important to recognize that there are exemptions, exceptions to the recording requirement. One of which is that a statement, even if it is not recorded, can be admitted if it is shown by a preponderance of evidence that the statement is reliable in

addition to voluntary. That is a great big exception there. I would hope that these statements, that they are going to be used in trial and they are going to be considered voluntary. They have to be constitutionally and also reliable. Obviously a prosecutor wants to have as strong a case as possible and a reliable statement makes such a case.

I just see this bill as a win win situation. I think it is going to make sure that the guilty are convicted. It is going to make sure that the innocent can go free. In my city, Portland, it has broad support, not only in the editorial page, but also the police department, which does this anyway. Our Chief of Police is in support of this bill. They view it as something that is going to make their job easier when the police have to defend their cases and the state needs to prove it.

Again, what really convinces me is I think it is really going to ensure that the civil rights of the accused are not being violated. If they are, there is going to be a record so that we are going to be able to avoid the litigation there and show for the whole world to see what the truth is actually. I urge you to support this.

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

Representative **DAVIS**: Mr. Speaker, Men and Women of the House. I disagree with my friend from Portland. Having lived sometime longer than he has, I realize that when police track down the bad guys they sometimes get very valuable information where other bad guys are. I think this will allow people they track down, especially the drug trade that goes on every day in southern Maine. I would hope that you would defeat this. Thank you.

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

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

The SPEAKER: The Representative may pose her question.

Representative **ANDREWS**: Thank you. To anyone who would care to answer, I understand that there is a fiscal note here for the state. It seems to me that this is also a mandate for the local communities. I would assume that there should be a fiscal note to deal with that issue. Could that question be answered please?

The SPEAKER: The Representative from York, Representative Andrews has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Topsham, Representative Lessard.

Representative **LESSARD**: Mr. Speaker, Ladies and Gentlemen of the House. When we first heard the bill in committee, I was quite concerned with parts of it. The amendment changes some of it. I am still concerned with the exclusionary rule that we have all lived with and passed, primarily things like the Miranda warning. If things aren't done correctly to begin with, the ultimate facts will not be known. Here we are adding another area into the exclusionary rule. I understand that at least the interrogations or the information will not be obtained in police cars, for example, where recording is very difficult and cannot be done sometimes.

I am still opposed to the bill and its concept. I think it borders on, if you are going to trust your law enforcement officers under oath to testify as to what they have done and what they have heard and how they conducted themselves, I think that is most important in our system. If you have recordings, that can be brought forth and hopefully the justice presiding in the trial can make a determination accordingly, but to include that as part of the exclusionary process that we have, we are limiting a lot of capabilities that we already have. Thank you Mr. Speaker.

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

Representative MILLS: Mr. Speaker, Ladies and Gentlemen of the House. I rise to support the Majority Ought to Pass as Amended Report. This bill has been very much watered down, it should be pointed out. I got involved in mid stream last fall when this bill was being heard as a carryover. I am aware that there are a number of problems with not being able to document statements made by suspects under interrogation. This address was one of the major problems, not being taped. The bill is a little bit misnamed at this point. It doesn't really deal with videotaping. It doesn't require a police officer to stop and set up a studio and set up a camera and videotape interrogations of suspects in murders and gross sexual assault. It simply requires them to lean over and turn on the tape recorder. Audiotaping is what is required here. Videotape is great if it is available, but audiotaping is what is required. That is why it is really a very minimal fiscal note and the Representative asked about earlier. The fiscal note is only \$1,000 and it is expected that that will be absorbed because all departments have tape recorders. In fact, most departments have video cameras in their cruisers.

The amendment to this bill is substantial and the amendments clarify that the exclusionary rules, strictly speaking, does not apply. A judge has wide discretion in determining whether or not a statement should be admissible even if it wasn't audiotaped or videotaped, including the fact that the suspect, him or herself, may have asked not to be taped, which often happens. Including the fact that the statement might be reliable anyway whether the machinery may not have worked or it wasn't feasible to do electronic recording under the circumstances. All those things go to justify admissibility of statement even if it hasn't been recorded.

This bill simply sends a message to a law enforcement agency that they should make every effort in a very serious case such as murder or gross sexual assault to document it as explicitly as possible. This is already the policy of the Attorney General's Office in murder cases. It is basically simply expanding that policy to include gross sexual assault and major cases in juvenile cases where the reliability of voluntariness of a statement is always in question because of the youth of the offender. It is good public policy to record interrogations of juveniles in serious criminal cases. There is nothing wrong with that. I don't think it is a great imposition on our law enforcement agencies. Thank you.

The SPEAKER: The Chair recognizes the Representative from Harrison, Representative Sykes.

Representative SYKES: Mr. Speaker, Ladies and Gentlemen of the House. I would certainly agree that the electronic recording of such interrogations is probably a really good idea. I would, however, much prefer that it be done by policy or protocol. We have heard from the good Representative from Bangor that it is a policy of the Portland and Bangor Police. It is also the protocol of the State Police, according to the Attorney General's list of protocols. I think it is a good idea to electronically record these interrogations. I don't think it is a good idea to provide what amounts to a constitutional right to this, which can be challenged and potentially allow a guilty person to go free.

If we are already doing this in the only three locations that investigate these murder charges, why do we have to put it into law and make it what I think is almost a constitutional right. Therefore, I will oppose this.

The SPEAKER: The Chair recognizes the Representative from Frenchville, Representative Paradis.

Representative PARADIS: Mr. Speaker, Ladies and Gentlemen of the House. This is a good bill as amended.

Videotaping or audiotaping would eliminate any disagreement stemming from interrogations. A parallel situation, of course not of similar gravity, is the use of videotaping in school buses. Videotapes have settled once and for all any controversy as to what a student has done. There were some parents that claim that their son or daughter could not have done that and then the videotape is shown and that is the end of the argument. Also many businesses from banks to manufacturing plants use videotapes with very good results. The camera does not lie. It will protect both the police and the arrested. I urge you to support this bill. Thank you.

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

Representative TOBIN: Mr. Speaker, Ladies and Gentlemen of the House. I served on the Criminal Justice Committee for six years and got to know a lot of law enforcement people and their agencies throughout the State of Maine. I stand here this morning telling you that being a law enforcement officer, whether you are a game warden or local policeman or state policeman or whoever is a very, very difficult job. You can talk to them in regards to domestic violence situations when they have to go into a home where there is a problem. Their hearts are in their mouths in lots of instances. I know this is the law of procedure, but I am looking at it from the standpoint of faith and trust. Do we have faith in our law enforcement agencies? Do we have trust in our law enforcement agencies? Ladies and gentlemen, let's give them a vote of trust this morning and let's vote this bill down.

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

Representative GERZOFSKY: Mr. Speaker, Ladies and Gentlemen of the House. I have sat patiently here listening to this bill described and it has been described as a constitutional amendment. I don't think so. We are going to make a law. It has been described as not trusting our police departments. I don't think so. This will help the police departments in many, many ways because they won't be able to be accused of torturing people and trying to railroad them into confessions. This will show what went on in the interrogation. This isn't going to be in every police department in the state, just the State Police, Portland and Bangor, places that investigate murders, places that investigate the sexual harassment that people go through, sexual predators. This is a serious bill and it shouldn't be taken so lightly. This not only protects the people, but it protects the police departments and law enforcement in this state that surely do need it. I would hope that this body would pass this statute, because it is not going into the Constitution as I heard said. This is just making a law that we need. Thank you very much, ladies and gentlemen.

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. 396

YEA - Adams, Ash, Barstow, Beaudette, Blanchette, Brannigan, Breault, Brown R, Bull, Canavan, Clark, Courtney, Cowger, Craven, Cummings, Dudley, Dunlap, Duplessie, Duprey G, Earle, Eder, Faircloth, Fischer, Gerzofsky, Grose, Hutton, Jackson, Kane, Ketterer, Koffman, Landry, Lemoine, Lerman, Lundeen, Maietta, Mailhot, Makas, Marley, McGlocklin, McGowan, McLaughlin, Mills J, Moody, Norbert, Norton, O'Brien L, O'Neil, Paradis, Patrick, Pellon, Percy, Perry J, Pineau, Pingree, Piotti, Richardson J, Rines, Sampson, Saviello, Smith N, Smith W, Suslovic, Thomas, Walcott, Watson, Wheeler, Woodbury, Wotton, Mr. Speaker.

NAY - Andrews, Annis, Austin, Berry, Berube, Bierman, Bowen, Bowles, Bruno, Bunker, Campbell, Carr, Churchill E, Churchill J, Clough, Collins, Cressey, Crosthwaite, Curley, Daigle, Davis, Duprey B, Finch, Fletcher, Gagne-Friel, Glynn, Hatch, Heidrich, Honey, Hotham, Jacobsen, Joy, Kaelin, Ledwin, Lessard, McCormick, McKenney, McNeil, Millett, Mills S, Moore, Muse, Nutting, O'Brien J, Peavey-Haskell, Perry A, Rector, Richardson E, Richardson M, Rogers, Rosen, Sherman, Shields, Snowe-Mello, Stone, Sukeforth, Sykes, Tardy, Tobin D, Tobin J, Trahan, Treadwell, Twomey, Vaughan, Young.

ABSENT - Bennett, Bliss, Browne W, Bryant-Deschenes, Dugay, Goodwin, Greeley, Jennings, Jodrey, Lewin, Marraché, McKee, Murphy, Simpson, Sullivan, Thompson, Usher.

Yes, 69; No, 65; Absent, 17; Excused, 0.

69 having voted in the affirmative and 65 voted in the negative, with 17 being absent, and accordingly the Majority **Ought to Pass as Amended Report was ACCEPTED.**

The Bill was **READ ONCE. Committee Amendment "A" (S-405) was READ** by the Clerk.

Senate Amendment "B" (S-490) to Committee Amendment "A" (S-405) was READ by the Clerk and **ADOPTED.**

Committee Amendment "A" (S-405) as Amended by Senate Amendment "B" (S-490) thereto was ADOPTED.

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

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-405) as Amended by Senate Amendment "B" (S-490) thereto in concurrence. ORDERED SENT FORTHWITH.**

Majority Report of the Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-475)** on Bill "An Act To Strengthen the Enforcement Provisions of the Maine Health Data Organization"

(S.P. 730) (L.D. 1884)

Signed:

Senator:

BRENNAN of Cumberland

Representatives:

EARLE of Damariscotta

CRAVEN of Lewiston

DUGAY of Cherryfield

PERRY of Calais

WALCOTT of Lewiston

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

Signed:

Senator:

WESTON of Waldo

Representatives:

SHIELDS of Auburn

CURLEY of Scarborough

CAMPBELL of Newfield

LEWIN of Eliot

Came from the Senate with the Majority **OUGHT TO PASS AS AMENDED Report READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-475).**

READ.

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

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

Majority Report of the Committee on **MARINE RESOURCES** reporting **Ought Not to Pass** on Bill "An Act To Establish Harbor Master Standards and Course Requirements"

(S.P. 612) (L.D. 1680)

Signed:

Senators:

DAMON of Hancock

PENDLETON of Cumberland

BENNETT of Oxford

Representatives:

BULL of Freeport

ASH of Belfast

DUGAY of Cherryfield

PERCY of Phippsburg

MUSE of Fryeburg

McNEIL of Rockland

BIERMAN of Sorrento

RECTOR of Thomaston

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (S-483)** on same Bill.

Signed:

Representative:

SULLIVAN of Biddeford

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

READ.

On motion of Representative BULL of Freeport, the Majority **Ought Not to Pass Report was ACCEPTED** in concurrence.

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

Majority Report of the Committee on **NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-467)** on Bill "An Act To Amend the Dissolved Oxygen Standard and the Bacteria Standard for Class C Waters"

(S.P. 743) (L.D. 1899)

Signed:

Senators:

MARTIN of Aroostook

SAWYER of Penobscot

Representatives:

TWOMEY of Biddeford

SAVIELLO of Wilton

TOBIN of Windham

JOY of Crystal

ANNIS of Dover-Foxcroft

DAIGLE of Arundel

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (S-468)** on same Bill.

Signed:

Senator:

EDMONDS of Cumberland

Representatives:

KOFFMAN of Bar Harbor
HUTTON of Bowdoinham
MAKAS of Lewiston
THOMPSON of China

Came from the Senate with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-467)**.

READ.

On motion of Representative KOFFMAN of Bar Harbor, **TABLED** pending **ACCEPTANCE** of either Report and later today assigned.

Majority Report of the Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-386)** on Bill "An Act to Support Domestic Businesses in Publicly Funded Construction Projects" (S.P. 217) (L.D. 608)

Signed:

Senators:

ROTUNDO of Androscoggin
LAFOUNTAIN of York
GILMAN of Cumberland

Representatives:

McLAUGHLIN of Cape Elizabeth
KETTERER of Madison
BARSTOW of Gorham
BUNKER of Kossuth Township

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

Signed:

Representatives:

PEAVEY-HASKELL of Greenbush
CROSTHWAITE of Ellsworth
STONE of Berwick
SUSLOVIC of Portland
SUKEFORTH of Union
BOWEN of Rockport

Came from the Senate with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-386)**.

READ.

Representative McLAUGHLIN of Cape Elizabeth moved that the House **ACCEPT** the Majority **Ought to Pass as Amended** Report.

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

Majority Report of the Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-853)** on Bill "An Act To Amend the Maine Criminal Code and Motor Vehicle Laws as Recommended by the Criminal Law Advisory Commission" (H.P. 1370) (L.D. 1844)

Signed:

Senators:

STRIMLING of Cumberland
CARPENTER of York

Representatives:

BLANCHETTE of Bangor
GROSE of Woolwich
MILLS of Farmington
GERZOFKY of Brunswick
CHURCHILL of Washburn
LESSARD of Topsham

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (H-854)** on same Bill.

Signed:

Representatives:

MAIETTA of South Portland
SYKES of Harrison
GREELEY of Levant
SNOWE-MELLO of Poland

READ.

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

The Bill was **READ ONCE**. **Committee Amendment "A" (H-853)** was **READ** by the Clerk and **ADOPTED**.

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

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-853)** and sent for concurrence.

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

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

CONSENT CALENDAR

First Day

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

(S.P. 79) (L.D. 156) Bill "An Act to Require that Patients in Private Mental Hospitals Be Afforded the Same Rights As Patients in State Mental Institutions" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-482)**

(S.P. 692) (L.D. 1853) Bill "An Act To Amend the Laws Relating to Property Insurance" Committee on **INSURANCE AND FINANCIAL SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-489)**

(S.P. 751) (L.D. 1910) Bill "An Act To Implement the Recommendations of the Committee To Study the Revenue Sources of the Office of Consumer Credit Regulation" Committee on **INSURANCE AND FINANCIAL SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-488)**

(S.P. 768) (L.D. 1932) Bill "An Act To Make Mother's Day a Free Day for Fishing" (EMERGENCY) Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-485)**

(S.P. 769) (L.D. 1934) Bill "An Act To Make Additional Allocations from the Highway Fund and Other Funds for the Expenditures of State Government and To Change Certain Provisions of State Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2004 and June 30, 2005" (EMERGENCY) Committee on

TRANSPORTATION reporting Ought to Pass as Amended by Committee Amendment "A" (S-487)

(H.P. 1447) (L.D. 1947) Resolve, To Clarify Title to Land Related to the Waldo-Hancock Bridge Replacement Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass**

(H.P. 1421) (L.D. 1920) Bill "An Act To Revise the Fish and Wildlife Laws To Complement the Recodification of Those Laws" Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-858)**

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

(H.P. 1409) (L.D. 1903) Bill "An Act To Further Implement the Recommendations of the Commission To Improve the Sentencing, Supervision, Management and Incarceration of Prisoners" (EMERGENCY) Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-860)**

On motion of Representative RICHARDSON of Brunswick, was **REMOVED** from the First Day Consent Calendar.

The Committee Report was **READ**.

On further motion of the same Representative, **TABLED** pending **ACCEPTANCE** of the Committee Report and later today assigned.

**CONSENT CALENDAR
Second Day**

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

(H.P. 1443) (L.D. 1943) Resolve, Regarding Legislative Review of Portions of Chapter 299: Highway Driveway and Entrance Rules, a Major Substantive Rule of the Department of Transportation (EMERGENCY)

(H.P. 1373) (L.D. 1847) Bill "An Act To Implement the Recommendations of the Commission To Improve Community Safety and Sex Offender Accountability Regarding Public Notification by Law Enforcement" (C. "A" H-852)

(H.P. 1419) (L.D. 1917) Bill "An Act To Implement the Recommendations of the Legislative Youth Advisory Council" (C. "A" H-856)

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

(H.P. 931) (L.D. 1257) Bill "An Act To Increase Returnable Beverage Container Redemption Rates" (C. "A" H-855)

On motion of Representative RICHARDSON of Brunswick, was **REMOVED** from the Second Day Consent Calendar.

The Committee Report was **READ**.

On further motion of the same Representative, **TABLED** pending **ACCEPTANCE** of the Committee Report and later today assigned.

**BILLS IN THE SECOND READING
House**

Bill "An Act To Implement the Recommendations of the Committee To Study Compliance with Maine's Freedom of Access Laws"

(H.P. 1456) (L.D. 1957)

Bill "An Act To Implement the Recommendations of the Joint Standing Committee on Business, Research and Economic Development Regarding the Board of Dental Examiners Pursuant to Reviews Conducted under the State Government Evaluation Act"

(H.P. 1457) (L.D. 1958)

Reported by the Committee on **Bills in the Second Reading**, read the second time, the House Papers were **PASSED TO BE ENGROSSED** and sent for concurrence.

**ENACTORS
Emergency Measure**

An Act To Make Technical Corrections to Maine's Fish and Wildlife Laws

(H.P. 1265) (L.D. 1743)

(S. "A" S-464 to C. "A" H-781; H. "A" H-834)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 131 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker Pro Tem and sent to the Senate.

Emergency Measure

An Act To Implement the Recommendations of the Commission To Improve the Sentencing, Supervision, Management and Incarceration of Prisoners

(H.P. 1382) (L.D. 1856)

(C. "A" H-833)

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

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

Emergency Measure

An Act To Establish Municipal Cost Components for Unorganized Territory Services To Be Rendered in Fiscal Year 2004-05

(H.P. 1398) (L.D. 1882)

(C. "A" H-837)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 119 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker Pro Tem and sent to the Senate.

Emergency Measure

An Act To Amend the Protection from Harassment Laws

(H.P. 1410) (L.D. 1906)

(C. "A" H-840)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being

necessary, a total was taken. 114 voted in favor of the same and 1 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker Pro Tem and sent to the Senate.

Emergency Measure

An Act To Provide for a Limited Transition Provision for Renewal of Certain Social Worker Licenses

(H.P. 1431) (L.D. 1931)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 124 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker Pro Tem and sent to the Senate.

Emergency Measure

An Act To Clarify the Administrative and Financial Relationship between the Maine Military Authority and the State of Maine

(H.P. 1451) (L.D. 1951)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 108 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker Pro Tem and sent to the Senate.

Emergency Measure

Resolve, Regarding Legislative Review of Portions of Chapter 1: Procedures and Portions of Chapter 3: Maine Clean Election Act and Related Provisions, Major Substantive Rules of the Commission on Governmental Ethics and Election Practices

(H.P. 1392) (L.D. 1868)

(C. "A" H-835)

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

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

Representative **GLYNN**: Mr. Speaker, Ladies and Gentlemen of the House. This measure adopts rules as proposed by the Ethics Commission and amended by the Legal and Veterans Affairs Committee. These rules that are being proposed will be changing the rules for the current election that we are involved in presently. Under the rules what it will do is create an unlevel playing field for traditional candidates with clean election opponents. For that reason, I urge you to vote against this measure. Mr. Speaker, when the vote is taken, I request the yeas and nays.

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

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

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

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

ROLL CALL NO. 397

YEA - Adams, Ash, Barstow, Beaudette, Blanchette, Breault, Bull, Canavan, Clark, Craven, Cummings, Dudley, Dunlap, Duplessie, Duprey G, Earle, Faircloth, Finch, Fischer, Gagne-Friel, Gerzofsky, Grose, Hatch, Hotham, Hutton, Jackson, Jennings, Kane, Ketterer, Koffman, Landry, Lemoine, Lerman, Lessard, Lundeen, Mailhot, Makas, Marley, McGlocklin, McGowan, McLaughlin, Moody, Moore, Norbert, Norton, O'Brien L, Paradis, Patrick, Pellon, Perry A, Perry J, Pineau, Pingree, Piotti, Rector, Richardson J, Rines, Sampson, Saviello, Simpson, Smith N, Smith W, Sukeforth, Sullivan, Suslovic, Thomas, Thompson, Twomey, Walcott, Watson, Wheeler, Woodbury, Wotton.

NAY - Andrews, Annis, Austin, Berry, Berube, Bierman, Bowen, Bowles, Brown R, Browne W, Bruno, Campbell, Churchill E, Churchill J, Clough, Collins, Courtney, Cowger, Cressey, Crosthwaite, Curley, Daigle, Davis, Duprey B, Fletcher, Glynn, Heidrich, Honey, Jacobsen, Joy, Kaelin, Ledwin, Lewin, Maietta, McCormick, McKenney, McNeil, Millett, Mills J, Mills S, Nutting, O'Brien J, Peavey-Haskell, Percy, Richardson E, Richardson M, Rogers, Rosen, Sherman, Shields, Snowe-Mello, Stone, Sykes, Tardy, Tobin D, Tobin J, Trahan, Treadwell, Vaughan, Young.

ABSENT - Bennett, Bliss, Brannigan, Bryant-Deschenes, Bunker, Carr, Dugay, Eder, Goodwin, Greeley, Jodrey, Marraché, McKee, Murphy, Muse, O'Neil, Usher, Mr. Speaker.

Yes, 73; No, 60; Absent, 18; Excused, 0.

73 having voted in the affirmative and 60 voted in the negative, with 18 being absent, and accordingly the Resolve **FAILED FINAL PASSAGE** and was sent to the Senate.

Mandate

An Act to Promote the Coordination of School Calendars for Career and Technical Education Students

(H.P. 1446) (L.D. 1946)

(H. "A" H-826)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. In accordance with the provisions of Section 21 of Article IX of the Constitution, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 87 voted in favor of the same and 39 against, and accordingly the Bill **FAILED PASSAGE TO BE ENACTED** and was sent to the Senate.

Acts

An Act To Strengthen the Maine Certificate of Need Act of 2002

(H.P. 447) (L.D. 584)

(C. "A" H-816)

An Act To Enhance Professionalism of Private Investigators in this State

(H.P. 735) (L.D. 1014)

(H. "A" H-832 to C. "A" H-249)

An Act To Prohibit the Sale of Water Containing Nicotine

(S.P. 587) (L.D. 1631)

(C. "A" S-436)

An Act To Make Principles of Reimbursement for Intermediate Care Facilities for the Mentally Retarded Major Substantive Rules

(S.P. 613) (L.D. 1681)

(H. "A" H-811 to C. "A" S-434)

An Act To Protect the Privacy of Home Information of Maine State Retirement System Members, Benefit Recipients and Staff
(S.P. 619) (L.D. 1687)
(C. "A" S-442)

An Act To Enhance Pine Tree Development Zones
(S.P. 624) (L.D. 1692)
(H. "A" H-831 to C. "A" S-446)

An Act To Amend the Motor Vehicle Laws
(S.P. 626) (L.D. 1694)
(C. "A" S-419)

An Act To Ensure Appropriate Care and Custody of Children
(S.P. 638) (L.D. 1706)
(C. "A" S-466)

An Act Concerning Advertising of Business Names in Telephone Directories
(S.P. 643) (L.D. 1711)
(H. "B" H-737 and H. "C" H-827 to C. "A" S-398)

An Act To Amend the Penalty Provisions and Reporting Deadlines of the Campaign Reports and Finances Laws
(S.P. 661) (L.D. 1728)
(C. "A" S-470)

An Act To Clarify the Severance Pay Law
(H.P. 1255) (L.D. 1733)
(C. "A" H-815)

An Act To Exempt Unemployment Benefits from State Income Tax
(H.P. 1267) (L.D. 1745)
(C. "A" H-755; H. "A" H-813)

An Act To Improve Quality and Safety in Long-term Care
(H.P. 1275) (L.D. 1753)
(C. "A" H-817)

An Act To Amend the Laws Concerning Optional Membership for Participating Local Districts in the Maine State Retirement System
(H.P. 1332) (L.D. 1810)
(H. "A" H-818 to C. "A" H-790)

An Act To Make Minor Substantive Changes to the Tax Laws
(H.P. 1335) (L.D. 1813)
(C. "A" H-824)

An Act To Amend the Law Governing the Storage of Spirits
(S.P. 729) (L.D. 1881)
(C. "A" S-469)

An Act To Coordinate Education, Job Training and Employers in Maine
(H.P. 1399) (L.D. 1883)
(C. "A" H-825)

An Act To Preserve Transportation Projects Statewide by Using Federal GARVEE Financing for the Waldo-Hancock Bridge Replacement
(S.P. 758) (L.D. 1922)
(C. "A" S-478)

An Act To Modify Taxation of Benefits under Employee Retirement Plans, Including Retirement Plans for Teachers
(S.P. 764) (L.D. 1927)
(C. "A" S-481)

An Act Relating to Energy-related Building Standards
(S.P. 790) (L.D. 1948)

An Act Relating to Certain Energy Responsibilities of the Public Utilities Commission
(S.P. 791) (L.D. 1949)

An Act To Repeal Certain Boards and Commissions
(H.P. 1450) (L.D. 1950)

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 Amend the Laws Governing Campaign Finance
(H.P. 984) (L.D. 1339)
(C. "A" H-828)

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

On motion of Representative DAVIS of Falmouth, was **SET ASIDE**.

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

Representative DAVIS: Mr. Speaker, Men and Women of the House. I would like to have somebody explain this bill to me. I am not familiar with what it does or doesn't do. Could somebody in the committee please explain the bill?

The SPEAKER PRO TEM: The Representative from Falmouth, Representative Davis has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Millinocket, Representative Clark.

Representative CLARK: Mr. Speaker, Ladies and Gentlemen of the House. I believe this bill address the McCain-Feingold federal regulations on campaign finance. It also has to do with the advertising and broadcasters here in the state. The broadcasters have to look for the disclaimer before they are put on the airwaves or on the radio waves here in the state.

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

An Act To Reduce Contamination of Breast Milk and the Environment from the Release of Brominated Chemicals in Consumer Products
(H.P. 1312) (L.D. 1790)
(C. "A" H-822)

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

On motion of Representative KOFFMAN of Bar Harbor, was **SET ASIDE**.

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

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

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

ROLL CALL NO. 398

YEA - Adams, Andrews, Annis, Ash, Austin, Barstow, Beaudette, Berube, Bierman, Blanchette, Bowen, Bowles, Brannigan, Breault, Brown R, Browne W, Bruno, Bull, Campbell, Canavan, Carr, Churchill E, Churchill J, Clark, Clough, Collins, Courtney, Cowger, Craven, Cressey, Cummings, Curley, Daigle, Davis, Dudley, Dunlap, Duplessie, Duprey B, Duprey G, Earle, Eder, Faircloth, Finch, Fischer, Fletcher, Gagne-Friel, Gerzofsky, Glynn, Grose, Hatch, Honey, Hotham, Hutton, Jacobsen, Jennings, Joy, Kaelin, Kane, Ketterer, Koffman, Ledwin, Lemoine, Lerman, Lessard, Lewin, Lundeen, Maietta, Makas, Marley, Marraché, McCormick, McGlocklin, McKenney, McLaughlin, McNeil, Millett, Mills J, Mills S, Moody, Moore, Norbert, Norton, Nutting, O'Brien J, O'Brien L, Paradis, Patrick, Peavey-Haskell, Pellon, Percy, Perry A, Perry J, Pineau, Pingree, Piotti, Rector, Richardson E, Richardson J, Richardson M, Rines,

Rogers, Rosen, Sampson, Saviello, Simpson, Smith N, Smith W, Stone, Sukeforth, Sullivan, Suslovic, Sykes, Tardy, Thomas, Thompson, Tobin D, Tobin J, Trahan, Twomey, Vaughan, Walcott, Watson, Wheeler, Woodbury, Young.

NAY - Crosthwaite, Heidrich, Sherman, Shields, Snowe-Mello, Treadwell.

ABSENT - Bennett, Berry, Bliss, Bryant-Deschenes, Bunker, Dugay, Goodwin, Greeley, Jackson, Jodrey, Landry, Mailhot, McGowan, McKee, Murphy, Muse, O'Neil, Usher, Wotton, Mr. Speaker.

Yes, 125; No, 6; Absent, 20; Excused, 0.

125 having voted in the affirmative and 6 voted in the negative, with 20 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker Pro Tem and sent to the Senate.

An Act To Amend the Laws Governing Purchase of Military Time Served under the Maine State Retirement System

(H.P. 1360) (L.D. 1836)

(C. "A" H-839)

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.

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

ROLL CALL NO. 399

YEA - Adams, Andrews, Annis, Ash, Austin, Barstow, Beaudette, Berry, Berube, Bierman, Blanchette, Bowen, Bowles, Brannigan, Breault, Brown R, Browne W, Bruno, Bull, Bunker, Campbell, Canavan, Carr, Churchill E, Churchill J, Clark, Clough, Collins, Courtney, Cowger, Craven, Cressey, Crosthwaite, Curley, Daigle, Davis, Dudley, Dunlap, Duplessie, Duprey B, Duprey G, Earle, Eder, Faircloth, Finch, Fischer, Fletcher, Gagne-Friel, Gerzofsky, Glynn, Goodwin, Grose, Hatch, Heidrich, Honey, Hotham, Hutton, Jacobsen, Jennings, Joy, Kaelin, Kane, Ketterer, Koffman, Landry, Ledwin, Lemoine, Lerman, Lessard, Lewin, Lundeen, Maietta, Makas, Marley, Marraché, McCormick, McGlocklin, McGowan, McKenney, McLaughlin, McNeil, Millett, Mills J, Mills S, Moody, Moore, Norbert, Norton, Nutting, O'Brien J, O'Brien L, Paradis, Patrick, Peavey-Haskell, Pellon, Percy, Perry A, Perry J, Pineau, Pingree, Piotti, Rector, Richardson E, Richardson J, Richardson M, Rines, Rogers, Rosen, Sampson, Saviello, Sherman, Shields, Simpson, Smith N, Smith W, Snowe-Mello, Stone, Sukeforth, Sullivan, Suslovic, Sykes, Tardy, Thomas, Thompson, Tobin D, Tobin J, Trahan, Treadwell, Twomey, Vaughan, Walcott, Watson, Wheeler, Woodbury.

NAY - NONE.

ABSENT - Bennett, Bliss, Bryant-Deschenes, Cummings, Dugay, Greeley, Jackson, Jodrey, Mailhot, McKee, Murphy, Muse, O'Neil, Usher, Wotton, Young, Mr. Speaker.

Yes, 134; No, 0; Absent, 17; Excused, 0.

134 having voted in the affirmative and 0 voted in the negative, with 17 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker Pro Tem and sent to the Senate.

An Act To Regulate the Breeding and Sale of Small Mammals
(H.P. 1453) (L.D. 1952)
(H. "A" H-851)

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

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

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

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

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

Representative **GLYNN**: Mr. Speaker, Ladies and Gentlemen of the House. I have read the bill and the amendment and I would direct the question to any member of the committee or a member of the body to ask and inquire why it is prudent or why it makes any sense at all that we become involved in the breeding and sale of guinea pigs, hamsters and rabbits and why this is not an unnecessary law?

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

Representative **SMITH**: Mr. Speaker, Ladies and Gentlemen of the House. In answer to the question, in spite of the silly tone of the title, there were some true issues that were brought up at the public hearing, specifically with guinea pigs. This arose as it relates to an instance a year ago where a woman had over 300 guinea pigs in her basement that she was raising, breeding and selling. They were in very inhumane conditions. It was felt that it is appropriate to deal with that issue.

Secondly, ferrets came to light. There was no regulation on the age at which ferrets could be sold and it was found that ferrets were being sold so young that they were not surviving. Although it looks frivolous, there truly were issues related to humane treatment of these small animals. What the bill does is ask the department to write major substantive rules that will, of course, come back to the committee in the future. Thank you.

Representative GLYNN of South Portland **REQUESTED** a roll call on **PASSAGE TO BE ENACTED**.

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

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

ROLL CALL NO. 400

YEA - Adams, Andrews, Annis, Ash, Barstow, Beaudette, Berry, Bierman, Bowen, Bowles, Brannigan, Breault, Brown R, Bruno, Bull, Campbell, Canavan, Carr, Churchill E, Churchill J, Clark, Courtney, Cowger, Craven, Cummings, Curley, Daigle, Davis, Dunlap, Duplessie, Duprey G, Earle, Eder, Faircloth, Finch, Fischer, Fletcher, Gagne-Friel, Gerzofsky, Grose, Hatch, Heidrich, Honey, Hotham, Hutton, Jackson, Jacobsen, Jennings, Kaelin, Kane, Ketterer, Koffman, Landry, Ledwin, Lemoine, Lerman, Lessard, Lewin, Lundeen, Makas, Marley, Marraché, McGlocklin, McGowan, McLaughlin, McNeil, Millett, Mills J, Mills S, Moody, Moore, Norbert, Norton, Nutting, O'Brien J, O'Brien L, Paradis, Patrick, Peavey-Haskell, Pellon, Percy, Perry A, Perry J, Pineau, Pingree, Piotti, Rector, Richardson J, Richardson M, Rines, Rosen, Sampson, Saviello, Shields, Simpson, Smith N, Smith W, Stone, Sullivan, Suslovic, Sykes, Tardy, Thomas, Thompson, Tobin D, Tobin J, Trahan, Twomey, Walcott, Watson, Wheeler, Woodbury, Young.

NAY - Austin, Berube, Browne W, Clough, Collins, Cressey, Crosthwaite, Duprey B, Glynn, Joy, Maietta, McCormick, McKenney, Richardson E, Rogers, Sherman, Snowe-Mello, Treadwell, Vaughan.

ABSENT - Bennett, Blanchette, Bliss, Bryant-Deschenes, Bunker, Dudley, Dugay, Goodwin, Greeley, Jodrey, Mailhot, McKee, Murphy, Muse, O'Neil, Sukeforth, Usher, Wotton, Mr. Speaker.

Yes, 113; No, 19; Absent, 19; Excused, 0.

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

Resolve, To Promote Transparency in Budgeting

(H.P. 1302) (L.D. 1780)

(C. "A" H-807)

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

On motion of Representative BOWEN of Rockport, was **SET ASIDE**.

The same Representative **REQUESTED** a roll call on **FINAL PASSAGE**.

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

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

ROLL CALL NO. 401

YEA - Adams, Barstow, Beaudette, Blanchette, Brannigan, Breault, Bull, Canavan, Cowger, Craven, Cummings, Dudley, Dunlap, Duplessie, Duprey G, Earle, Eder, Faircloth, Finch, Fischer, Gagne-Friel, Gerzofsky, Grose, Hutton, Jackson, Kane, Koffman, Landry, Lemoine, Lerman, Lessard, Lundeen, Makas, Marley, Marraché, McLaughlin, Mills J, Moody, Norbert, Norton, O'Brien L, O'Neil, Paradis, Patrick, Pellon, Percy, Perry A, Perry J, Pingree, Piotti, Rines, Sampson, Saviello, Simpson, Smith N, Smith W, Sullivan, Suslovic, Thompson, Twomey, Walcott, Watson, Wheeler, Woodbury, Wotton.

NAY - Andrews, Annis, Ash, Austin, Berry, Berube, Bierman, Bowen, Bowles, Brown R, Browne W, Bruno, Bunker, Campbell, Carr, Churchill E, Churchill J, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Daigle, Davis, Duprey B, Fletcher, Glynn, Hatch, Heidrich, Honey, Hotham, Jacobsen, Jennings, Joy, Kaelin, Ketterer, Ledwin, Lewin, Maietta, McCormick, McGlocklin, McGowan, McKenney, McNeil, Millett, Mills S, Moore, Muse, Nutting, O'Brien J, Peavey-Haskell, Pineau, Rector, Richardson E, Richardson J, Richardson M, Rogers, Rosen, Sherman, Shields, Snowe-Mello, Stone, Sukeforth, Sykes, Tardy, Tobin D, Tobin J, Trahan, Treadwell, Vaughan, Young.

ABSENT - Bennett, Bliss, Bryant-Deschenes, Clark, Dugay, Goodwin, Greeley, Jodrey, Mailhot, McKee, Murphy, Thomas, Usher, Mr. Speaker.

Yes, 65; No, 72; Absent, 14; Excused, 0.

65 having voted in the affirmative and 72 voted in the negative, with 14 being absent, and accordingly the Bill **FAILED FINAL PASSAGE**.

On motion of Representative RICHARDSON of Brunswick, the House **RECONSIDERED** its action whereby the Bill **FAILED FINAL PASSAGE**.

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

On motion of Representative SUKEFORTH of Union, the House **RECONSIDERED** its action whereby An Act To Exempt Unemployment Benefits from State Income Tax

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

1745)

(C. "A" H-755; H.

"A" H-813)

Was **PASSED TO BE ENACTED**.

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

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

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

Representative **SUKEFORTH**: Mr. Speaker, Ladies and Gentlemen of the House. I was kind of asleep at that wheel. I meant to request a roll call on this. For those of you looking up, this is 1021, "An Act to Exempt Unemployment Benefits from State Income Tax." I would like to pose a question through the Chair concerning this bill.

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

On motion of Representative RINES of Wiscasset, the House **RECONSIDERED** its action whereby Bill "An Act To Implement the Recommendations of the Committee To Study Compliance with Maine's Freedom of Access Laws"

(H.P. 1456) (L.D.

1957)

Was **PASSED TO BE ENGROSSED**.

The same Representative **PRESENTED House Amendment "A" (H-866)** which was **READ** by the Clerk.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Wiscasset, Representative Rines.

Representative **RINES**: Mr. Speaker, Men and Women of the House. I offer this House Amendment on behalf of the Bills in the Second Reading. It is a technical amendment only. It clears up the inaccurate law piece of the legislation. Thank you Mr. Speaker.

House Amendment "A" (H-866) was **ADOPTED**.

The Bill was **PASSED TO BE ENGROSSED as Amended by House Amendment "A" (H-866)** and sent for concurrence. **ORDERED SENT FORTHWITH**.

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

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

SENATE PAPERS

Non-Concurrent Matter

Resolve, Directing the Commissioner of Marine Resources To Review the Issues Associated with the Issuance of a Nonresident Lobster License

(H.P. 1455) (L.D. 1955)

PASSED TO BE ENGROSSED in the House on April 1, 2004.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-494)** in **NON-CONCURRENCE**.

On motion of Representative BULL of Freeport, the House voted to **RECEDE AND CONCUR**.

ENACTORS

Emergency Measure

An Act To Amend the Motor Vehicle Laws
(S.P. 632) (L.D. 1700)
(C. "A" S-473)

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

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

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **Committee Amendment "A" (S-473)** was **ADOPTED**.

The same Representative **PRESENTED House Amendment "C" (H-865)** to **Committee Amendment "A" (S-473)** which was **READ** by the Clerk.

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

Representative **MARLEY**: Mr. Speaker, Ladies and Gentlemen of the House. Believe it or not, this is very painless, despite our little our interaction here. This is a technical amendment that clarifies some language that said there would be major substantive or routine technical and it couldn't be both so we had to determine what it would be. The committee determined that it would be routine technical. It clarifies that language. Thank you very much.

House Amendment "C" (H-865) to **Committee Amendment "A" (S-473)** was **ADOPTED**.

Committee Amendment "A" (S-473) as Amended by **House Amendment "C" (H-865)** thereto was **ADOPTED**.

The Bill was **PASSED TO BE ENGROSSED** as Amended by **Committee Amendment "A" (S-473)** as Amended by **House Amendment "C" (H-865)** thereto in **NON-CONCURRENCE** and sent for concurrence. **ORDERED SENT FORTHWITH**.

Emergency Measure

Resolve, Authorizing the Commissioner of Administrative and Financial Services To Sell or Lease the Interests of the State in Certain Real Estate in Presque Isle, Known as the "Aroostook Residential Center"

(H.P. 1307) (L.D. 1785)
(C. "A" H-696; S. "A" S-457)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 120 voted in favor of the same and 4 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker Pro Tem and sent to the Senate. **ORDERED SENT FORTHWITH**.

Acts

An Act To Clarify Property Eligible for Reimbursement of Property Taxes under the Business Equipment Tax Reimbursement Program

(H.P. 1326) (L.D. 1804)
(H. "A" H-846 to C. "A" H-823)

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 Promote the Financial Security of Maine's Families and Children

(H.P. 1152) (L.D. 1579)
(S. "B" S-476 to C. "A" H-774)

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

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

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

An Act To Require Surety Bonding by Payroll Processing Companies

(H.P. 1369) (L.D. 1843)
(C. "A" H-838)

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

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

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

The House recessed until the Sound of the Bell.

(After Recess)

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

The Speaker resumed the Chair.
The House was called to order by the Speaker.

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

UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment Monday, April 5, 2004, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

HOUSE DIVIDED REPORT - Majority (8) Ought to Pass as Amended by Committee Amendment "C" (H-848) - Minority (5) Ought Not to Pass - Committee on LABOR on Bill "An Act To Provide Collective Bargaining Rights to Certain Forest Products Workers"

(H.P. 972) (L.D. 1318)

TABLED - April 5, 2004 (Till Later Today) by Representative SMITH of Van Buren.

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

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

Representative **TREADWELL**: Mr. Speaker, Ladies and Gentlemen of the House. We have before us a bill that will allow for collective bargaining for the forest products workers in the

State of Maine. The bill adds three new members to the Board of Arbitration and Conciliation and three alternates to a board that is already established with the same make up as this. It duplicates that membership in order to provide for this bargaining. The State of Maine then would be in the position of setting rates for forest products in the labor market areas in the State of Maine. The reason that the Board of Arbitration and Conciliation is involved in this is to take advantage of a loophole in the anti-trust laws, the federal anti-trust laws, which by the state being the agency to set prices hopefully on the part of the people who submitted the Majority Report, it is hopefully going to take advantage of that loophole, whether it does or not, I guess it would be up to the courts to decide.

The problem that I see with the bill, or one of the problems, is that if you set the prices in any labor market in the state, you are going to affect the prices in all of the other labor markets of the state. Right now the forest products industry in the State of Maine is hanging by a thread. We have a very fragile situation with the industry. As we all know, the mills are closing, wood product fabricating plants are closing, the wafer board mill in Woodland if it isn't permanently closed, it probably will be shortly. It is probably going to be the death now for the wood products industry.

Right now we have a situation where you have the landowners that provide the trees. You have the loggers and haulers that do the cutting and delivery. You have the paper mills and the other wood products manufacturers who utilize that end product. It is a very sensitive balance in the price of all of those products. If the mill isn't going to pay the price that the landowner has to get for the product, he is not going to cut the trees. In fact, what we may be doing is rather than helping the loggers and haulers, we may be making the situation so that they are not going to have any employment. I don't think any of us want to see that.

The Representative from Fort Kent, Representative Jackson, passed a handout around to us earlier with a picture. It is from the American Loggers Council with a picture of Steve Hannington on it. Let me go to the extreme right column at the very bottom. It says, "Loggers around the country should be allowed to negotiate their cut and haul rates based on their ability to perform and their efficiencies. This rate should not be dictated to us in a take it or leave it scenario." In the center column, second paragraph down, it says, "The family forest landowners ask what his or her timber is worth. The answer is, whatever the market will bear." That is free enterprise. It contradicts the last paragraph in the article. "Without markets and without loggers purchasing timber land in the United States may prove to be a bad investment." I certainly would agree with that.

Mr. Speaker, when the vote is taken, I request the yeas and nays and I urge my fellow members of the House to vote against the motion.

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

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

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

Representative **SMITH**: Mr. Speaker, Ladies and Gentlemen of the House. This bill is for small business. This bill is for jobs. This bill keeps jobs in the State of Maine. Why do we need this bill? One of the things that has evolved in the woods industry is no longer are the truckers or the loggers employees. They have no protections as employees. In order for them to get work and to be able to cut wood or truck wood, they have to sign a lengthy

contract that says that I am an independent contractor. They say that probably 10 to 15 times in that agreement. That agreement, incidentally, says that I am an independent contractor and the company can terminate this any day. This is a one day, one way contract.

What happens once they are classified as independent contractors? Of course the anti-trust laws come into play. Right now the independent contractors, they cannot join together. If they want to sit down and compare the rates they are being paid, that is a violation of the federal anti-trust laws. They can't do that. They are independent contractors. What happens if they say, let's as a group of us go in and talk to the landowner and then try to negotiate a rate. Wait a minute, you can't do that either, because anti-trust laws say that you are independent contractors and you can't do it. That is a violation. Here they are, they have been put into that box. This bill looks to get the small businesses in Maine, these men and women, who have invested half a million or a million and a half or more into their equipment and pay taxes very well on it. It looks to take them out of that box and give them nothing more than a chance to join together and a chance to negotiate.

Is this something that is hard to take in the State of Maine? No, it shouldn't be. The reason we can do it in this bill is that there is an exception. Some may call it a loophole, but it is an exception and it is an exception that has been used in the cases where you have monopolies. Where you have the state actually involved in it, now if found by the Legislature, now they can join together. Now they can negotiate. Now they are not criminals because they want to negotiate a rate. Now they are not criminals because they join together and want to talk about what they are being paid. We come under the state exception to the anti-trust laws. This has been researched and worked on by our own Attorney General. This bill took two years to come forward. In working this bill with the Attorney General's Office we found what we needed to be able to protect these Maine businesses and protect these Maine jobs.

The way it is being done is that there is going to be a Forest Rate Proceeding Panel. I disagree with the Representative from Carmel that it is going to add three members. No, it doesn't. The loggers and truckers will submit to the Governor names from which the Governor can choose their representative on the panel. The landowners will submit to the Governor names in which the Governor can choose their representative. The choice of the representative will come about if there is a rate proceeding. The neutral is taken from the existing members of the Board of Arbitration and Conciliation. You are not talking of adding any more expense to the state other than additional rulemaking. When you look at the fiscal note, \$4,000 one time.

The money for these proceedings is going to be split between the truckers and logger and half on the landowners. The proceedings may be expensive, that is part of the plan. These rate proceedings should not be lightly brought. They should be brought when there are significant economic issues. If it is serious enough for a group of truckers and loggers to want to dig down and advance the money for this proceeding, they will have it. You don't simply take a paper out and say we want a proceeding. It is done seriously. The landowner can also initiate proceedings.

What this bill seeks to do also in its definition, it is not aimed at all the landowners in the State of Maine, it is aimed at the monopoly situations. What do we use for our criteria? We say for a forest landowner to be the subject of a rate proceeding, they need to have 400,000 acres in one labor market area. Keep in mind that the State of Maine has 35 labor market areas. We are not affecting many landowners. At the most we are affecting

three landowners. If the landowners are paying average or better rates, there is no reason for anybody to bring a proceeding because they probably won't get a raise anyway.

If you are there and stuck in a hole where you are not even being paid enough to cover your costs, yes, a rate proceeding is something you would want to have. Is there going to be a rate proceeding in every instance? I suggest to you no. What the bill does is it allows them to negotiate. It gives them something they haven't had. Now they can talk to the landowner and say we would like to talk about what our costs are. We would like to talk about how much you need to pay us so we can stay in business. This is what the bill gives them.

An argument is made that somehow the state shouldn't be involved in protecting these businesses. I suggest to you to look back over time and the state has become involved in protecting businesses to the benefit of everybody in the state. When the automobile dealers said, we have no say with the major automakers on our franchises and they are dictating to us and we need to have some protection. They came to the Legislature and what did we do? We passed a law that protected the car dealers in Maine from the large companies. We did the same thing with the farm machinery dealers. We did the same thing with sports equipment dealers. The farmers came to the Legislature and said, we are in a position where we are dealing with a monopoly. We have no other place to sell our potatoes. We passed the Agricultural Bargaining Act. However, this was under a specific exception. Some may call it a loophole, but it is a specific exception to the anti-trust laws. In order to protect our loggers and truckers we need to go to another exception and it is there on our Attorney General's letter, which you have on your desk. It makes clear that we are following the law. This will protect our people.

There are some that may say that somehow collective bargaining is bad for the state. Many of you have worked and have been the beneficiaries of collective bargaining agreements. There is nothing wrong with it. It helps keep the people in Maine. It helps businesses succeed. Keep in mind that there are some of you who sat on the Agriculture and Forestry Committee and some of you who heard testimony. I listened to it. One of the striking things I heard from the landowners, such as Seven Islands, was this, "We don't know if we are going to have the workers to harvest and truck our logs in the future. We are concerned about keeping people in that occupation. The statistics are showing that the younger generations are not going into the business." They have a good reason not to. If they see their fathers struggling and working 80 or 100 hours a week to make it and still not able to pay the bills, then they are not going into that line of work.

This is a way of keeping Maine people at work and having another generation come in and do this kind of work. I ask you to support these small businesses. I ask you to support these Maine businesses and Maine workers and vote for this bill. Thank you.

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

Representative **CUMMINGS**: Mr. Speaker, Ladies and Gentlemen of the House. Before we had outsourcing, we began something called sub sourcing. We moved our jobs into what used to be employee status into what is now small business ownership status. There was a very smart reason for companies to encourage that. It was more efficient. It put the onus of a number of bills on the backs of what used to be workers. One of the issues that we heard earlier today is that free enterprise is at stake. Let's talk about what makes free enterprise work. What makes it work is when somebody with a hungry belly has to deal

with somebody that doesn't have a hungry belly, it is not going to work. We know it is not going to work. When you are talking about a company that is making billions and has assets in the billions, we are completely positive that there will not be an exchange of equals. That is the fundamental premise of the free enterprise system.

Let's talk about why it is not the case. The loggers that are asking for justice are telling us that at an early age they have invested in that contract and they are in debt. They are in debt at the extent of sometimes \$300,000 or \$400,000. Their bodies can only take so much of the work and they have no ability, by law, to control or influence the price. What they are asking for is basic justice. That justice is the ability to have some equal footing in those they are going to negotiate that price with. It is a courtesy that we have extended to employees over 100 years ago. It is a courtesy that we have extended to other industries. It ought to be a courtesy that we extend to employees of small businesses again today in this situation.

I took the opportunity to go to Aroostook County earlier this year, late last year. People that I met are very hardworking. They are asking for a piece of justice, a piece of justice that will make a huge difference to their families. They are asking that a fair price be reasonably negotiated. They are not asking to break anti-trust policy. They are simply asking to have an equal footing with those who have tremendous power. I urge you to support the Majority Ought to Pass Report.

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

Representative **BUNKER**: Mr. Speaker, Men and Women of the House. As you know, I was the former Chair of Labor a few years ago and we have been wrestling with this problem for many, many years. I have to take my hat off to the good Representative from Fort Kent, Representative Jackson, for all the stuff he did prior to becoming a fine member of this established body. The problem is, ladies and gentlemen, in my other private life to make money when I wasn't in here, I provided some catastrophic health insurance. It always tended to be these loggers or these operators or these guys who owned mechanical equipment or the guys that were doing the contracted work for these large landowners. It was okay. It was hunky dory until this magical name of Irving came into the state a few years ago. At that time, when I started going door to door and working with these folks and trying to make sure that we protected their property, their assets and their financial well being, they all expressed to me in very clear terms, what are you talking about? We don't have any of it. We have \$300,000, \$400,000 or \$500,000 tied up in equipment. Before when we went to the bank we could always take with us a piece of paper from Wagner or GP or any of the large landowners and they had a three year contract that they could take to the bank with them and say that purchase of that delimeter or the purchase of that skidder and as you know, we have all moved to a different kind of operation of harvesting, which is called green certified and that includes a whole big changeover of equipment and great expense to these private contractors. These are wonderful business folks that provide wonderful jobs out in our rural areas. What I was told each and every time I sat down with these folks one on one, not knowing that I served in the Legislature, what has happened is we no longer get one, two or three year contracts, we get three month contracts. Put up or shut up. If you don't want to do the work, go somewhere else.

Ladies and gentlemen, any business person in this body should understand that it is very difficult to go to the bank and get a loan to support the 20 or 30 people you have working under you that you respect, love and enjoy because you have hired

them over the years and they have been with you for 20 years to go and tell them folks that I can no longer keep you on the payroll because I can't get any short or long-term commitment out of the major landowners to keep you on. I heard that time after time after time. I can't tell you how many times I heard it up in the northern Aroostook area. I think the things that Representative Jackson has started back before he came into the Legislature, some of the things that you saw earlier this year, in this bill in particular, is the only way to go. It is the only way to level the playing field. Quite frankly, without this, they will continue to have the excuse that we can't find any Maine workers so we have to bring them in from Canada. I think it is ludicrous. We have hardworking people, hardworking business people, hardworking business folks that want to invest in the industry they worked for 10 decades that really want to continue. I have three in my district that quite frankly can't even make the payments during mud shutdown. They can't go to the bank and get a loan anymore to pay their employees or pay for their equipment financing during the shutdown periods because their contracts aren't long enough to say that is reasonable collateral to pay you to keep it going. That is sad. I think it is unfortunate. I don't think we should be subsidizing some country in Canada. Thank you.

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

Representative **TREADWELL**: Mr. Speaker, Ladies and Gentlemen of the House. Five times in this amendment, (H-848) on page 4 and 5 it says that the Legislature finds that. Normally when we say the Legislature finds something, it would be supported by a study or other competent information to make that statement. I would ask whoever signed onto the Majority Report of this bill what study or other source of reference do you have to support that statement?

The SPEAKER: The Representative from Carmel, Representative Treadwell has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Van Buren, Representative Smith.

Representative **SMITH**: Mr. Speaker, Ladies and Gentlemen of the House. The legislative findings result from what testimony we all heard in the Labor Committee. These business people came to us and they told us about their not being able to bargain with the monopoly companies. They told us that the company would respond to them that anti-trust laws don't let us talk to you. They told us that they couldn't break even. They told us that they were being paid less today than they were five years ago, even though they had invested more money in their equipment and were more efficient. They told us these things. Yes, the committee in its report is recommending these findings. Yes, these gentlemen who have driven all the way down to Augusta and stood in the halls on at least three different days in the past year have told us and if that is not enough of a study for some members of this House, it is enough for me. That is why these findings are in the bill. That is why we are asking you to vote in favor of it.

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

Representative **JACKSON**: Mr. Speaker, Ladies and Gentlemen of the House. To follow up on that, just like last year I showed you that this Pan Atlantic study, \$100,000 was given to the US DOL to do a study. In that study it said in the last 20 years landowner profits have gone up 169 percent while the worker's wages have dropped 32 percent. In that time the productivity has gone up 74 percent. To follow that up, the Legislature passed a bill to do a round table study on economic and labor issues related to the forest products industry with

basically the same findings. Besides that, I have the entire lifetime of knowing that there is a problem in this industry. In 1973, my father moved back home with my mother from Connecticut and took a job working in the woods. In the years of '74 and '75 in my area there were a whole bunch of different laborers struggles that went on. A lot of the equipment got burnt. A lot of people lost their jobs and I can remember back then, being that young, some of the things that were going on.

Back then Governor Longley came to the Town of Allagash and told us that he was working on this issue and he would help us. We didn't see any help and in 1981 the same thing. JD Irving came to a place known as the high landing in Allagash. Over 100 men were stopped there just asking for them to come and listening to their concerns. We carpooled up, he stepped out, sat on the hood and said, "Boys, let me tell you. You either go back to work for what I'm telling you to or I will replace you all." That year a lot of people did get replaced. Governor Brennan met us in Fort Kent at the college. In 1998, after living like that for all my working years in the woods, a group of us frustrated with the way that things were going on, decided to block the Canadian border in three different places. You tell me what kind of idiot would do something like that if there wasn't a problem? We stood there for a week, not letting anyone pass because we had to make some attempt of showing people that we have a problem here. We are tired of you saying that you are going to help us and never coming through.

At that time Congressman Baldacci and Senator Collins came. We had a lot of discussions, but I felt still pretty frustrated and decided that the best possible thing was for me to get down here and hopefully explain to some of you what the actual issue is. We understand that we are a long ways away and we don't have very much media coverage. That was the first time in my life I ever considered politics. What was that, I had never been to Augusta in my life. I thought that maybe I could come here and just explain to you and common sense would prevail. In that time when I was campaigning in 2001, guys that were working my area, truckers, had a strike, a week-long strike. They were told on that strike that a certain rate on tarred paved state roads they had to haul 42 ton. That was what the rate was based on.

Ladies and gentlemen of the House, 42 ton is well over the legal limit, but they were told that this is what their rate is based on. I have a little car and I have two young kids and I am going up and down those roads and I have worked with all these men. I know them well. I am scared to death for a log to come off one of those trucks and hit my car with my kids in it. I don't say anything because I know how hard it is for these guys to make a living. My father drove truck and everybody I know drives truck or runs some piece of equipment. That is the mentality that we are working under. It is break the law. That is what the rate is set on. If you don't like it, go home. Unfortunately over the years too many of us have had to go home. In 2004, because of my inability to convince the people in this room that there was a problem up there, my inability to pass this bill last year, these guys decided that they had to do something on their own. I am telling you the words of God that I did not have anything to do with this, but I was working myself and one night I got a call and it said, "Troy, we are having a meeting. Please come." I came and they talked about what the problems were and they decided that they had come to the end. They had to make a stand.

I don't know how much you heard or read, but let me tell you, I couldn't be prouder of a bunch of men, their wives and kids. People might say, you guys are stupid, but for three weeks these guys stuck together and you don't even know people until something like that happens. I have so much more respect for these guys, because there were things that went on during that

time. We were in contact with the New Brunswick Logging Association. New Brunswick doesn't have the same problem as Maine or the United States. We don't have anti-trust violations there. New Brunswick went on strike, some of the loggers for Irving on a Sunday night in the second week of our work stoppage. Within eight hours the company had settled with them, give them what they want. If you were interested to look, our contract is 15 pages, theirs is one. They are not tied into all the same things that we are.

It seems to me, this is just speculation, but because they were fighting a battle in the United States, you wouldn't want them to fight one in Canada too. The media exposure wouldn't look good. They settled with those guys. I have no idea exactly what they were making. I can't tell you. They did within eight hours settle with these guys. During our deal these guys could have worked for other landowners. We had numerous reports of other landowners, the company telling them not to hire them. If they did, they would raise the tolls on their roads. It was so much so that there were people that came up and investigated it a couple different times.

After the strike was over, the work stoppage, we didn't actually get anything. All the guys asked for at the end was that they had been out for three weeks and they needed to go back to work because the payments were mounting up and all these guys had their homes tied into this. The only thing they asked for was that everyone that had worked on those lines before would have the opportunity to go back to work. Yes, absolutely. We are going to take everybody. We need the wood. As soon as they started back to work, one guy who is not here today, but I had hoped he was here today, went in and they told him that you were too vocal during the work stoppage, we don't need you anymore. It was at least 15 employees he had under him. He was the first guy I ever worked for in the woods. He paid me \$7 an hour back in 1987. Last time I worked for him, I was making \$14. He was paying as much as he could. I never asked him for more because he was strapped out. He was a good guy to work for. He is done. He was too vocal. He never did anything more than the rest of us. He was just saying that he can't make it anymore. My costs are too high.

Another guy, he is up in the gallery, I won't mention his name, he is a hard worker. I worked with him down in central Maine. He is a real hard worker. He would put me to shame. He didn't go back after the work stoppage was done. They were so upset that he wouldn't go back and work for his substandard wages that they called the bank where he was financed and told the bank that we want you to repossess their equipment. The bank told them that they are paying. They said that they didn't come back to work for us, we want you to repossess their equipment. You tell me what kind of business treats anyone like that. If you are not willing to let them and you are lucky enough to find work elsewhere, let me tell you that he is working way down state, that they turn around and try to get them to repossess your equipment. No time during this whole thing did they ever say, look, we will sit down and work with you. We will come up with something. They say, here is what we are offering you. Take it or leave it. That is it. The thing about that was in the third week when things were looking pretty bleak for these guys, it came out that four of the contractors were offered the exact amount that these guys went out on strike for. They were told, don't tell anyone. There were some strings attached to it, but the 25 percent that these guys were asking for, these four individual contractors were offered. It was never about the money. It was about control. They did not want to pay these guys what they were asking for because they would have felt that they were going to lose control.

I guarantee you that is what it is. This company, in particular, can pay the money. We put up a rate sheet showing all the other landowners what was being paid to contractors. It was at least \$5 a ton less from them to the next highest one. It is a considerable 33 or 35 percent more was the next highest one.

Something that was referred to in here about rate setting and all that, just this year, ladies and gentlemen, we passed LD 1782. It is actually my bill. It is a bill for state parks and lands, unanimous vote. Ladies and gentlemen, that is rate setting. It is rate setting on parks and lands for the State of Maine. We passed LD 1852, unanimous bill, it was the Dairy Stabilization Fund. We passed it twice and sent it to the Senate and it came back the same date. It may not be considered rate setting, but something very close to it. Those are industries and bills that we looked at this year. Just this year we passed and addressed problems like this.

The idea that the state shouldn't step in, I feel is a bogus claim, but obviously I am biased. What I would like to tell you is, and then I will sit down, during all this there were reports of the industry being in trouble because they can't find enough people to work in the woods. There was a mill called Domtar, I believe in Representative Perry's district that shut down because they can't get enough fiber. They can't get enough people to cut. Ladies and gentlemen, you are going to continue to see that happen.

In 1998 after we blocked the border, we had meetings with the US DOL and the Maine DOL in Bangor. There was a gentleman there that was a contractor who is no longer in the industry. I remember him sitting there talking about what was going on. He said, "I feel the logging industry is like a chain. This chain is being stretched to the point where it is ready to break." I am not the most intelligent man, but it really hit me hard. I would like to you to know that whenever I was a child, I used to go with my father. I loved it. I don't do that with my kids. I am breaking the chain and I am not going to let my children go through this.

The SPEAKER: The Chair recognizes the Representative from Frenchville, Representative Paradis.

Representative **PARADIS**: Mr. Speaker, Ladies and Gentlemen of the House. This is a fairness issue. We have given bargaining rights to just about every group in this state, from mill workers, to teachers, to nurses and it goes on and on. The collective bargaining rights are supported by state law and federal law also. It is a matter of a collective voice speaking for and negotiating for a particular group. Furthermore, large corporations including most woodland owners, including the one in question here, have seen fit to group together to promote their common interests. To put it simply, there is unity in strength in promoting issues as a group. Are we to discriminate against a hardworking segment of the woods industry, a group that is reeling and in danger of disappearing forever? A good portion of the traditionally important and contributing segment of the lumber industry, the Maine loggers are asking for a fair shake. Please let us not deny them the right we grant to just about any working management or ownership group in this state. Please vote yes on this bill.

Representative TRAHAN of Waldoboro asked leave of the House to be excused from voting on L.D. 1318 pursuant to House Rule 401.12.

The Chair granted the request.

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. 402

YEA - Adams, Ash, Barstow, Beaudette, Blanchette, Bliss, Brannigan, Breault, Brown R, Bull, Bunker, Canavan, Carr, Churchill J, Cowger, Craven, Cummings, Dudley, Dugay, Dunlap, Duplessie, Duprey G, Earle, Eder, Faircloth, Finch, Fischer, Gagne-Friel, Gerzofsky, Goodwin, Grose, Hatch, Hutton, Jackson, Jennings, Joy, Kane, Ketterer, Koffman, Landry, Lemoine, Lerman, Lessard, Lundeen, Mailhot, Makas, Marley, Marraché, McGlocklin, McLaughlin, Mills J, Moody, Moore, Norbert, Norton, O'Brien L, O'Neil, Paradis, Patrick, Peavey-Haskell, Pellon, Percy, Perry A, Perry J, Pineau, Pingree, Piotti, Richardson E, Richardson J, Rines, Sampson, Saviello, Sherman, Simpson, Smith N, Smith W, Sullivan, Suslovic, Thomas, Thompson, Twomey, Usher, Walcott, Watson, Wheeler, Woodbury, Wotton, Young, Mr. Speaker.

NAY - Andrews, Austin, Berry, Berube, Bierman, Bowen, Bowles, Browne W, Bruno, Campbell, Churchill E, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Daigle, Davis, Duprey B, Fletcher, Glynn, Heidrich, Honey, Hotham, Jacobsen, Kaelin, Ledwin, Lewin, Maietta, McCormick, McGowan, McKenney, McNeil, Millett, Mills S, Muse, Nutting, O'Brien J, Rector, Richardson M, Rosen, Shields, Snowe-Mello, Stone, Sukeforth, Sykes, Tardy, Tobin D, Tobin J, Treadwell, Vaughan.

ABSENT - Annis, Bennett, Bryant-Deschenes, Clark, Greeley, Jodrey, McKee, Murphy, Rogers.

Yes, 89; No, 52; Absent, 9; Excused, 1.

89 having voted in the affirmative and 52 voted in the negative, with 9 being absent and 1 excused, and accordingly the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "C" (H-848)** was **READ** by the Clerk.

Representative SMITH of Van Buren **PRESENTED House Amendment "A" (H-864) to Committee Amendment "C" (H-848)**, which was **READ** by the Clerk.

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

Representative **SMITH**: Mr. Speaker, Ladies and Gentlemen of the House. What this amendment does is make crystal clear that this bill only applies to a forest landowner as defined in the act. It is simply to remove a possible ambiguity. Thank you.

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

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

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

Representative **TREADWELL**: Mr. Speaker, Men and Women of the House. For the good Representative from Van Buren, Representative Smith, does this amendment require that expenses of the arbitration be paid by the landowner? Is that what I am reading?

The **SPEAKER**: The Representative from Carmel, Representative Treadwell has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Van Buren, Representative Smith.

Representative **SMITH**: Mr. Speaker, Men and Women of the House. This does not change the payment scheme, which was to be split equally between the two sides. What it simply does is make clear that as far as payment of the rates found by the rate panel, that they will be paid by the forest landowner as defined in the act.

House Amendment "A" (H-864) to Committee Amendment "C" (H-848) was **ADOPTED**.

Committee Amendment "C" (H-848) as Amended by House Amendment "A" (H-864) thereto was **ADOPTED**.

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

Under further suspension of the rules, the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "C" (H-848) as Amended by House Amendment "A" (H-864)** thereto and sent for concurrence.

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

An Act To Promote Safety and Fair Labor Practices for Forestry Workers

(H.P. 1015) (L.D. 1380)
(C. "A" H-810)

TABLED - April 5, 2004 (Till Later Today) by Representative DUPLESSIE of Westbrook.

PENDING - **PASSAGE TO BE ENACTED**.

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

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

HOUSE DIVIDED REPORT - Majority (8) **Ought to Pass as Amended by Committee Amendment "A" (S-467)** - Minority (5) **Ought to Pass as Amended by Committee Amendment "B" (S-468)** - Committee on **NATURAL RESOURCES** on Bill "An Act To Amend the Dissolved Oxygen Standard and the Bacteria Standard for Class C Waters"

(S.P. 743) (L.D. 1899)

Which was **TABLED** by Representative KOFFMAN of Bar Harbor pending **ACCEPTANCE** of either Report.

On motion of Representative KOFFMAN of Bar Harbor, the Minority **Ought to Pass as Amended** Report was **ACCEPTED**.

On motion of Representative SAVIELLO of Wilton, the House **RECONSIDERED** its action whereby the Minority **Ought to Pass as Amended** Report was **ACCEPTED**.

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

Representative **KOFFMAN**: Mr. Speaker, Ladies and Gentlemen of the House. Standing with the Minority Report on this occasion has made me ever more fond of unanimous reports. Unfortunately the Natural Resources Committee members agreed to disagree on the appropriate water quality standards required to support trout and salmon in Maine's Class C rivers. Maine is blessed with 3,600 miles of rivers and streams, 1,000 of these rivers are Class C rivers. They include the Androscoggin, the Kennebec, the Penobscot, the St. Croix and the St. John. This bill is about the level of oxygen that should be in the rivers to support salmon and trout year round, not only support them to survive, but to support them to grow. The bill is about reducing effluent that creates bacteria. That bacteria consumes oxygen and that oxygen is required to support fish.

The reason we are interested in supporting salmon and trout in Maine's Class C rivers is because, for one thing, it is part of our state law. We decided as a Legislature some years ago that we wanted to move towards that goal and sustain fisheries. These rivers are sometimes called working rivers. Once upon a time the rivers worked as sewers for all sorts of effluent. Thanks to leaders of yester year, many of whose spirits are here in this

House, our rivers are doing different work today. They are supporting fishing and boating and hunting and swimming and bird watching and other recreation that wouldn't have been thought of 20 years ago, even 15 years ago in this state.

The Androscoggin was considered the dirtiest river in the United States, back in the 1920s and 1930s. To find oxygen in that river back then was hard to do because at times there was zero oxygen available for fish in all of the Androscoggin.

When Senator Muskie was elected to the Senate, one of his objectives was to do something about that. He and many others worked hard to pass the Clean Water Act. The rest is history. We are a part of this history today, that effort needs to continue. The Minority Report sets a high standard, but it is a standard that 90 percent of those waterways currently meet. We are not raising and suggesting to raise the standard beyond what these 1,000 miles mostly meet. Of the 1,000 miles that is 100 miles that fall below the oxygen standard that we are recommending.

The Minority and the Majority Report agreed to disagree. We did have unanimous feeling about a couple of things. One of them was that whichever report were to be passed, we all wanted to support growth in our economy, sustainability of the industries now working on the rivers to defend and support the jobs of those who work in mills and at the same time to consider the jobs of the future of the people who are choosing to live here and stay here and enjoy those rivers. The cities up and down those rivers that are working now to embrace the rivers when they had their backs turned to them and the paint peeled off their cars and houses 30 years ago now. They are making major investments, multi-million dollar investments in one city after another. This is nothing new. It is happening all over the country. Go to San Antonio. Go to Chattanooga. Go to Chicago. All are major cities, of course, that were settled on rivers and they are all trying to clean them up and turn to them as part of their economic development plan.

I finally want to say that while we set a higher standard in the Minority Report than is there in the Majority Report, there is in our current statute, the same statute applies across the country for those who cannot attain that standard, a process called a Use Attainability Analysis, which allows the DEP and the EPA to work with an industry to see what reasonable prudent steps can be taken that are cost effective that industry to improve their standards. It is a reasonable process. It has been in place quite some time.

Ladies and gentlemen, I recommend the Minority Report as having the higher ground, both for the economy and for our rivers and for our future. Thank you.

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

Representative **PINEAU**: Mr. Speaker, Ladies and Gentlemen of the House. The Minority Report goes too far. The Minority Report doesn't fix anything really that isn't fixed in the Majority Report. I ask you to defeat the Minority Report and move onto the Majority Report, which also doesn't degrade the river and which allows us to continue moving ahead in both an economic and environmental way. Thank you Mr. Speaker.

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

Representative McLAUGHLIN of Cape Elizabeth assumed the Chair.

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

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

Representative **MAKAS**: Madam Speaker, Men and Women of the House. I would like to speak in strong support of the Minority Ought to Pass Report. As you know, I am from Lewiston. There are a couple of issues why I believe it is really important to support this Minority Report. In the first place, it is a question of economics. The fact is, yes, it may cost some money to make the changes that will assure clear water, continuing clear water for the Androscoggin River, which, in fact, is one of the primary targets of this legislation.

It is not the millions of dollars that some have claimed that it would be. The fact of the matter is, the places that would have to spend money would have to spend money in any event to meet the current standards, which they do not meet. In addition to that, there would be additional money expended to meet the Majority Report, which is a lower standard than the Minority Report. I contend that the additional amount of cost to the mills to meet the Minority Report are relatively small compared to the advantages that would be gained by continuing to ensure that the Androscoggin is cleaned up and that the Androscoggin is treated the same as all other C category rivers.

A second important point to mention is that the licenses that are given, including the one for the Androscoggin, are five-year licenses. Each of the licensees must attain the required standard within five years. In other words, this is not the standard that they need to meet tomorrow or the day after the legislation is passed. It is a standard that they have five years to attain. As Representative Koffman has said, if for some reason the standard is not obtainable by a particular licensee or intended licensee, they have the option of going to a Use Attainability Analysis done by the DEP at which point the intended licensee can explain why they are unable to meet that standard, either because it is too costly or because it is not possible. They will be allowed to meet a lesser standard.

I contend that the important point is to set a high standard for all rivers, including the Androscoggin and the St. Croix, which, in essence, are the targets of this legislation.

The economic benefits to Lewiston/Auburn are critical. The Androscoggin is a working river, but it is a working river at both ends. As many of you know or have visited our city, Lewiston and Auburn have invested millions and millions of dollars in the past two years. We also have a pine tree and parliament zone and we intend to spend more money to both increase business, small businesses in the area of the river and to add jobs. Lewiston/Auburn has a river and we are beginning to feel the pride of ownership of this river. It is indeed becoming cleaner because of the work of past environmentalists. It is a big economic boom to Lewiston/Auburn. I encourage you to support the Minority Report so we can continue to see Lewiston/Auburn grow and make its citizens proud and make the whole State of Maine proud of the Androscoggin as we are. Thank you.

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

Representative **WALCOTT**: Madam Speaker, Men and Women of the House. I stand today to speak in favor of this Minority Report. Let me explain why. I am saddened at the need to rise today and speak on this issue. Today, as we debate LD 1899, we look to take part in the continuation of a long and sad history in Maine. This history is not one often spoken of. We look to once again, if we accept the Majority Report, at the Lewiston/Auburn area and the Androscoggin River as second class. I rise today, Madame Speaker, to ask that we change this decades if not centuries old practice. This is something that in this century should have gone by the wayside long before now. The Minority Report does just that.

Some people on the other side of this issue would say that I don't understand what is being discussed today and that we are not looking to lower the standards on the Androscoggin River. Madam Speaker, I understand that argument. What I am rising to discuss today is the fact that the Majority Report of LD 1899, does specifically look to treat the Androscoggin Rivers and a portion of the St. Croix river differently than all other Class C rivers in Maine. The Minority Report treats them all equally. This may not be a lowering of current standards, but it is a lower standard water in other Class C rivers, which already meet the standard.

The long, sad history of which I already mentioned, is partly that we are looking to treat certain people and areas differently, but also that the Androscoggin River has never met state or federal standards for clean water and still doesn't today. The river is much cleaner than it used to be, but it is still plagued by environmental problems. It still smells like a paper mill. It is too dirty for trout and salmon to thrive. It has massive algae blooms that make parts of the river impossible to swim in.

Madam Speaker, in light of all this I would think that the Legislature and the citizens of Maine would be working to make the river cleaner to finally meet standards. However, Madam Speaker, don't forget in Maine that there is that long, sad history of treating the Androscoggin differently. In the 1980s the Legislature bowed to the will of the paper companies and exempted Gulf Island Pond, the area of the Androscoggin we are talking about, from all water quality standards. However, and thankfully, the US Environmental Protection Agency rejected this move as a violation of federal law. I would say today that we are not doing much better. Some people have gone so far as to blame the citizens of the area by saying sewerage treatment plants are the source of the problem on the Androscoggin River. I would point out that according to the Natural Resources Council of Maine, treatment plants account for 2 percent of the pollution while the mills upriver account for 83 percent.

Madam Speaker, we are often told to keep emotion out of things and to talk only about the facts. Well, that is hard to do when you are talking about your home. Whether that be lower standards for your river than others, a toxic waste dump in your neighborhood, or an incinerator in your backyard. With that I would like to tell you a short story. Picture a small town on the banks of a river. In the first census in 1790 the population of this town was 532 persons. Today, the town has grown to be the second largest city in Maine. For many years now, this town has tried very hard to work above an image of being low-class or second class, of being dirty and crime ridden and has built itself into a regional and statewide economic hub. Yet, old prejudices prevail.

Today there are many new parks and other civic improvements in the town, including many along the river. These parks are a center of social activity in the summer. You can see families walking on the river walk along the banks of this mighty river. You can see children playing in the parks. On the fourth of July, you can see citizens carrying flags, the US flag and one of each state in the union across the bridge over the great river and holding them high on the bridge during the fireworks that explode in the warm summer night. You know that the citizens organized this and they have done it annually since September 11, 2001. You also know how proud they are to do it, their own small token to the people who died in the attacks of that day.

If you walk through the downtown of this great city or the downtown of the equally great city across the water, you can see many fine sights and evidence of much economic growth and activity. You will see a great old cathedral, you will see new civic

improvements, such as the recently renovated civic center or Franco-American Cultural Center. You might decide to stop and have dinner at Davinci's before catching a hockey game at the civic center or the new symphony at the cultural center and then spend the night at the newly constructed hotel across the river, but right along the river.

You may notice the expansion being done on the library. You may stop in at the Liberal Arts College which is known as the best in the nation for poetry reading, a talk or some other educational activity open to the community. You may have an afternoon at a play at one of the several theaters in the area or sitting listening to an outside band. I believe that the good Representative from Gardiner, Speaker Colwell, has played there before.

You will also notice a community which is proud of what it has become and proud of how clean its river is now, versus years in the past. Even during a crisis or hard times, like discrimination against its most recent immigrants, the city binds together and turns out thousands for a pro-diversity rally from all over the state, not just the town.

Yet, the citizens know deep down inside that some people still think of their town as second class. Some citizens seeing all that has been accomplished in their town, all the good that is done, might just be getting over it. Then it happens, the Legislature approves a measure that once again sets their community river behind everyone else. It is okay, because the citizens of their city deserve to be treated differently and their river doesn't matter much. It matters, by the way, we are raising the standards, but it just doesn't matter as much. The standards are just not as high as all the other rivers. The people arguing for the measure say it is all about jobs, but down in the hearts of the citizens of the town, they know that being treated as a second class city means that they have to work that much harder to attract jobs to their area and that much harder to overcome those ancient and outdated prejudices.

Madam Speaker, men and women of the House. As I close I just have one more thing for you to picture in your mind. Picture everything that I have said, now picture that I am talking about your town. Would we be debating this today?

Please, Madam Speaker, men and women of the House, vote to treat all Maine fairly and equally. Please vote to support this Minority Report. Thank you Madam Speaker.

Representative HUTTON of Bowdoinham **REQUESTED** a roll call on the motion to **ACCEPT** the Minority **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 PRO TEM: The Chair recognizes the Representative from Calais, Representative Perry.

Representative PERRY: Madam Speaker, Ladies and Gentlemen of the House. Lewiston/Auburn is not my town. Calais on the St. Croix River is. This is another river that is being, a portion of that river, is being treated different, as a portion of the Androscoggin River is. I live in an area that for the last 10 years has had double digit unemployment. We have had lost jobs and positions. We have nearly lost the mill that we have in the area. We have lost one of the productions of that mill.

Calais, right now, has an unemployment rate of 15 percent. We have a mill that was taken over and has been struggling to stay alive. We have had some successes over this last year and we have been celebrating. Domtar, the paper company that is on the St. Croix River is working and investing some money into water treatment. If we ask for more than that, it is not going to be about whether the river will be clean, it is really going to be

asking about whether we are going to increase our unemployment rate.

We have a river that people fish out of. We vote on it and it is still going to be the same river with this slight differentiation, because it is not degrading it or making it any lower than it is right now. I am going to ask you to look at some balance between what is environmentally good and what is going to allow an area to stay at least economically viable. We are struggling to stay alive. We have a business that is struggling to stay alive. I am going to ask you to vote for the Majority Report and not for the Minority Report. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Wilton, Representative Saviello.

Representative SAVIELLO: Madam Speaker, Ladies and Gentlemen of the House. I want to rise before you to kind of clarify a few things that perhaps you have heard today that I think needs clarification. First of all, the EPA in its Gold Book, which is the book that sets the standards for water quality, sets the standards for 6.5 parts per million and 20 degrees centigrade. Number two, if this Minority Report passes, it will be 6 mills and three municipalities that will be affected by that. They will be forced to spend significant amounts of money for fish that do not live in the river and, in fact, if they did, they would not grow.

The good Representative from Lewiston is worried about his river water quality. That will not change, whether or not it is the Majority Report, it will not change that quality. In fact, the river quality will probably get better.

Finally, I close by saying on that river it is a national bass fishing area. In Gulf Island Pond alone last year there were eight bass fishing tournaments. Thank you Madam Speaker.

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

Representative HOTHAM: Madam Speaker, Ladies and Gentlemen of the House. I rise in hopes that you will help defeat the Minority Report. I have to tell you that as an employee of Mead in Rumford, I have had to stand and watch 30 of my fellow workers leave. Thirty workers leaving and we didn't pass a single law here to create that. Believe me, passing the Minority Report will do just that. I have to refer to a comment made earlier regarding fish. I also have to refer to the Gold Book from the EPA, which states that salmon and trout will leave if the water temperature is 24 degrees. They are not going to hang around. They prefer colder water.

Also, I want to share with you an e-mail that I received from a constituent who works for Warsaw Papers in Jay, the old Otis Mill, for those of you who are familiar. I want to quote to you. "On average, I catch fish every 15 minutes." He is a bass fisherman. "It is not at all unusual to catch 30 to 50 bass, up to four pounds in weight on any Saturday morning. I have to stop fishing, because when you catch and release, there is a lot of manual labor to that and wear a callus in my fingers because it happens so much."

I would also say that any test of whether or not you are going to be able to improve water quality is whether or not money has to be expended after a law is passed. The word that we are getting is that even if the Majority Report passes, it will cost mills in Maine on those rivers \$3 million to \$5 million for improvements. It will add an additional \$600,000 to their costs. I wonder how many units of 30 employees that computes to? If it is one it is too many.

We have an opportunity, I think, through the Majority Report, to pass something that will be good for fish and families. I hope that you will help me in defeating the Minority Report. Thank you Madam Speaker.

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

Representative PATRICK: Madam Speaker, Men and Women of the House. I, too, live in the community of Rumford, home of former seat number 151, Ed Muskie. I am extremely proud of the way our mill over the last 20 years has handled our environmental issues. I remember 15 or 20 years ago when I first got in the mill how terrible the river was, not only in Rumford above the dam, below the dam and remember many times going with my folks to shop in Lewiston and looking over the Memorial Bridge at the falls and seeing the foam floating through over there. I remember many times lately, the last time I was down to Lewiston and I go across that bridge, I look at the falls and say, wow, what a great thing we have done over the last 10 or 15 years of cleaning up the river.

I don't necessarily think we have gone far enough, but in the industry that I deal with, I believe incremental increases in quality in our river and air are important. I have seen many times over the years, as a matter of fact I think in 1990, the Natural Resources Council of Maine did an article on Mead slamming the company for our poor air quality. Since then, they have put in millions of dollars. The last thing was a year or two ago, they put in a \$12 million condensate scrubber, which actually decreases the stink and smell in our area. If you are not from around our area and you showed up, you would probably still smell it somewhat. We have done an extreme amount of environmental expenditures and have done a yeoman's job.

What worries me about the whole bill, and I have heard in our caucus at least, this really isn't a jobs bill. When I first came to work in the mill in 1972 it was owned by Oxford Paper Company. They were bought out and didn't spend any money. They were probably the worst corporate companies to own us. They did nothing for the mill. They run it into the ground and then Boise Cascade bought it. They put in \$500 million, a new paper machine, a new boiler and a new TMP. They did an awful lot of environmental investments in that. It was in the millions of dollars. It got us well beyond the cluster rules that the federal government put in. Since that time, we have done an awful lot to bring that into compliance. I think we are in compliance with the standards now. I am sure if we have to, then we will put more in.

What scares me that most is the corporate philosophy that I have seen in the last five or six years. In 1999, I will never forget the time when the company one morning says, we are shutting down Fine Paper. Fine Paper, we shut down number nine machine, eight machine, seven machine, four machine and they tore three of them out, never to be run again. The tax base of our community is gone and the machines are gone. We lost, I don't know, 200 or 300 people. We had a major roll back in employees, layoffs. Like the good Representative from Dixfield said, this last one we lost 30. There was a good sign that one of our machines did start up because we are competitive on one grade of paper, our number 11 machine started back up. In that competitiveness, we are talking about a fractional difference between one mill and one of our sister mills, so we got the order. When a company is always saying and what they have proved to us, if we become less competitive, they shift our orders out, tear our machines out and the jobs are gone.

In 1990 when I was union president, there were 1,800 employees, hourly and salary that worked in the mills, 1,200 hourly. Now we are down to about 1,200 hourly and salary. I think we have less than 900 hourly. It is not going to take much more to break the camel's back. I am worried, honestly, about if we have to comply with the Minority Report, if we have to expend \$5 million, \$10 million or \$15 million, that is going to be the straw that breaks the camel's back.

The 1,200 remaining employees in my town, you multiply that by a factor of 10 or 12, that is another 10,000 or 12,000 employees that fill in the wood jobs and other jobs that coincide with our mill. If you multiply that with the other six mills, you are looking at 30,000, 40,000 or 50,000 people that could possibly lose their jobs. I hate like heck to say that. I am actually in favor of the company in this aspect because I have never really supported them on anything. Anyone that knows me, knows I am pro-labor and I have slammed them every time. I support every comp bill and stuff like that. I will continue to do that within reason as long as I don't believe it is going to be the straw that breaks the camel's back. I really believe our mill, Mead, the citizens of the Rumford area, are doing a great job and that we don't have to spend the large amount of money with the Minority Report, but incrementally we are going to make things better if we go with the Majority Report. I can live with that. I know Ed Muskie may turn over in his grave that I am not shooting for the stars, but I also know we are outsourcing our jobs in America. You can watch TV, CSPAN and these, you watch Japan, you watch Brazil, you watch a lot of the European countries, they spew stuff into the air and into the rivers and don't care about that. We are going the opposite. We want to take care of everything. I think we are at a point where we can continue the good fight, but we just can't go beyond and lose all of our good manufacturing jobs in the State of Maine.

I would offer you to not support this and move onto the Majority Ought to Pass Report. Thank you.

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

Representative **MAKAS**: Madam Speaker, Men and Women of the House. Three brief comments. One, it is my understanding that many of the mills on the C category rivers that we are talking about, include Mead already meet the standards required by the Minority Report. Secondly, it is important to note that the one, possibly two, that do not meet the current standards have five years, the entire length of the license in which they can obtain that standard. Thirdly, there is a process in place that is tried and true, which is known as a Use Attainability Analysis so that if a mill is unable to meet the standard that is set, that mill, the people from that mill may discuss with DEP a way in which they can reach the highest possible standards without a negative economic impact. Nobody wants to put people out of work and saying that the Minority Report will put people out of work is simply not a fact. There is a Use Attainability Analysis. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from China, Representative Thompson.

Representative **THOMPSON**: Madam Speaker, Ladies and Gentlemen of the House. Let me try to make this easier to understand. Imagine you have a third grader, I have a third grader, they come into the third grade and we want them to read at a third grade level. Some children will read better than a third grade level. Some children will read below a third grade level. The children below the third grade level we have a program in place to help them come up to standard. If they can't come up to standard, then we still have a program in place that allows them to progress.

I think what the Representative described about a UAA works in this case with our rivers. We set a standard for our rivers. Some rivers currently are higher and currently some rivers are lower. Those that are lower, if it is going to cost you your business, that is not what we are about. We will help change the standard so that you can maintain your business, maintain your jobs. This is not trying to force people out of business. It is

setting a standard. If you can't reach the standard, talk to me. We will work with you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Wilton, Representative Saviello.

Representative **SAVIELLO**: Madam Speaker, Ladies and Gentlemen of the House. I think I need to clarify a UAA. A UAA, only one has been done in the State of Maine in its whole history of environmental regulations. It took over two years to complete. In that period of time that a UAA is being completed, decisions will be made about these mills long before that program is done. Thank you Madam Speaker.

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

Representative **TWOMEY**: Madam Speaker, Men and Women of the House. I have had so much interest in why I, the environmentalist, the flaming liberal, could be in the Majority Report. There has been so much around it that I just felt that I have to stand up as an environmentalist and tell you that I have been torn on this issue for a long time. I have nothing but great respect for my chair of my committee and being in the progressive caucus of my committee.

I listened very carefully about dissolved oxygen because a lot of us go into this not knowing what this is about. I was prepared a long time ago, paper mills and I were not always friends, the dioxin issue was something that I was always concerned about. I was prepared to come here when I first met my seat mate not to like him, because he works for a paper company, dioxin, pollution, this is going to be fun. Representative Makas has been such a strong advocate. I have to give her so much credit for asking the questions and going to the tenth degree on this. She has been at every meeting and she is convinced that this is what has to be done. When I needed someone, a progressive in my committee to understand about a toxic dump in Old Town, she was the only progressive in that committee that understood. I felt an obligation to that. I said I can't possibly go along. I have heard the argument and I think they are right and I am going to stay with the progressives. The Natural Resources Council of Maine lobbied me very, very hard. At the end of the day, this is what I did. I talked to the Commissioner of the DEP, Dawn Gallagher and Deb Garret who I have the utmost respect for. Even when I went to the Old Town hearings last week, I sat with them. I said to them are you sure we are not changing or reclassifying these rivers? I do not want to go down in the history books as being an environmentalist and supporting this. They assured me that this was the thing to do. They were all on board with this. This is the way to go.

I heard a lot in my caucus about process in our committee. There are things that I have to say that I don't like. There are things that I do not like. This was not the first issue. Process has been flawed many times in our committee. We cannot pick and choose. I really believe that the process was flawed and the committee has taught me that the Old Town dump was supposed to be about jobs. I didn't believe it then and I still don't believe it. We went to bat because it was about jobs. Now, we have five mills that are in jeopardy. Where does the environmentalist cross the line? Where do you step back and say, how do I balance this? How do I weigh this? I think I shocked a lot of people on this side of the aisle. How could this girl have balance when she is so much for the environment? I listened to the Commissioner who I have a lot of trust in. She believed that this is the way to go. That is why I decided to go to the majority side of the argument. It is not to take away from my committee members. We need to be consistent.

If one of the largest projects in the State of Maine, a toxic dump, is going to be cited, we don't even fight for people's right to

have a public hearing. We have to save those jobs. I have to tell you that labor put me through the woodshed on my after deadline to push for a public hearing for the citizens of Old Town. They took me to the woodshed and now the environmentalists aren't happy with me. I must be doing something right when both sides are coming after me. That is how I see it. It doesn't take away from the respect I have for Representative Makas and for the members of my committee. I think the Majority Report is a good report. I think it is the best way to go. Thank you.

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

ROLL CALL NO. 403

YEA - Adams, Beaudette, Bliss, Brannigan, Bull, Canavan, Cowger, Craven, Cummings, Davis, Dudley, Dunlap, Earle, Eder, Faircloth, Gerzofsky, Goodwin, Grose, Hutton, Kane, Koffman, Lemoine, Lerman, Lessard, Mailhot, Makas, Marley, Mills S, Moody, O'Brien L, O'Neil, Percy, Pingree, Piotti, Richardson J, Rines, Sampson, Smith N, Suslovic, Thompson, Walcott, Watson, Wheeler, Woodbury.

NAY - Andrews, Ash, Austin, Barstow, Berry, Berube, Bierman, Blanchette, Bowen, Bowles, Breault, Brown R, Browne W, Bruno, Bunker, Campbell, Carr, Churchill E, Churchill J, Clark, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Daigle, Dugay, Duplessie, Duprey B, Duprey G, Finch, Fischer, Fletcher, Gagne-Friel, Glynn, Hatch, Heidrich, Honey, Hotham, Jackson, Jacobsen, Jennings, Joy, Kaelin, Ketterer, Landry, Ledwin, Lewin, Lundeen, Maietta, Marraché, McCormick, McGlocklin, McGowan, McKenney, McLaughlin, McNeil, Millett, Mills J, Moore, Muse, Norbert, Norton, Nutting, O'Brien J, Paradis, Patrick, Peavey-Haskell, Pellon, Perry A, Perry J, Pineau, Rector, Richardson E, Richardson M, Rosen, Saviello, Sherman, Shields, Simpson, Smith W, Snowe-Mello, Stone, Sukeforth, Sullivan, Sykes, Tardy, Thomas, Tobin D, Tobin J, Trahan, Treadwell, Twomey, Usher, Vaughan, Wotton, Young.

ABSENT - Annis, Bennett, Bryant-Deschenes, Greeley, Jodrey, McKee, Murphy, Rogers, Mr. Speaker.

Yes, 44; No, 98; Absent, 9; Excused, 0.

44 having voted in the affirmative and 98 voted in the negative, with 9 being absent, and accordingly the Minority Ought to Pass as Amended Report was **NOT ACCEPTED**.

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

The Bill was **READ ONCE**. Committee Amendment "A" (S-467) was **READ** by the Clerk.

Representative KOFFMAN of Bar Harbor **PRESENTED House Amendment "A" (H-859) to Committee Amendment "A" (S-467)**, which was **READ** by the Clerk.

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

Representative KOFFMAN: Madam Speaker, Ladies and Gentlemen of the House. Now that we have arrived to this posture, I am pleased to present an amendment that calls for any new facility that may be moving onto Class C rivers to live up to the standard, the higher standard of the two standards, we now have a double standard, 6.5 and 24 degrees ambient for all the rivers except the 100 miles that are now at 22 degrees. This amendment simply says that a new facility moving onto any stretch of our river will have to behave at the higher standard, not be favored at the lower standard, if they are coming in with new equipment and a new facility and they are discharging in these waters, they must be at the higher standard. Thank you Madam Speaker.

Representative SAVIELLO of Wilton moved that **House Amendment "A" (H-859) to Committee Amendment "A" (S-467) be INDEFINITELY POSTPONED**.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Wilton, Representative Saviello.

Representative SAVIELLO: Madam Speaker, Ladies and Gentlemen of the House. I do appreciate the attempt of the good Representative from Bar Harbor to find middle ground, however, a compromise has already been met. Committee Amendment "A", the original Majority Ought to Pass Report was, in fact, a compromise. This amendment as proposed by the good Representative does little to the existing law and potentially stops all or any new expansions or developments. Let me give you a couple of examples. First of all, in Part I of the amendment it talks about in perpetuity. That talked about that the rivers that are already classified as the first part can never change. In fact, federal and state law already prevents that from happening. Secondly, new facility is in there. New facility is not defined in statutes. Could a new facility be defined as a new manufacturing facility? It means that they will never build one here. Does it take into account a facility that if it expands, new paper machine, couldn't do it, it would stop it. It also has a dramatic affect on the three municipalities and other municipalities. If there are manufacturing facilities other than the paper industry, which we would all like to see move into those areas, they could not do that.

Finally, there was a significant legislative process that we went through. There were hearings. There were workshops. There were many, many hours spent on this particular bill. You have already heard about some of that. This amendment has not gone through that process. Therefore, I ask for the Indefinite Postponement.

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

Representative KOFFMAN: Madam Speaker, Ladies and Gentlemen of the House. I just want to clarify one point. Currently if a facility were to move to Maine and decide to locate on the Kennebec and request to discharge effluent to the Kennebec, it would currently have to meet the standard that we have just nearly enacted, the Majority Report standard. I would also coincidentally to be meeting the Minority Report standard. We have a standard on 90 percent, 900 of the 1,000 miles of rivers that any new facility would have to be discharging at a standard of 6.5, 24 degrees ambient. That is what the DEP has been using since 1986. It is the standard.

The reason I put this amendment in is not to protect what is already established in standard, but that 100 miles or so that is 22 degrees, we have now made that exception. I don't resent that exception. I think they are honorable people who had their reasons for choosing to lower the standard in those sections of river. I sure don't want to send a signal that this is going to invite a new industry to come, whatever form or shape it is, and discharge at a lower standard. That invitation would send the wrong message about the State of Maine. It is one thing to make exceptions for existing factories and plants and what have you, but it is another thing to invite plants to operate at a lower standard than we would require today under our current law. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Wilton, Representative Saviello.

Representative SAVIELLO: Madam Speaker, Ladies and Gentlemen of the House. A couple of clarifications. First of all, the Kennebec is a B Class river. This bill that we just passed would have no relation to that. Second of all, I didn't say it before, but this is not a degradation of the river. There is no

standard for 6.5 parts per million at this time. If we pass this bill, that will be the first time that there is such a standard. Present rules call for only a narrative, meaning an indigenous species shall have habitat. We are just now about to pass a rule to that affect.

Finally, any new facility that builds on a Class C river, that new facility will be subject to the federal new source performance standards. That means that these technologies are already more stringent. There was already a law that is established to address this issue. Thank you.

Representative SAVIELLO of Wilton **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "A" (H-859) to Committee Amendment "A" (S-467)**.

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 Auburn, Representative Simpson.

Representative **SIMPSON**: Madam Speaker, Men and Women of the House. While I supported the Majority Report on the bill, would also rise to support this amendment. It is one thing to try to protect the jobs that we have here in this state and not hold an existing business to a standard that would be too expensive to achieve. It is quite another to invite people to come to our state and add more pollution to our waters. I grew up next to the Androscoggin River. It used to smell so bad on a hot summer day that couldn't go outside. It has come a long way. I don't want to see us relaxing the standards. We are moving in the right direction to clean up the river. We want to keep jobs, but we don't need to invite people to come and add more to our river as we go forward. I would urge you to vote against the pending motion. Thank you.

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

Representative **ANDREWS**: Madam Speaker, May I pose a question through the Chair?

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

Representative **ANDREWS**: Madam Speaker, Men and Women of the House. I know that this amendment applies to new facilities coming in. I have been given to understand that there is going to be a new machine going online in Millinocket. How would this impact that issue?

The **SPEAKER PRO TEM**: The Representative from York, Representative Andrews has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Bar Harbor, Representative Koffman.

Representative **KOFFMAN**: Madam Speaker, Ladies and Gentlemen of the House. In response to the question, I looked in the dictionary a little while ago at the word new and it satisfied me that my intent was as expressed in the amendment. That is a new, fresh, brand new, never been here facility, not an existing expansion, renovation or improvement. Actually I was going to include that in the amendment, but was talked out of it by colleagues who were concerned that that might actually discourage investment and expansion of current plan. I took out improve.

In many states and in federal and state laws in lots of places if you make a major investment in an existing plant, you are asked to bring the plant up to a higher standard environmentally as well, whether that is air standards or water standards. I think that is reasonable to a point. I didn't ask for that. I am asking that we don't invite new plants to come to Maine advertising that you can come in at a lower standard. We have now made an exception for those that exist. They can expand and we sure

hope they will and reinvest and add more jobs. This is about new plants.

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

Representative **CARR**: Madam Speaker, Ladies and Gentlemen of the House. I was kind of caught off guard when I heard people say that we didn't want any new manufacturing in the State of Maine. I think as most people realize, the administration that we have in place on the second floor now has worked hard, I believe, to bring new business into the State of Maine. We call that economic development. A lot of work has been done on the pine tree zones. Many hours have been spent. We have a lot of money that is invested in economic development. I think at some point we are going to have to decide on whether we want to support fish or whether we want to support people. I believe that we can do both, but we have to be reasonable in the process. I think as we are moving forward here, there are many things that are coming before us that really haven't been reasonable. I would ask that you support the Indefinite Postponement.

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

Representative **CLARK**: Madam Speaker, Ladies and Gentlemen of the House. The answer to the good Representative from York's question about the new machine in Millinocket, since I am the Representative from Millinocket area, that is not a new machine. It is an updated machine with a \$150 million investment that was proposed by the previous owners of Great Northern Paper, which is new Katahdin Paper. The river is a Class C, so this does not affect that.

The **SPEAKER PRO TEM**: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "A" (H-859) to Committee Amendment "A" (S-467). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 404

YEA - Andrews, Ash, Austin, Barstow, Berry, Berube, Bierman, Blanchette, Bowen, Bowles, Brown R, Browne W, Bruno, Bunker, Campbell, Carr, Churchill E, Churchill J, Clark, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Daigle, Davis, Dugay, Dunlap, Duplessie, Duprey B, Duprey G, Earle, Finch, Fischer, Fletcher, Gagne-Friel, Glynn, Goodwin, Hatch, Heidrich, Honey, Hotham, Jackson, Jacobsen, Jennings, Joy, Kaelin, Ketterer, Landry, Ledwin, Lewin, Lundeen, Maietta, Marraché, McCormick, McGlocklin, McGowan, McKenney, McLaughlin, McNeil, Millett, Mills J, Mills S, Moody, Moore, Muse, Nutting, O'Brien J, Paradis, Patrick, Peavey-Haskell, Perry A, Perry J, Pineau, Rector, Richardson E, Richardson M, Rosen, Saviello, Sherman, Shields, Smith W, Snowe-Mello, Stone, Sykes, Thomas, Tobin D, Tobin J, Trahan, Treadwell, Twomey, Usher, Vaughan, Wotton, Young.

NAY - Adams, Beaudette, Bliss, Brannigan, Breault, Bull, Canavan, Cowger, Craven, Cummings, Dudley, Eder, Faircloth, Gerzofsky, Grose, Hutton, Kane, Koffman, Lemoine, Lerman, Lessard, Mailhot, Makas, Marley, Norbert, Norton, O'Brien L, O'Neil, Pellon, Percy, Pingree, Piotti, Richardson J, Rines, Sampson, Simpson, Smith N, Sukeforth, Sullivan, Suslovic, Thompson, Walcott, Watson, Wheeler, Woodbury.

ABSENT - Annis, Bennett, Bryant-Deschenes, Greeley, Jodrey, McKee, Murphy, Rogers, Tardy, Mr. Speaker.

Yes, 96; No, 45; Absent, 10; Excused, 0.

96 having voted in the affirmative and 45 voted in the negative, with 10 being absent, and accordingly **House Amendment "A" (H-859) to Committee Amendment "A" (S-467) was INDEFINITELY POSTPONED.**

Subsequently, **Committee Amendment "A" (S-467)** was **ADOPTED**.

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

Under further suspension of the rules, the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-467)** in concurrence. **ORDERED SENT FORTHWITH**.

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

An Act To Promote the Financial Security of Maine's Families and Children

(H.P. 1152) (L.D. 1579)
(S. "B" S-476 to C. "A" H-774)

Which was **TABLED** by Representative RICHARDSON of Brunswick pending **PASSAGE TO BE ENACTED**.

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

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

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

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

The same Representative **PRESENTED House Amendment "B" (H-871) to Committee Amendment "A" (H-774)** which was **READ** by the Clerk and **ADOPTED**.

On motion of Representative DUPREY of Hampden, the House **RECONSIDERED** its action whereby **House Amendment "B" (H-871) to Committee Amendment "A" (H-774)** was **ADOPTED**.

The same Representative **REQUESTED** a roll call on the motion to **ADOPT House Amendment "B" (H-871) 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 PRO TEM**: A roll call has been ordered. The pending question before the House is Adoption of House Amendment "B" (H-871) to Committee Amendment "A" (H-774). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 405

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

NAY - Andrews, Austin, Berry, Berube, Bierman, Bowles, Bunker, Carr, Churchill J, Clark, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Daigle, Davis, Duprey B, Duprey G, Fletcher, Glynn, Heidrich, Honey, Hotham, Jacobsen,

Jennings, Joy, Ledwin, Lewin, Lundeen, Maietta, McNeil, Millett, Nutting, Peavey-Haskell, Richardson M, Saviello, Sherman, Shields, Snowe-Mello, Stone, Sykes, Tobin D, Tobin J, Trahan, Treadwell, Vaughan, Wotton, Young.

ABSENT - Annis, Bennett, Bryant-Deschenes, Churchill E, Dugay, Gagne-Friel, Goodwin, Greeley, Jodrey, McKee, Murphy, Rogers, Sukeforth, Tardy.

Yes, 87; No, 50; Absent, 14; Excused, 0.

87 having voted in the affirmative and 50 voted in the negative, with 14 being absent, and accordingly **House Amendment "B" (H-871) to Committee Amendment "A" (H-774)** was **ADOPTED**.

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

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **Senate Amendment "B" (S-476) to Committee Amendment "A" (H-774)** was **ADOPTED**.

On further motion of the same Representative, **Senate Amendment "B" (S-476) to Committee Amendment "A" (H-774)** was **INDEFINITELY POSTPONED**.

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

Representative **DAIGLE**: Madam Speaker, Ladies and Gentlemen of the House. I am thoroughly confused with what is in this bill and what is not. It is a very important matter. There is more sympathy for this issue than is probably sensed by many. Madam Speaker, I move this bill and all its accompanying papers be recommitted back to the Committee on Judiciary so we may come out with one package that we can understand.

Representative **DAIGLE** of Arundel moved that the Bill and all accompanying papers be **COMMITTED** to the Committee on **JUDICIARY**.

Representative **NORBERT** of Portland **REQUESTED** a roll call on the motion to **COMMIT** the Bill and all accompanying papers to the Committee on **JUDICIARY**.

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 Hampden, Representative Duprey.

Representative **DUPREY**: Madam Speaker, Men and Women of the House. I am going to support this motion to Commit and I will tell you why. As a member of the Judiciary Committee, I am embarrassed that we put out a product that was so badly flawed. We were acting as a committee of the whole just throwing on an amendment on trying to fix this, but yet it has passed every single time in both chambers. We are still trying to fix it. I am a big fan of the committee process. I think it should go there. Let's put out a decent product with some compromise that can withstand the muster instead of just piece meal this thing to death. I will be supporting the motion to Commit.

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

Representative **SULLIVAN**: Madam Speaker, Men and Women of the House. It is my understanding that we have simply with the motion prior to the one to Commit, simply done away with the Senate Amendment because we had just voted a new part in that makes the last one irrelevant. We have the amendments in front of us. This is not the first time we have seen it. I am opposed to this. Let's move on and stop stalling. That is what we are doing.

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

Representative **DAIGLE**: Point of Order.

The **SPEAKER PRO TEM**: The Representative may proceed with his Point of Order.

Representative **DAIGLE**: I object to the Representative from Biddeford, Representative Sullivan, inferring the motives of this parliamentary action.

On **POINT OF ORDER**, Representative **DAIGLE** of Arundel objected to the comments of Representative **SULLIVAN** of Biddeford because she was questioning the motives of this parliamentary action.

THE SPEAKER PRO TEM: The Chair would caution all members of this body to speak to the issue at hand, the pending motion, which is the motion to Commit back to Judiciary.

The Chair reminded all members that it was inappropriate to question the motives of other members of the House and asked them to stay as close as possible to the pending question.

The Chair recognizes the Representative from Biddeford, Representative Sullivan.

Representative **SULLIVAN**: Madam Speaker, Men and Women of the House. I did not rise to question to the motives of this group. My motives were questions earlier as to not understanding what we were doing. I fully understood what we were doing. If my motive of understanding is going to be questioned, then certainly I can question as to why. I understand. If he is offended, I certainly would apologize to the Representative from Arundel, Representative Daigle. However, he did question this body's ability to understand. I think that that was not right.

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

Representative **NORBERT**: Madam Speaker, Ladies and Gentlemen of the House. I think we need to take a collective breath, a sigh, and take a step back here. I know a bill like this can raise emotions. Let me just say that as chair of the committee in question, I would oppose a motion to Commit the bill again. As has been mentioned before, this bill has been worked on for two years now and currently we are debating some improvements to the bill, which naturally, I think appropriately flow from the give and take between the two bodies. The good news is as we stand here today that we have improved the bill. We have once again addressed concerns that were raised in a bipartisan way. I commend my friend, the Representative from Cornville, Representative Mills, for his hard work on this language. My other friend from Farmington, Representative Mills, for her good work on this language and others as well. I think if you take a look at the language, I am confident that this bill will appeal to even more of you now. Again, as I said, it clarifies some of the issues surrounding a registry, surrounding notice to people who might sign a registry as to the legal ramifications of doing so. It makes clear the termination. It is very fine work. Again, I commend those colleagues of mine who helped me, the sponsor of the bill, the good Representative from Portland, Representative Dudley, and improved this bill. It has been a long road. I don't think we need a lot of debate. Of course, people are welcome to debate it, but I think this is not something that any more time in the committee with a few days left of session would help. I think we are at the point now. I urge you to continue on with us to this path of passing this legislation.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Cornville, Representative Mills.

Representative **MILLS**: Madam Speaker, Men and Women of the House. I appreciate very much the sentiments of the good Representative from Hampden, Representative Duprey, and the Representative from Arundel, Representative Daigle, because

after all it is in committee where complex pieces of legislation ought to be worked out and where the drafting should be done and where the fine work should be accomplished before it hits the floor. I am fully in sympathy with those notions. Those are precepts that I believe in.

On the other hand, we live in a somewhat chaotic environment, particularly toward the end of the legislative session. Sometimes these things have to happen. This bill as currently written, builds on the fine work of the committee and incorporates the best work that they did and I think actually simplifies the bill to some extent, makes it a little easier to understand, less open to confusion, less open to ambiguity and gets the job done in a simple and fairly direct way. There are a lot of people who have put some time into the crafting of this thing, including many members of the committee. I think this has been a cumulative process and the product that lies before you is one that I think this institution can be secure in and proud of and should vote for at this point.

It provides in a very simple way that long-term domestic partners should be considered by the probate court for appointment as guardians, conservators of people's estates when people become incompetent. They should be considered to manage the estates of their partners when their partners die. They should have some say and control over the disposition of the body when there has been a death of one partner or another. It goes on further and says that there should be a registry system so that in the event that two long-term partners want to incorporate the Maine laws of intestacy concerning their estates, that they may have a place to go and put their names down on the record so that may happen. That is what this bill does. It does it in a very simple way. There is a simple way of terminating that relationship.

I think most of the issues that were of concern to me the other day have now been resolved. I don't think this bill is nearly as controversial as it was a week ago. I think to Commit to the committee would solve no useful purpose at this point. I want to end by saying that I agree in general terms with the point being raised by the two Representatives I mentioned earlier. Thank you.

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

Representative **RICHARDSON**: Madam Speaker, Men and Women of the House. I am asking that you oppose the motion to Commit for this simple reason. Today we placed an amendment on this piece of legislation, which will then go to the other body. Anyone who has any questions about all that has been done with respect to this bill will have ample time to reflect on it. It will, if the pace that we have been following is any guide, will take a day or two to travel from the other body back down to here. For that reason, you will have plenty of time to reflect. Therefore, I am urging my colleagues to vote against the motion to Commit. Thank you Madam Speaker.

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

Representative **SHERMAN**: Madam Speaker, Ladies and Gentlemen of the House. This is a struggle. It is with great sadness that I stand here. I am listening to people trying to get something done. We ran through this in Judiciary. We put out something that was not good. It has already been said. It had some problems and now we are talking about being a committee as a whole. We have had three or four speakers here get up and pontificate, but tell us what their particular amendments meant. There has not been a full open public hearing. We know we have hidden issues, if you will, that run from California to Massachusetts. If we are going to do this in some way, it would

seem to me that we would take some care to do it. We may be here for a couple more weeks as it stands now. I think this should be back in committee where it can be looked at, hashed over with people on both sides, having their say. If this were put out to referendum, I wonder what the people of the State of Maine would vote on this particular bill. I think maybe you know what would happen. Thank you.

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

Representative BRUNO: Madam Speaker, Men and Women of the House. I sat here in the corner and voted against the original bill a few times, roll calls, because I thought the bill was flawed. You now have an amendment that was brought forward by the chair of the committee and worked on by people who were opposed to the original bill, because it was flawed. You now gain 17 or 18 votes that you never had before and someone has to stand up and castigate someone for making a motion that is completely in order. All you have to do is vote against the motion. Why would you irritate someone for using the parliamentary procedure that is in front of us? I don't understand it. You picked up all kinds of votes. This bill is flying through right now because many of you think it is a whole lot better than where it started, yet, when someone stands up to make a procedural motion, you denigrate them. I just think that is poor debating skills. I don't understand it. I don't want to vote against this bill, but I am upset enough to stand up and make a point.

The SPEAKER PRO TEM: A roll call has been ordered. The pending question before the House is to Commit the Bill and all Accompanying Papers to the Committee on Judiciary. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 406

YEA - Austin, Berube, Bierman, Bowles, Carr, Churchill J, Clough, Courtney, Cressey, Crosthwaite, Curley, Daigle, Davis, Duprey B, Fletcher, Glynn, Heidrich, Honey, Jacobsen, Joy, Lewin, Lundeen, Maietta, Millett, Nutting, Peavey-Haskell, Richardson E, Richardson M, Sherman, Shields, Snowe-Mello, Stone, Sukeforth, Sykes, Tobin D, Tobin J, Trahan, Treadwell, Vaughan.

NAY - Adams, Andrews, Ash, Barstow, Beaudette, Berry, Blanchette, Bliss, Bowen, Brannigan, Breault, Brown R, Browne W, Bruno, Bull, Bunker, Campbell, Canavan, Churchill E, Clark, Collins, Cowger, Craven, Cummings, Dudley, Dugay, Dunlap, Duplessie, Duprey G, Earle, Eder, Faircloth, Finch, Fischer, Gerzofsky, Grose, Hatch, Hotham, Hutton, Jackson, Jennings, Kaelin, Kane, Ketterer, Koffman, Landry, Ledwin, Lemoine, Lerman, Lessard, Mailhot, Makas, Marley, Marraché, McCormick, McGlocklin, McGowan, McKenney, McLaughlin, McNeil, Mills J, Mills S, Moody, Moore, Muse, 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, Smith W, Sullivan, Suslovic, Thomas, Thompson, Twomey, Usher, Walcott, Watson, Woodbury, Wotton, Young.

ABSENT - Annis, Bennett, Bryant-Deschenes, Gagne-Friel, Goodwin, Greeley, Jodrey, McKee, Murphy, Rogers, Tardy, Wheeler, Mr. Speaker.

Yes, 39; No, 99; Absent, 13; Excused, 0.

39 having voted in the affirmative and 99 voted in the negative, with 13 being absent, and accordingly the motion to **COMMIT** the Bill and all accompanying papers to the Committee on **JUDICIARY FAILED**.

Subsequently, **Committee Amendment "A" (H-774) as Amended by House Amendment "B" (H-871) thereto was ADOPTED**.

The Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-774) as Amended by House Amendment "B" (H-871) thereto in NON-CONCURRENCE** and sent for concurrence.

Representative DUPREY of Hampden **OBJECTED** to sending this matter **FORTHWITH**.

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

**SENATE PAPERS
Non-Concurrent Matter**

Bill "An Act To Increase Maine's Minimum Wage"

(S.P. 237) (L.D. 673)

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-359) in the House on March 30, 2004.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-359) AND SENATE AMENDMENT "A" (S-491) in NON-CONCURRENCE**.

Representative SMITH of Van Buren moved that the House **RECEDE AND CONCUR**.

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

Representative TREADWELL: Madam Speaker, Ladies and Gentlemen of the House. We are about to roll out a landmark health care plan for the State of Maine, the Dirigo Health Care Plan. I think before we pass this increase in minimum wage, we should consider the effects on Dirigo Health Care. Increasing the minimum wage has the potential to adversely affect an employer's ability to offer Dirigo Health to his employees. Let me give you an example. A business with 10 employees who earn minimum wage and work 20 hours a week and they get a minimum wage increase as this amendment would do for 25 cents an hour, the annual cost of that increase would be \$2,600. If that same employer wanted to provide Dirigo Health Care to those same employees that work 20 hours a week, the requirement is that he pay 60 percent of the premiums for the employees that work forty hours a week. We assume that the employer would have to pay 30 percent of the premium for those who work 20 hours a week. The total cost for Dirigo Health Care for that employer would be \$9,360 a year. What we are doing by raising the minimum wage at this time is limiting the number of employers who are going to be able to afford Dirigo Health Care. The increase in the cost to the employer for this minimum wage increase of about one-third of the premium costs for Dirigo. I would urge you to vote against the Recede and Concur and go on to Insist.

Representative TREADWELL of Carmel **REQUESTED** a roll call on the motion to **RECEDE AND CONCUR**.

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

Under suspension of the rules, members were allowed to remove their jackets.

On motion of Representative JACOBSEN of Waterboro, the House voted to **RECEDE**.

The same Representative **PRESENTED House Amendment "B" (H-870) to Committee Amendment "A" (S-359)**, which was **READ** by the Clerk.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Waterboro, Representative Jacobsen.

Representative **JACOBSEN**: Madam Speaker, Ladies and Gentlemen of the House. Raising the minimum wage at this time is tremendously detrimental to the small businesses in our state. Businesses like mine who employ young people need a break. Everything is going up, insurances, possibly minimum wage. Myself and many others are close to the New Hampshire border where the minimum wage is \$5.15 an hour and no sales tax, cheaper insurance, cheaper workmen's comp. If my competitor a few miles away in New Hampshire sells a dinner for \$10, for me to make the same profit, I have to sell my dinner for \$13. It doesn't leave me very much incentive to stay in business. In the community I am in we have a high school. We have hundreds of kids looking for part-time jobs. When you ask these kids if they pay room and board, none of them do. They all have cell phones. They all have automobiles. They are not doing too bad. I believe the minimum wage for young people that the small businesses, the mom-and-pops privately owned stores, we hire the young people who have never worked before. They have no job skills. We are can hire them at 14, 15 or 16 years old. We cannot stand a higher wage. If we pay the federal minimum wage, many of these children would be happy, instead of hiring two, we could hire three. We could provide the service that our competitors do right across the border in New Hampshire. I urge you to consider voting for a student wage for children under 19 years of age. It would put a lot of them to work. It would get them off the street corners. It would put money in more of their pockets. It would give the small businesses a chance to survive and a chance to expand. Thank you for your consideration.

The Speaker resumed the Chair.
The House was called to order by the Speaker.

Representative SMITH of Van Buren moved that **House Amendment "B" (H-870) to Committee Amendment "A" (S-359)** be **INDEFINITELY POSTPONED**.

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

Representative **SMITH**: Mr. Speaker, Ladies and Gentlemen of the House. So now we have before us the opportunity to bring the people of our state who are under the age of 19 into a special status so that they will be paid less for the same work as anybody else. They can be exploited and some businesses will have greater profits. I urge that this motion be voted down and we can proceed towards concurrence with the Senate.

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

Representative **SIMPSON**: Mr. Speaker, Men and Women of the House. I urge you to vote to Indefinitely Postpone House Amendment "B." On the face of it it is an incentive to hire young people in order to let them go when they get to be a certain age, which is blatantly discriminatory. We want to keep our young people here. They need jobs in college as well and to encourage employers to hire someone for two years until they just get a little older and then let them go. It doesn't make a lot of sense. Thank you.

The SPEAKER: The Chair recognizes the Representative from Waterboro, Representative Jacobsen.

Representative **JACOBSEN**: Mr. Speaker, Ladies and Gentlemen of the House. It is obvious that many of us have not experienced being in business. It is obvious that many of us do

not see the contribution that small businesses make to our communities and to our young people. The location of any small businesses make it possible for young people to work after school near their homes. I have hired hundreds of children, young people. Many of them stay in the business. Most of them are fortunate enough that they can go on to college. Many of them do quite well. Generally they work for the small business for one or two summers. When they get a little older, they move onto the beaches where they can make higher wages. They are all trained. Last summer I was paying my fry cooks, young people in high school, \$9 an hour, after they learned how to cook. Three of them moved on last year after working for me for two years. They received \$14 an hour because they were trained in cooking, fry cooks. I have girls that start waitressing for me when they are 15 or 16 years old. Many of them move on. I have a reputation of training people like many other small businesses. Many of my waitresses move onto the beaches and the high-priced restaurants. Am I doing my job? Am I contributing to my community? Are the small businesses doing their part? I believe we are. How can we do it when I have to charge \$13 for a \$10 dinner in New Hampshire? How long can I survive? How long can I employ children, young people in my ice cream takeout in a small community when my labor expenses are so high? Not too long and many of our doors are going to be shut. Maybe we ought to put a sign down on the Maine Turnpike, the last one out, turn off the lights.

The Chair ordered a division on the motion to **INDEFINITELY POSTPONE House Amendment "B" (H-870) to Committee Amendment "A" (S-359)**.

A vote of the House was taken. 68 voted in favor of the same and 54 against, and accordingly **House Amendment "B" (H-870) to Committee Amendment "A" (S-359)** was **INDEFINITELY POSTPONED**.

Representative BROWNE of Vassalboro **PRESENTED House Amendment "A" (H-843) to Committee Amendment "A" (S-359)**, which was **READ** by the Clerk.

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

Representative **BROWNE**: Mr. Speaker, Ladies and Gentlemen of the House. This amendment is similar to the one previous. If you notice it just states that it is going to be at 75 percent of the minimum wage for students under 19 years of age and living at home. I don't believe that this is exploiting or manipulating child labor. I think it is providing an opportunity for these people to be employed in the summertime, for them to have some training and experience. I am not going to throw them out after two years in lieu of something else. Many manual type businesses, many farm work type businesses work, need some of these inexperienced students, students who have never worked before and need to develop a little bit of work ethic. In order to do this they have to have some training. I am afraid that employers are going to take a more mature worker and a lot of these high school students are going to be without jobs. I think it is very important that high school people have a chance to work doing something where they can explore career possibilities. Mr. Speaker, when we vote on this, I would ask for a roll call.

The same Representative **REQUESTED** a roll call on the motion to **ADOPT House Amendment "A" (H-843) to Committee Amendment "A" (S-359)**.

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

Representative SMITH of Van Buren moved that **House Amendment "A" (H-843) to Committee Amendment "A" (S-359)** be **INDEFINITELY POSTPONED**.

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

Representative SMITH: Mr. Speaker, Ladies and Gentlemen of the House. This amendment is even more regressive than the last one. I ask that the motion to Indefinitely Postpone be carried.

Representative BROWNE of Vassalboro REQUESTED a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "A" (H-843) to Committee Amendment "A" (S-359)**.

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 Waterboro, Representative Jacobsen.

Representative JACOBSEN: Mr. Speaker, Ladies and Gentlemen of the House. I don't believe that many of us have given this a lot of thought. I believe we should do our math. I believe that we should consider the capabilities of a young person going to work for the first time. I believe we should consider how long our mom-and-pop independent restaurants, corner stores are going to survive. How long is it going to take before we are in a vending machine society where we don't need to give any of these kids' jobs? We are forcing everybody to cut out the small jobs, the starting jobs that employ young people. How many jobs are we going to eliminate today? How much pressure can you put on us small businesses? How many more kids are going to be hanging around street corners because they don't have a job because they are not learning responsibility? I know I am emotional on this, but I have an awful lot of kids work for me, an awful lot of young people. It is regretful that a lot of these small businesses are going to have to terminate employees. I can buy, like many restaurants, an awful lot of things pre-made, ready to go, take it out of the box and sell it. I can do away with a lot of jobs for these young people. I don't want to. Others don't want to, but we will be forced to do it in order to survive. We can't survive now with our next door neighbors. They are paying \$5.15 an hour. What we are creating here is a tragedy. Go home and ask your small businesses how they feel about this? Ask the people who run these businesses who work 70 and 80 hours a week. They know what hard times are. They realize it is going to get worse. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "A" (H-843) to Committee Amendment "A" (S-359). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 407

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

NAY - Andrews, Austin, Berry, Berube, Bierman, Bowen, Bowles, Brown R, Browne W, Bruno, Campbell, Carr, Churchill E, Churchill J, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Daigle, Davis, Dugay, Duprey B, Finch, Fischer, Fletcher, Heidrich, Honey, Hotham, Jacobsen, Joy, Kaelin, Ledwin, Lewin, Lundeen, Maietta, Marraché, McCormick, McGowan, McKenney, McNeil, Millett, Moore, Muse, Nutting, O'Brien J, Peavey-Haskell,

Rector, Richardson E, Richardson M, Rosen, Sherman, Shields, Snowe-Mello, Stone, Sukeforth, Sullivan, Sykes, Tobin D, Tobin J, Trahan, Treadwell, Vaughan, Woodbury, Wotton.

ABSENT - Annis, Bennett, Bryant-Deschenes, Cowger, Gagne-Friel, Goodwin, Greeley, Jodrey, McKee, Mills J, Murphy, Perry A, Rogers, Tardy, Wheeler, Young.

Yes, 69; No, 66; Absent, 16; Excused, 0.

69 having voted in the affirmative and 66 voted in the negative, with 16 being absent, and accordingly **House Amendment "A" (H-843) to Committee Amendment "A" (S-359) was INDEFINITELY POSTPONED**.

Subsequently, the House voted to **CONCUR**.

The SPEAKER: The Chair recognizes the Representative from Calais, Representative Perry who wishes to address the House on the Record.

Representative PERRY: Mr. Speaker, Men and Women of the House. In this last vote I attempted to vote, but it did not light up. I would have voted yes.

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

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

HOUSE DIVIDED REPORT - Majority (6) Ought to Pass as Amended by Committee Amendment "A" (S-475) - Minority (5) Ought Not to Pass - Committee on HEALTH AND HUMAN SERVICES on Bill "An Act To Strengthen the Enforcement Provisions of the Maine Health Data Organization"

(S.P. 730) (L.D. 1884)

Which was **TABLED** by Representative KANE of Saco pending his motion to **ACCEPT** the Majority **Ought to Pass as Amended Report**.

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

Representative KANE: Mr. Speaker, Men and Women of the House. The Maine Health Data Organization is charged with the responsibility of collecting information to help us manage and improve health care costs and quality. To do that we have been increasing in both volume and quality of health care data that we collect with respect to the cost and outcomes of care. The increase requires vigilant oversight in protecting the confidentiality and the security of the data. That is the job of the MHDO. With the creation of a substantial increase in the demand and use of the data, MHDO needs to send a clear signal to all data users the confidentiality and data use agreements are to be taken seriously and failure to do so will result in substantial fines.

Currently all hospitals and health care providers help finance the MHDO operation and should to be subject to exploitation of others who would abuse the use of data. The purpose of LD 1884 is to strengthen the enforcement provisions of the Maine Health Data Organization, which are outdated and inconsistent with other sections of the Maine Revised Statutes. The amendment provides a person who intentionally or knowingly engages in the unauthorized misuse of individually identifiable health information or data obtained from organizations are subject to civil fines of up to \$250,000, an amount that is commensurate with the provisions of the Federal Health Insurance Portability and Accountability Act of 1996 for the

knowing wrongful disclosure of individually identifiable health information.

The amendment allows the organization to refer failures to comply with the requirements to the appropriate department or licensing board or to the Department of Professional and Financial Regulation. The Bureau of Insurance ought to file a complaint in Superior Court. The amendment also allows the Attorney General to pursue an injunction or other appropriate remedies for violation to the chapter. The Majority Report will help protect the rights of those who expect that the data that they submit to help manage health care costs will not be exploited. I urge you to support the pending motion. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Scarborough, Representative Curley.

Representative CURLEY: Mr. Speaker, Men and Women of the House. I appreciate the comments of my colleague from Saco describing what the Maine Health Data Organization does. For all of the health care providers and our communities, our physicians, nursing homes, hospitals, they must every year provide data to this group and they get to pay for that privilege. Not only do they have to pay for the data, but if they want to have the data looked at in a different way or look at someone else's information, they have to buy their own report back, their own data and those of others.

To move onto this fine, this bill proposes that the fine is increased for anyone misusing the data. We certainly don't want it misused, but the fine increases from \$2,500 to \$250,000. When I heard that number, my first thought was this must be a really big problem. Why would we strengthen the enforcement unless we knew we had a problem? The interesting thing was the director of this organization, I asked him, how many problems have you had that you feel you have to raise the enforcement or strengthen this at such a magnitude? I was surprised by the answer. There has never been a problem. I just want to repeat that. There has never been a problem, yet this bill proposes increasing a fine from \$2,500 to \$250,000. I really don't know why this organization would raise the fine so much when there has never been a problem. I am voting no on this bill.

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

A vote of the House was taken. 63 voted in favor of the same and 60 against, and accordingly the Majority **Ought to Pass as Amended Report** was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (S-475)** was **READ** by the Clerk and **ADOPTED**.

On motion of Representative SHIELDS of Auburn, the House **RECONSIDERED** its action whereby **Committee Amendment "A" (S-475)** was **ADOPTED**.

The same Representative **PRESENTED House Amendment "A" (H-873) to Committee Amendment "A" (S-475)**, which was **READ** by the Clerk.

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

Representative SHIELDS: Mr. Speaker, Ladies and Gentlemen of the House. This organization has tried to strengthen its hold on the people that report to it. You just voted on a bill that has a lot of heavy fines and enforcement through the Attorney General. They left out one thing. They left out themselves and that is what my amendment does. It just says that they are going to be subject to the same scrutiny and the same fines if they violate the rules of the organization and violate the confidentiality. I hope this can be accepted.

Representative KANE of Saco moved that **House Amendment "A" (H-873) to Committee Amendment "A" (S-475)** be **INDEFINITELY POSTPONED**.

Representative KANE: Mr. Speaker, Men and Women of the House. The Maine Health Data Organization is a state entity and its employees and management are governed by state personnel policies for any violations. I urge Indefinite Postponement of the proposed House Amendment "A."

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

Representative SHIELDS: Mr. Speaker, Ladies and Gentlemen of the House. I hope you will hold this organization accountable and vote against the current motion. Mr. Speaker, I ask for the yeas and nays.

Representative SHIELDS of Auburn **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "A" (H-873) to Committee Amendment "A" (S-475)**.

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 Indefinite Postponement of House Amendment "A" (H-873) to Committee Amendment "A" (S-475). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 408

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

NAY - Andrews, Austin, Berry, Berube, Bierman, Bowen, Bowles, Brown R, Campbell, Carr, Churchill E, Churchill J, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Daigle, Davis, Duprey B, Glynn, Heidrich, Honey, Hotham, Jacobsen, Joy, Kaelin, Ledwin, Lewin, Maietta, Marraché, McCormick, McKenney, McNeil, Millett, Moore, Muse, Nutting, O'Brien J, Peavey-Haskell, Rector, Richardson E, Richardson M, Rosen, Sherman, Shields, Snowe-Mello, Stone, Sykes, Tobin D, Tobin J, Trahan, Treadwell, Vaughan.

ABSENT - Annis, Bennett, Browne W, Bruno, Bryant-Deschenes, Bunker, Eder, Fletcher, Gagne-Friel, Goodwin, Greeley, Jodrey, McKee, Murphy, Rogers, Sukeforth, Tardy, Wheeler, Young.

Yes, 77; No, 55; Absent, 19; Excused, 0.

77 having voted in the affirmative and 55 voted in the negative, with 19 being absent, and accordingly **House Amendment "A" (H-873) to Committee Amendment "A" (S-475)** was **INDEFINITELY POSTPONED**.

Subsequently, **Committee Amendment "A" (S-475)** was **ADOPTED**.

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

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-475)** in concurrence.

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

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

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.

Bill "An Act to Make the Children's Ombudsman Program an Independent Office"

(H.P. 81) (L.D. 73)

TABLED - April 1, 2004 (Till Later Today) by Representative RICHARDSON of Brunswick.

PENDING - **PASSAGE TO BE ENGROSSED.**

Representative SHIELDS of Auburn **PRESENTED House Amendment "A" (H-650)**, which was **READ** by the Clerk.

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

Representative SHIELDS: Mr. Speaker, Ladies and Gentlemen of the House. It is clear from the action on this bill earlier that this body favors complete independence of the children's ombudsmen from the Department of Health and Human Services. This amendment puts the ombudsmen contract under the Department of Administration and Finance Services, a department that is accustomed to handling many contracted agencies. I urge you to vote for it.

House Amendment "A" (H-650) was ADOPTED.

Representative RINES of Wiscasset **PRESENTED House Amendment "B" (H-841)**, which was **READ** by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Wiscasset, Representative Rines.

Representative RINES: Mr. Speaker, Men and Women of the House. This is a technical amendment offered by the Committee of Bills in the Second Reading and just clears up a couple of clerical problems and numbering issues. Thank you Mr. Speaker.

House Amendment "B" (H-841) was ADOPTED.

Representative RICHARDSON of Brunswick **REQUESTED** a roll call on **PASSAGE TO BE ENGROSSED 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 Passage to be Engrossed as Amended. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 409

YEA - Adams, Andrews, Ash, Austin, Barstow, Beaudette, Berry, Berube, Bierman, Blanchette, Bliss, Bowles, Brannigan, Breault, Brown R, Campbell, Canavan, Carr, Churchill E, Churchill J, Clark, Clough, Collins, Courtney, Cowger, Cressey, Crosthwaite, Cummings, Curley, Daigle, Davis, Dugay, Duplessie, Duprey B, Duprey G, Earle, Finch, Fischer, Gerzofsky, Glynn, Grose, Hatch, Heidrich, Honey, Hotham, Hutton, Jackson, Jacobsen, Jennings, Joy, Kaelin, Ketterer, Koffman, Landry, Ledwin, Lerman, Lessard, Lewin, Lundeen, Maietta, Mailhot, Marley, Marraché, McCormick, McGlocklin, McGowan, McKenney, McLaughlin, McNeil, Millett, Mills J, Mills S, Moody, Moore, Muse, Norbert, Nutting, O'Brien L, Paradis, Patrick, Peavey-Haskell, Pellon, Percy, Pineau, Pingree, Piotti, Rector, Richardson E, Richardson J, Richardson M, Rines, Rosen, Sampson, Saviello, Sherman, Shields, Smith N, Smith W, Snowe-Mello, Stone, Sullivan, Suslovic, Sykes, Thomas, Thompson, Tobin D, Tobin J, Trahan, Treadwell, Twomey, Usher, Vaughan, Watson, Woodbury, Mr. Speaker.

NAY - Bull, Craven, Dudley, Dunlap, Faircloth, Kane, Lemoine, Norton, O'Neil, Perry A, Simpson, Walcott.

ABSENT - Annis, Bennett, Bowen, Browne W, Bruno, Bryant-Deschenes, Bunker, Eder, Fletcher, Gagne-Friel, Goodwin, Greeley, Jodrey, Makas, McKee, Murphy, O'Brien J, Perry J, Rogers, Sukeforth, Tardy, Wheeler, Wotton, Young.

Yes, 115; No, 12; Absent, 24; Excused, 0.

115 having voted in the affirmative and 12 voted in the negative, with 24 being absent, and accordingly the Bill was **PASSED TO BE ENGROSSED as Amended by House Amendment "A" (H-650) and House Amendment "B" (H-841).** Sent for concurrence.

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

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

CONSENT CALENDAR

Second Day

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

(S.P. 79) (L.D. 156) Bill "An Act to Require that Patients in Private Mental Hospitals Be Afforded the Same Rights As Patients in State Mental Institutions" (C. "A" S-482)

(S.P. 751) (L.D. 1910) Bill "An Act To Implement the Recommendations of the Committee To Study the Revenue Sources of the Office of Consumer Credit Regulation" (C. "A" S-488)

(S.P. 768) (L.D. 1932) Bill "An Act To Make Mother's Day a Free Day for Fishing" (EMERGENCY) (C. "A" S-485)

(S.P. 769) (L.D. 1934) Bill "An Act To Make Additional Allocations from the Highway Fund and Other Funds for the Expenditures of State Government and To Change Certain Provisions of State Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2004 and June 30, 2005" (EMERGENCY) (C. "A" S-487)

(H.P. 1447) (L.D. 1947) Resolve, To Clarify Title to Land Related to the Waldo-Hancock Bridge Replacement

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

(S.P. 692) (L.D. 1853) Bill "An Act To Amend the Laws Relating to Property Insurance" (C. "A" S-489)

On motion of Representative O'NEIL of Saco, was **REMOVED** from the Second Day Consent Calendar.

The Committee Report was **READ.**

On further motion of the same Representative, **TABLED** pending **ACCEPTANCE** of the Committee Report and later today assigned.

(H.P. 1421) (L.D. 1920) Bill "An Act To Revise the Fish and Wildlife Laws To Complement the Recodification of Those Laws" (C. "A" H-858)

On motion of Representative DUNLAP of Old Town, was **REMOVED** from the Second Day Consent Calendar.

The Committee Report was **READ**.

On further motion of the same Representative, **TABLED** pending **ACCEPTANCE** of the Committee Report and later today assigned.

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

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-414)** on Bill "An Act to Define a Scope of Practice for Acupuncture"

(S.P. 97) (L.D. 263)

Signed:

Senators:

BROMLEY of Cumberland

HALL of Lincoln

Representatives:

SULLIVAN of Biddeford

ROGERS of Brewer

JACOBSEN of Waterboro

PELLON of Machias

BERUBE of Lisbon

SMITH of Monmouth

AUSTIN of Gray

DUPREY of Medway

RECTOR of Thomaston

O'BRIEN of Lewiston

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

Signed:

Senator:

SHOREY of Washington

Came from the Senate with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-414)**.

READ.

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

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

Representative SHIELDS: Mr. Speaker, Ladies and Gentlemen of the House. This bill defines the beginning with acupuncture, what is acupuncture and adds to it. Acupuncture is simply the insertion of metal needles into the skin at specific points on or near the surface of the body, with or without the application of electrical current or heat. It is a traditional oriental thing. This bill has a problem. It has an added number of other things to the acupuncture privileges. These are the Chinese patent remedies. The Chinese made herbal remedies and among them the Chinese made herbal formulations. These are dangerous. There are many recorded cases of people with renal failure from the ingredients of some of these herbal things. They are available on the open market, however. The problem is if we codify them in law and people will begin to think that maybe they are okay. The FDA does not have the ability, nor the funds, nor

the staff to go over every one of these remedies, but they will eventually.

Some of the other acupuncture things are rather harmless that are in the bill, such as magnetic stimulation or heat therapy. If you had electrical stimulation and a pace maker, you might be in trouble. If you had heat treatment over a metal implant, you might be in trouble. The main problem in this bill is the herbal and patent remedies.

Public health demands for substances like this, they should be evaluated. You can receive the same ethical requirements for clinical research, randomized studies, placebo controlled clinical trials to make sure that they are safe. There is little evidence to confirm any safety or efficacy of these therapies. Much of the information known makes it clear that most of them have not been efficacious and there needs to be further studies. I would hope that you would vote against this motion. Mr. Speaker, when the roll call is taken, I would request the yeas and nays.

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

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

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

Representative SULLIVAN: Mr. Speaker, Men and Women of the House. I ask you to support this Ought to Pass report. The good doctor from Auburn, Representative Shields, certainly has some of the information right. However, many of the things he mentioned, we took out. There is a legal definition for acupuncture, just as there is a legal definition and requirements for an MD, DO, DDS. It really makes no difference. This is a regulated board that is set up. It does not include some of the things that would have been included. The bill also took care of message therapy. That is not included here. It is what is included both by the state definition and by the school. It may be that I personally do want to use Chinese herbs in order to be treated. However, because this is America and it is a right for people to choose how they want to be treated, it is therefore in the good public policy to have within that profession a set of rules of regulations. The committee worked long and hard on this to make sure that we had that protection there. If somebody is qualified to be an acupuncturist, it protects people. There are many people that swear by this technique, just as there are people who swear that chiropractors or Christian Scientists work. It is simply making sure the law is clear as to the definition of exactly what they can cover in that definition. I would ask you to look at the majority of this report. It is a 12 to 1 report. We looked at those things in committee in a bipartisan way. Thank you.

The SPEAKER: The Chair recognizes the Representative from Calais, Representative Perry.

Representative PERRY: Mr. Speaker, Ladies and Gentlemen of the House. I am speaking against this. It really is about the herbology. There is much about it that science does say, but what I have found is that we have a lot in the terms of herbal preparations that we don't know how they react. Like any medicine they have side affects. If you are taking another medicine on top of an herbal, you can have a very serious side effect. Knowing what you are taking and what the side effects are is very important. When you have combination herbals that you don't know what the ingredients are, you also don't know what you are responding to and what the side effects may be or if you are taking another medicine that you are doing more damage. I have a patient in my practice that was taking some herbals. Unfortunately she is now dealing with permanent liver

damage because she did not know what she was taking. We traced it back to the herbal.

What we do know is that the quality of herbals in this country are not standardized nor do we know the effectiveness of what they are taking. When people don't know the ingredients of what they are taking and they come to the doctor and say that I am taking this, what does it mean? We have no way of also saying that this medicine could react to this. There is a medicine that is used for depression, St. John's Wart, which works like an MAO inhibitor. That tells you a whole lot, but if you take something like a Prozac or something like that with it, you have a very serious interaction that goes with those two drugs. You take what may have worked as mild anti-depressant and it has become a life threatening situation.

It is important that there be some standard set so if we are going to get into working herbal medicines, we need to make sure that the safeguards are there. I consider this a public safety issue. It isn't really about acupuncture. It is really about herbalism. Thank you.

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

Representative **MARRACHE**: Mr. Speaker, Men and Women of the House. I, too, rise in opposition to this. I don't want to belabor the debate. I do agree with the Representative from Auburn and the Representative from Calais. I would like to add that many, many times we see patients in our office and you ask them what medicines they are on and they will give you a litany of them. You go through many of their health diseases and what they should or shouldn't be on and you can't quite figure it out and maybe it is after the third or fourth visit and you have asked it multiple times and you find out they are on herbal supplements and they don't consider it a medication. It is the one that is causing the problem that we have been working on over and over and over. This is the only concern that I have with this bill. It kind of legitimizes going to people to get these and not realizing that these also can cause problems.

I will just give you one example that really worries me. A patient of ours in our practice currently has documented breast cancer and refuses to have anything done other than herbal treatment. She has that right. It terrifies us that she will find out when it is too late to do anything about it that this did not help her. Other people might seek out this kind of treatment first for something that could cause them an earlier death if they don't get to the right person and the right treatment. I ask you to please vote opposite of what is up there now, Ought Not to Pass. Thank you.

The SPEAKER: The Chair recognizes the Representative from Phippsburg, Representative Percy.

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

The SPEAKER: The Representative may pose her question.

Representative **PERCY**: Thank you Mr. Speaker. Is there currently any kind of legal process or association of acupuncture now or this the first attempt by the state to define the practice of acupuncture?

The SPEAKER: The Representative from Phippsburg, Representative Percy has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Biddeford, Representative Sullivan.

Representative **SULLIVAN**: Mr. Speaker, Men and Women of the House. In answer to the Representative from Phippsburg, there are some definitions now. That is what we worked on from the core of that. We strengthened it up. We went through the qualifications for the people who have this certificate. I can't help but notice that indeed the medical doctors were the ones that

were so concerned. Having University of New England in my district, which is a school of osteopathic medicine, I can remember when we did not let DOs in our local hospitals. It is the fear of the unknown. As I said earlier, it is like teaching. It is like anything that you do. There are different beliefs and acceptances. I can tell you people who have had their own medical prescriptions overlap and not have CHIP or whatever, great computer program pick up the interacting medicines as it caused the ill effects. It simply took what already exists in state law, further defined what an acupuncture was and wasn't and allowed what they have their certificate in and to make sure that it was accepted as a legitimate way that they feel comfortable in taking charge of their own health. As much as we would like to believe that we should all go to the same church or have the same type of medicine treatment, that is not given to them. This simply makes that law stricter, more narrow and keeps it going. I appreciate the concerns of MDs. However, we do have a board, an association, and there are people out there that need to be protected that believe in acupuncture. That is what this committee saw as their job.

The SPEAKER: The Chair recognizes the Representative from Augusta, Representative Lerman.

Representative **LERMAN**: Mr. Speaker, Men and Women of the House. I just want to make a few quick comments regarding the acupuncture itself. First of all, bear in mind that acupuncture is a practice that is actually older than an allopathic medicine. It has been around for thousands of years. Maybe it hasn't been practiced for thousands of years in this country, for obvious reasons, but nonetheless bear that in mind. It isn't new and it is well defined.

Second, from personal experience, I know people who have gotten a tremendous amount of relief from it as a matter a fact. I think this is a step forward in terms of general acceptance of the potential benefit that people can get from acupuncture. I urge you to vote with the Majority Ought to Pass Report. Thank you.

The SPEAKER: The Chair recognizes the Representative from Calais, Representative Perry.

Representative **PERRY**: Mr. Speaker, Ladies and Gentlemen of the House. I really didn't plan to get up again, but it is really not about acupuncture that I object to. It is really about the herbal part of it. I prescribe herbals for my patients with an understanding that they have received all of the possible side effects that they can have from taking that herbal, how they should be taking it and actually what is the most effective way to use it. It is not that they can't be used, but there is some science about what works. You do have to treat them as if they are taking a medicine. They are affecting their bodies in one way or another. Herbals are medicines. They are not dietary supplements. My concern is that unless we have those safeguards, we put people into jeopardy. Older medicine has always worked. Our allopathic medicine is based on an awful lot of what was done in the past. We do know more about it and sometimes in the past we did more harm than good. That is part of our learning process. With the herbals if we have the science behind it and we give the people the information that they need, that is one thing. If we actually end up with side effects that occur because people do not realize that they are taking a medicine and that there are side effects to that and the safeguards are not there, then to me it is a safety issue. It isn't about acupuncture. It is really about the herbal piece of this. Thank you.

The SPEAKER: The Chair recognizes the Representative from Comville, Representative Mills.

Representative **MILLS**: Mr. Speaker, Men and Women of the House. I think bills like this are just extremely dangerous. I

would go further than some of the previous speakers. We, as a state, have no business licensing and legitimizing the whole series of procedures that no one in this chamber has the least comprehension of. These names, these labels that have no proven scientific basis for working are listed here and we are being asked to provide a state sanctioned license, a little diploma with a box around it that says that this is a legitimate scientific thing to be practicing in our state. I bet there is not a person in this chamber that can explain what half of these things mean. I certainly can't come close to it. I have read thousands of medical records in my practice. We really have no business doing this. The problem with it is that people when they see that little state sanctioned box on the wall, they are going to think that the State of Maine says all of this is okay. It is fine. I will pay my money. I will take whatever they give me.

It has the capacity to delude people into thinking they are receiving serious treatment when in reality and scientifically they may be receiving something that is actually detrimental. I just think we have no business doing this. This is a huge expansion of the license to practice by acupuncturists. The existing definition has to do, as far as I can tell, with needle therapy. This is a long list if you read the amendment and I just have to my horror, there is about 20 or 25 different procedures and categories of treatment added to the scope of practice. If we don't understand what it is and if it doesn't have any scientific validity, then I think we have no business approving of it. I am intending to vote no on the pending motion.

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

Representative **ANDREWS**: Mr. Speaker, Ladies and Gentlemen of the House. In my other life I was a supervisor for an emergency room. We functioned a great deal in the job of triaging patients as they came in. I have to tell you, I don't know how many times where proper treatment might not have been given or might have been delayed when you ask a simple question, what medications have you been taking? I would have to say that probably nine times out of 10, the patients that answered did not consider these herbal remedies a medication. As the good Representative from Calais pointed out, these do interact and cause bad things. A good many times we were seeing some of these reactions that occurred, but we were not able to institute the treatment as soon as we should have, because we did not have that information. Thank you.

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

Representative **SMITH**: Mr. Speaker, Men and Women of the House. The public hearing and work sessions on this bill were actually fascinating. We had acupuncturists. We had ODs, MDs, chiropractors, a whole selection. I learned a lot. I actually can probably explain most of the things in the scope of practice. I am very happy with the bill that we came up with. Let me just refer to a couple of points. The purpose of the bill basically is to expand the scope of practice to those techniques that are taught at accredited colleges of acupuncture. It also refers to applied techniques and modalities, including the following as defined and used exclusively in accordance with the traditions of formal curriculum taught at accredited colleges of acupuncture. We are not dealing with people who do this all on their own. They have gone through the proper training for it.

Specific to the Chinese herbals, there is additional certification required. Licensed acupuncturists who practice the formulation and dispensing of custom made Chinese herbal formulations must go through additional training. The board will adopt the rules specifying the training, including requiring the minimal number of hours, clinical training, etc. I understand the

concerns that are out there, but that is why we have committees that develop expertise. I am very satisfied with the way the bill went. We will be voting for the Majority Ought to Pass Report.

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

Representative **SULLIVAN**: Mr. Speaker, Men and Women of the House. I would remind you again, the law is already there. We are not making the law. We are tightening up a law. We have made sure that the definition of acupuncture, the use of herbal formularies are together with the knowledge that we have. It is not my choice to be treated through acupuncture. It is not my right to decide for somebody else that they don't have that right. That is my concern. Not only do we do economic development, but we have all the boards, the medical boards. I agree. I have been in for what I thought as the common cold and when I walked out of that doctor's office I thought I was dying because he used words that I didn't understand and it was about me. I can't tell you everything. I haven't gone to an accredited school in acupuncture. If one of your constituents wants go, shouldn't we give the best protection we have. This is not all or nothing, people. We didn't manufacture this law so we would have something to do. This is a law that is on the books. We have taken it and the committee 12 to 1 decided that we had a way that allowed people a choice if they want to change it.

It is much like TV. If you don't like what is on, then shut it off. If you don't want to go to an acupuncturist, don't go. If it is part of law now and it is wide open, have we really done anything to protect the people? Our committee worked several things, this was a carryover bill and we listened to everybody and we came out with a bill that is better. I really wish you could had been there, had taken part in some of it. There are many times when committees stand up here that are not my committee and I haven't heard anything. I can't understand how people came up with that decision. We ask you to support and honor the work of the committee, bipartisan report, 12 to 1. All 10 members in this chamber voted for this and it is part of law now. We simply made it better. I think that is what you try to do in your committee. I know you do. Thank you.

The SPEAKER: The Chair recognizes the Representative from Sanford, Representative Bowles.

Representative **BOWLES**: Mr. Speaker, Ladies and Gentlemen of the House. I listened very carefully to the speakers that preceded me and I have also read very carefully the amendment. Five or six years ago I served on the Business, Research and Economic Development Committee. We dealt with scope of practice for acupuncturists at that time. The scope of practice for acupuncturists is clearly defined in statute now. I heard just a few minutes ago that this actually tightened up that scope of practice. Frankly, having read the amendment, I cannot concur with that assessment. This amendment seems to me to be very little about acupuncture and very much about herbal medicine.

As the good Representative from Cornville stated, the fear here is that this legitimizes, puts the state's stamp of approval on herbal medicine and the dispensing of those medicines when that may or may not be appropriate. It allows it to be dispensed by acupuncturists who may very well be trained highly in their discipline, but don't have the requisite medical training, I would submit to you, to be dispensing medicines, which even medical doctors freely admit that at this point in time we don't have enough scientific study to know whether these medicines are effective or not and when they are effective and in what doses they are effective.

I think this is a giant leap. I am very concerned about it. I am also concerned about one of the sections in here that are

practiced by other persons, which essentially allows anyone, myself or any other person in the State of Maine to dispense herbal medicines. I have no training for that. I don't know that many members of this body do. I certainly wouldn't want to take that upon myself. I am certain that the committee worked very hard on this. I am certain that they were well intended. I am afraid that the outcome is something that, at least in my opinion, raises more questions. I would urge you to vote against the Majority Ought to Pass Report.

Representative SHIELDS of Auburn inquired if a Quorum was present.

The Chair declared a Quorum present.

The SPEAKER: The Chair recognizes the Representative from Augusta, Representative Lerman.

Representative LERMAN: Mr. Speaker, Men and Women of the House. Just a couple of points of clarification. First, this is the defining scope of practice. This is just to clarify what kinds of activities are typically and appropriately included in the practice of acupuncture. It does not give license to somebody to simply go out and administer herbs or various kinds of herbal medications. It just so happens that part of the practice of acupuncture traditionally includes the dispensement of various herbs as part of the treatment. Bear in mind, in a way this is really a consumer protection bill. It is to make sure that, in fact, we have defined as well as we can what constitutes an appropriate practice of acupuncture. It is obviously from what other colleagues have spoken earlier in this debate, it includes some kind of formal education. You need to meet certain educational requirements at an accredited institution to be able to qualify to be licensed as a practicing acupuncturist. The other point that I would make quickly is that as far as the practice of general medicine is concerned, allopathic or osteopathic medicine is concerned, clearly it is very challenging. People are taking all sorts of things these days, not limited to those herbs that might be administered as part of that acupuncture practice. It certainly means that doctors these days have to be very, very vigilant in asking people they are treating exactly what kind of treatment, self-remedy or otherwise they are taking.

Certainly whether we adopt or not this particular bill, the onus will be on practitioners to make sure that they query hard people to find out, in fact, what kind of home remedies or herbal medicines or other medical practices they are partaking in so that they can really be aware of how to best treat the person. Thank you Mr. Speaker.

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

ROLL CALL NO. 410

YEA - Adams, Ash, Berube, Blanchette, Bliss, Brannigan, Bull, Cowger, Cummings, Dudley, Dunlap, Duplessie, Duprey G, Faircloth, Gerzofsky, Hutton, Jacobsen, Kane, Ketterer, Koffman, Lemoine, Lerman, Lessard, Lundeen, Makas, Marley, McLaughlin, Moody, Norbert, Norton, O'Brien L, Pellon, Percy, Pingree, Rector, Richardson J, Rines, Smith N, Sullivan, Suslovic, Thomas, Thompson, Tobin D, Mr. Speaker.

NAY - Andrews, Austin, Barstow, Beaudette, Bennett, Berry, Bierman, Bowen, Bowles, Breault, Brown R, Campbell, Canavan, Carr, Churchill J, Clark, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Daigle, Davis, Dugay, Duprey B, Earle, Finch, Fischer, Glynn, Grose, Heidrich, Honey, Hotham, Jackson, Jennings, Joy, Kaelin, Ledwin, Lewin, Mailhot, Marraché, McCormick, McGlocklin, McGowan, McKenney, McNeil, Millett, Mills J, Mills S, Moore, Muse, Nutting, O'Brien J, O'Neil, Paradis, Patrick, Peavey-Haskell, Perry A, Pineau, Piotti, Richardson E,

Richardson M, Rosen, Sampson, Saviello, Sherman, Shields, Simpson, Smith W, Snowe-Mello, Stone, Sykes, Tobin J, Trahan, Treadwell, Twomey, Usher, Vaughan, Watson, Woodbury.

ABSENT - Annis, Browne W, Bruno, Bryant-Deschenes, Bunker, Churchill E, Craven, Eder, Fletcher, Gagne-Friel, Goodwin, Greeley, Hatch, Jodrey, Landry, Maietta, McKee, Murphy, Perry J, Rogers, Sukeforth, Tardy, Walcott, Wheeler, Wotton, Young.

Yes, 44; No, 81; Absent, 26; Excused, 0.

44 having voted in the affirmative and 81 voted in the negative, with 26 being absent, and accordingly the Majority **Ought to Pass as Amended Report was NOT ACCEPTED.**

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

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

SENATE PAPERS

Non-Concurrent Matter

Bill "An Act To Reestablish the Great Ponds Act" (EMERGENCY)

(H.P. 1251) (L.D. 1675)

Reports **READ** and the Bill and accompanying papers **COMMITTED** to the Committee on **INLAND FISHERIES AND WILDLIFE** in the House on March 25, 2004.

Came from the Senate with the Majority (11) **OUGHT NOT TO PASS** Report of the Committee on **INLAND FISHERIES AND WILDLIFE READ and ACCEPTED in NON-CONCURRENCE.**

Representative DUNLAP of Old Town moved that the House **RECEDE.**

On further motion of the same Representative, **TABLED** pending his motion to **RECEDE** and later today assigned.

PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

Resolve, Authorizing Professional and Occupational Licensing Authorities in State Government To Defer or Waive Continuing Education Requirements for Military Personnel (EMERGENCY)

(H.P. 1459) (L.D. 1959)

Sponsored by Representative CLARK of Millinocket. (GOVERNOR'S BILL)

Cosponsored by Senator BROMLEY of Cumberland and Representatives: AUSTIN of Gray, BERUBE of Lisbon, DUPREY of Medway, LANDRY of Sanford, Senators: DAVIS of Piscataquis, GAGNON of Kennebec, HALL of Lincoln, SHOREY of Washington.

Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** suggested.

Representative BOWLES of Sanford **OBJECTED** to suspending the rules in order to give the Resolve its **FIRST READING WITHOUT REFERENCE** to any Committee.

On motion of Representative RICHARDSON of Brunswick, the Resolve was **REFERRED** to the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT**, ordered printed and sent for concurrence.

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

ENACTORS

Acts

An Act To Govern and Regulate Life Settlements

(H.P. 1411) (L.D. 1907)

(C. "A" H-796; H. "A" H-849)

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

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

On motion of Representative BLANCHETTE of Bangor, the House adjourned at 8:57 p.m., until 9:00 a.m., Thursday, April 8, 2004.