

MAINE STATE LEGISLATURE

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

Volume III

Second Special Session

April 8, 2004 - April 30, 2004

Appendix
House Legislative Sentiments
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Pages 1563-2203

ONE HUNDRED AND TWENTY-FIRST LEGISLATURE
SECOND SPECIAL SESSION
39th Legislative Day
Tuesday, April 27, 2004

(S.P. 797)

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

Prayer by Honorable Joanne T. Twomey, Biddeford.
National Anthem by Sarah and Leigh-Ann Esty, Gorham High School.
Pledge of Allegiance.
The Journal of Friday, April 16, 2004 was read and approved.

COMMUNICATIONS

The Following Communication: (H.C. 402)
MAINE STATE LEGISLATURE
AUGUSTA, MAINE 04333
COMMITTEE TO STUDY THE IMPLEMENTATION
OF PRIVATIZATION OF THE STATE'S
WHOLESALE LIQUOR BUSINESS

April 14, 2004
The Honorable Beverly C. Daggett, President
Maine State Senate
The Honorable Patrick Colwell, Speaker
Maine House of Representatives
State House
Augusta, Maine 04333
Dear President Daggett and Speaker Colwell:
This letter is to inform you that the Committee to Study the Implementation of Privatization of the State's Wholesale Liquor Business has completed its work and submitted its report, pursuant to Joint Order, Senate Paper 552, S "A" S-264.
Sincerely,
S/Senator Kenneth T. Gagnon, Chair
S/Representative Joseph E. Clark, Chair
READ and with accompanying papers **ORDERED PLACED ON FILE.**

REPORTS OF COMMITTEE
Pursuant to Joint Rule 309

From the Committee on **TAXATION** on Bill "An Act To Provide Property Tax Relief to Maine Homeowners" (EMERGENCY)

(H.P. 1347) (L.D. 1824)

Received by the Clerk of the House on April 26, 2004, pursuant to Joint Rule 309.

On motion of Representative LEMOINE of Old Orchard Beach, **TABLED** pending **FURTHER ACTION** and later today assigned.

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 Saturday, April 17, 2004, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

Joint Order, Authorizing the Joint Standing Committee on Education and Cultural Affairs To Report Out a Bill Regarding the Maine Learning Technology Plan

- In Senate, **READ** and **PASSED.**
TABLED - April 2, 2004 (Till Later Today) by Representative CUMMINGS of Portland.
PENDING - PASSAGE.

On motion of Representative CUMMINGS of Portland, the Joint Order and all accompanying papers were **INDEFINITELY POSTPONED** in **NON-CONCURRENCE** and sent for concurrence.

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

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

TABLED - April 12, 2004 (Till Later Today) by Representative RICHARDSON of Brunswick.
PENDING - FINAL PASSAGE.

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. In accordance with the provisions of Section 23 of Article IX of the Constitution, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 116 voted in favor of the same and 0 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

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

An Act To Conform the Maine Tax Laws for 2003 to the United States Internal Revenue Code (EMERGENCY)
(H.P. 1229) (L.D. 1651)
(C. "B" H-757)

TABLED - April 16, 2004 (Till Later Today) by Representative LEMOINE of Old Orchard Beach.
PENDING - PASSAGE TO BE ENACTED.

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. 122 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

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

The House recessed until the Sound of the Bell.

(After Recess)

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 yesterday, 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 (10) **Ought Not to Pass - Minority (3) Ought to Pass as Amended by Committee Amendment "C" (H-809)** - Committee on **TAXATION** on RESOLUTION, Proposing an Amendment to the Constitution of Maine Related to the Taxation of Personal Property (H.P. 167) (L.D. 208)

TABLED - March 29, 2004 (Till Later Today) by Representative LEMOINE of Old Orchard Beach.

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

Subsequently, the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence. **ORDERED SENT FORTHWITH.**

HOUSE REPORT - **Ought to Pass as Amended by Committee Amendment "A" (H-855)** - Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** on Bill "An Act To Increase Returnable Beverage Container Redemption Rates"

(H.P. 931) (L.D. 1257)

TABLED - April 7, 2004 (Till Later Today) by Representative RICHARDSON of Brunswick.

PENDING - **ACCEPTANCE OF COMMITTEE REPORT.**

Subsequently, the Committee Report was **ACCEPTED**. The Bill was **READ ONCE**. **Committee Amendment "A" (H-855)** was **READ** by the Clerk.

Representative SULLIVAN of Biddeford **PRESENTED House Amendment "A" (H-956) to Committee Amendment "A" (H-855)**, which was **READ** by the Clerk.

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

Representative **AUSTIN**: Mr. Speaker, Ladies and Gentlemen of the House. This a unanimous committee report. It was amended to address several pieces to a law that was passed last year. One of the elements is the Department of Agriculture's need to establish the parameters for the commingling agreements. Due to the budget situation the time frame was changed to 3/1/04 for this requirement to be met. The Department of Agriculture issued the memorandum in draft form at the end of January. This left the industry who thought that the rulemaking was underway with little time to respond. There is an agreement filed with the Department of Agriculture after that memorandum. It is still pending. These small businesses have every intention of commingling and complying with the law and have asked for the time to enable the regulatory state agency to work with them. To my knowledge, right up to this amendment it has just now been put forth. The agreement has been reached and was working forward on being facilitated with the Department of Agriculture. For that reason, I believe this amendment is unreasonable and it is an expectation to these parties that are involved. Please join me in saying goodbye to this amendment.

I would ask for a roll call.

Representative AUSTIN of Gray **REQUESTED** a roll call on the motion to **ADOPT House Amendment "A" (H-956) to Committee Amendment "A" (H-855).**

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. There are many things that I would like to say about this bill. This bill undoes the bill that we passed last year. LD 985 was a bill that we passed bipartisan to move the intention of the bottle bill forward and to also help the small businesses in your area to receive one-half penny for redemption. You have returned your bottles to your redemption centers. You see the workers in there. They are all manual workers having to throw bottles into about 300 different socks. It was decided that this was not what we wanted to do. We changed some things last year in LD 985. It was passed. It said that we were going to go to a commingling agreement. A commingling agreement means that companies can mix their products. Pepsi cans of 12 oz size and Coke cans and all other cans are put in, Sprite and Mountain Dew. All of those will go together. It is the only way that a redemption center can receive any increase for doing the business. This is what the State of Maine did in order to clean up the environment. When we passed minimum wage increases, they have to pay them. When CMP or Bangor Hydro or any of the other electrical companies increase fees, they have to pay them. When we pass sewer fees and everything else, redemption centers have to pay them.

Those little redemption centers, people said that there are too many. We put an agreement on that they would now have to be licensed. You can't start one just because you think you would like to go and collect bottles.

I would disagree with the good Representative lead from Gray, Representative Austin. It is not about little companies. This is about their companies. They are not small business. They have a very powerful lobbyist group. They said that they didn't understand commingling. Let me tell you what Jeff Payne said when he came before us April 10, 2003, this is when we were looking at LD 985 on commingling. "My name is Jeff Payne. I am president of National Distributors. I would like the committee to consider the impractical nature of what these so-called arrangements are asking us to do as a business. Basically this legislation mandates that we get in bed with our competitor and arrange for us to pick up their empties and for them to pick up our empties. From there things get really murky." They understood perfectly well what needed to happen by March 1. In fact, I find it hard to believe that the beer company couldn't understand when Coke and Pepsi, two business enemies understood so well, that they were ready to go March 1. If you were ready to go March 1, you didn't need to pay that half penny, because you were helping the redemption centers by cutting down their costs.

First of all, what you are doing is you are saying as a body that if this amendment does not pass with Coke and Pepsi, that you were foolish to do what the Maine State Legislature told you to do. More importantly, you have to go home to the people in your communities and your districts and say that we know it has been 11 years since you have had a raise and we know we passed a bill that gave you one. Look, let's be honest, the lobbyists have been talking and the beer companies can't afford to pay you that. They need to have another seven months. I am willing to give them the seven months which is part of the bill. I am willing to give them the fact that the State of Maine in the sheet is simply an escape thing. It is \$170,000 a month for seven months each month. That is a lot of money that the State of Maine could use right now. I am willing to give that up, because after all the beer companies need more help than the State of

Maine. I am willing to forego and waive all penalties that LD 985 put into place if they weren't ready by March 1 of this year.

What I, in good conscience, cannot waive is a half penny to small businesses, redemption centers who decided to make this bottle bill work for 20 years. Without the redemption centers, it doesn't work. Do the beer companies care if the bottle bill doesn't work? Go back and look in the archives, they never supported the bottle bill to begin with. The redemption centers are the workhorses. They are the ones that make it work. You voted last year and stood up there and had it called a great compromise. The Representative from Scarborough stood up last year. He talked about how this was a good move forward. It was. LD 985 actually started out with a 3 cent increase and ended up at a half penny. Redemption people were happy to take the half penny. In good conscience all my amendment does is move the half penny retroactive to March 1, exactly what we voted as a law last year.

I can go back and say to my redemption centers that we heard your voice. I have people who have written me from Old Town, Knox, Dixfield, Mexico, York, Biddeford and Saco asking me to please support the redemption people. No, you don't see them out here. They are busy taking the returnables from your communities. They don't pay high-priced lobbyists. They don't have a lot of money to give PACs. They make our Maine bottle bill work. We promised them that in legislation. Talk about promises.

We passed this bill last year. One group took us at our word. Another group laughed in our face and wrote letters to the redemption centers saying we are going to delay this. We are not going to do it. I can prove those letters. I can show you the letters. They knew. They weren't confused. I ask you to support this amendment. All it does is say that we will give you to October 1, beer companies, except for the half penny.

There is one other thing I want to say. This came out of committee originally in a much different note. I did a foolish thing first time in three years. I took a vacation with my husband. I went back to committee and the other chamber rewrote it. I agreed to everything in it except the redemption piece. This is not as it appears. It really does move the bottle bill backward. It takes two studies that we have done here, both in the 119th and the 120th. It also takes us back. I ask you to support this amendment for a half penny and give the beer companies everything else they want. Maine, the redemption centers and the very integrity of this institution of us passing a law last year and never even giving it a chance to work before we turned it down for the little guy. I ask you to support my amendment.

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

Representative **CLOUGH**: Mr. Speaker, Ladies and Gentlemen of the House. As most of you know, I served on that study commission for the bottling bill for two years and worked hand in hand with representatives of the industry and the redemption centers and the people from the beer and wine industry. They were at the table throughout and supported the effort that we put forward. I think we are very important in coming up with something that was workable.

Earlier in this session we voted on this, LD 1257, as it was presented and passed it. I think that was a good move and the best move right now is to vote against this amendment and move forward with what in good faith was presented to us earlier. Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative **BRUNO**: Mr. Speaker, Men and Women of the House. I would like to ask this question to the chair of the committee. Isn't it true that the State of Maine was also supposed to reimburse a half a cent on March 1? Have they done that?

The SPEAKER: The Representative from Raymond, Representative Bruno has posed a question through the Chair to the Representative from Biddeford, Representative Sullivan. The Chair recognizes that Representative.

Representative **SULLIVAN**: Mr. Speaker, Men and Women of the House. In answer to that, unless it was done while I was gone and I have missed that one too, then no. The bottle bill is one that is done between the initiators of the deposit and with the redemption centers. The only thing that the State of Maine would get into is the sheet, which is that escape sheet of redemption. It is a very confused matter. All of the bottles that are not returned, you go in and buy a six-pack of Pepsi. I know we are all Pepsi or Coke drinkers here. If you choose to throw those cans away or you take them out of state or you do something awful like throw them overboard or whatever, you paid the 5 cents to your local grocery store or your mom-and-pop convenience store and that money is collected and given back to the companies. In this case, I think I used Pepsi as an example. Pepsi becomes the keeper of that 5 cents. That is the sheet that would have gone back to the State of Maine and that is the \$170,000 figured on just the beer per month that will be kept.

Under the original bill and even under the amendment under the original LD 985 and under the bill that you are looking at now LD 1257, if you entered into a commingling agreement, you were allowed to keep that sheet money. It went back to the coffers of the companies. In this case, for seven months the beer companies will be keeping the half penny that they would have paid the redemption centers and they will be keeping all sheet money. That is basically figured on an average, figured by RSVP, the largest redemption center out of the Portland and South Portland area. It was \$170,460 per month. You multiply that by seven months that we are extending this money and the beer companies have quite a bit in their pockets that would have gone to state coffers. That is the only money that would have gone to state coffers.

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

Representative **BRUNO**: Mr. Speaker, Men and Women of the House. I think there is a lot of confusion on this redemption bill as there has been over the last three sessions of the Legislature. There were two study committees that have dealt with this issue and we finally have bill that came out unanimously out of committee. I don't think now, at the end of the session, is the time to try to add an amendment on the bill that changes the entire bill. We have an agreement. I think it is time to move on. I think it is time to reject this amendment. Let's move on. It is not just the beer wholesalers. It is not just the soda wholesalers. There are a lot of people that come into play here. We need to reject this amendment and move on and then live with October 1 as the deadline and let's just get this out of the way. It has taken six year to get to this point where we finally have agreement. Why are we trying to muck around with it and get it going backwards again? I hope you vote against this amendment so that we can pass the bill and move on.

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

Representative **BEAUNETTE**: Mr. Speaker, Ladies and Gentlemen of the House. It has been stated that it was a unanimous report and indeed it was. However, there is a story behind the unanimous report. There was a change toward the end of the discussion in the work session on this bill that was initiated by members of the other body. At the time, in order to not lose the entire bill because of all the work that was done on it, we opted to compromise on the position that the members of the other body were taking as opposed to the House members of the committee.

In retrospect, given that two members of the committee were absent at the time, it clearly would not have been a unanimous report. After further discussion, certainly if it is our intent to support small businesses in this state, then this amendment is just the vehicle with which to do so. It restores what was intended by the original bill to provide a half cent to all the redemption centers in order for them to be able to deal with the additional labor involved with not having a commingling agreement, specifically in this case with the malt beverage distributors. I would ask you to please support this amendment.

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

Representative **JACKSON**: Mr. Speaker, Ladies and Gentlemen of the House. I couldn't agree more with the former speaker, Representative Beaudette. I have two small redemption areas in Fort Kent and a couple others in surrounding towns. I heard from both the ones in Fort Kent last year asking me to support the original bill. What I remember from the original bill was the two-cent increase. They asked me to support that. We had a lot of contact back and forth with them. When the final bill came down a half cent, I was kind of reluctant to tell them it was a half cent, but when they did hear that, they were both actually happy about it. I believed that it was going to be 90 days after we got out of session. Later on that fall one of the redemption centers called me about what I knew of it because they hadn't seen anything. I checked on it again and January 1st was when the bill actually stated it would happen. Within that time the guy that ran one of the redemption centers in Fort Kent actually started working with me in the woods, running the grapple skidder. We talked about it a lot for a couple months. We didn't talk about it much in the morning because it was quite early and both of us were half asleep. Coming home at night we would talk about it and kept asking me, where is it? I kept saying it was coming. We get down here this year and find out that it isn't coming. Somewhere along the line it got taken away. I think that is awful. I think it is unfair. I actually think it is a joke. I think you should support this amendment to give it back. That is what we passed last year. That is what a lot of these people are expecting or did expect. It is incredible that it got pulled out from under them. Please support this amendment.

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

Representative **HATCH**: Mr. Speaker, Ladies and Gentlemen of the House. I was on the Business Committee when this thing first showed up several years ago. It showed up to help the small business. The biggest selling point is they hadn't had a raise for over 10 years. The cost of everything had gone up, the bags that they have to put these cans and bottles into, rent, heat, the cost of labor, you name it. There was a commission set up to study it. The commission, I have always thought was kind of stacked against that little guy to start with. Some of the ways to raise their income was to eliminate some of these sorts. If you are wondering what that is, it is containers from different companies

all going into the same big bag that goes back. By doing that, the big guy who is taking in millions and millions of cans could save money simply by eliminating one of the help. Lay someone off, you are going to make more money. What about mom-and-pop who can't do this. You have two people who probably live in the back of the store or up over the store working full time to keep body and soul together. Who are they going to lay off to save money? I think over the period of years now this whole thing has been hijacked by the big guy to get it down to a half a cent. I was pretty disappointed this year when that half a cent came along and the guy in my hometown who has his whole family working for him because he can't really afford to go out and hire employees. I didn't want to go and tell him what he was going to get with that half cent. Now it seems like the big guy has really hijacked this whole thing, not thinking that this man doesn't deserve a half a cent after going on for 12 years now. I hope that you people have a little compassion. This is an anti-small business bill, anti-family. I hope we are better than that. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is Adoption of House Amendment "A" (H-956) to Committee Amendment "A" (H-855). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 490

YEA - Adams, Ash, Barstow, Beaudette, Bennett, Bierman, Blanchette, Bliss, Brannigan, Breault, Bull, Bunker, Canavan, Carr, Clark, Collins, Cowger, Cummings, Dudley, Dugay, Duplessie, Duprey G, Earle, Eder, Faircloth, Finch, Gagne-Friel, Gerzofsky, Goodwin, Grose, Hatch, Hotham, Hutton, Jackson, Jennings, Jodrey, Kane, Ketterer, Koffman, Landry, Lemoine, Lerman, Lessard, Lundeen, Makas, Marraché, McGowan, McLaughlin, Mills J, Mills S, Moody, O'Brien L, O'Neil, Paradis, Peavey-Haskell, Percy, Perry A, Pineau, Pingree, Richardson J, Rines, Saviello, Simpson, Smith N, Smith W, Sukeforth, Sullivan, Suslovic, Tardy, Thomas, Thompson, Trahan, Twomey, Usher, Walcott, Watson, Wheeler, Woodbury, Wotton, Mr. Speaker.

NAY - Andrews, Annis, Austin, Berry, Berube, Bowen, Bowles, Browne W, Bruno, Bryant-Deschenes, Campbell, Churchill E, Churchill J, Clough, Cressey, Crosthwaite, Curley, Daigle, Davis, Fischer, Glynn, Greeley, Heidrich, Honey, Joy, Kaelin, Ledwin, Lewin, Maietta, Mailhot, McCormick, McNeil, Millett, Moore, Muse, Nutting, O'Brien J, Rector, Richardson E, Richardson M, Rogers, Rosen, Sherman, Shields, Snowe-Mello, Stone, Tobin D, Tobin J, Treadwell, Vaughan, Young.

ABSENT - Brown R, Courtney, Craven, Dunlap, Duprey B, Fletcher, Jacobsen, Marley, McGlocklin, McKee, McKenney, Murphy, Norbert, Norton, Patrick, Pellon, Perry J, Piotti, Sampson, Sykes.

Yes, 80; No, 51; Absent, 20; Excused, 0.

80 having voted in the affirmative and 51 voted in the negative, with 20 being absent, and accordingly **House Amendment "A" (H-956) to Committee Amendment "A" (H-855) was ADOPTED.**

Committee Amendment "A" (H-855) as Amended by House Amendment "A" (H-956) 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" (H-855) as Amended by House Amendment "A" (H-956) thereto and sent for concurrence.**

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

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

CONSENT CALENDAR
First Day

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

(S.P. 204) (L.D. 595) Bill "An Act To Appropriate Funds for a Study To Determine the Feasibility of a Medical School in Maine" (EMERGENCY) Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-549)**

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

There being no objection, the Senate Paper was **PASSED TO BE ENGROSSED as Amended** in concurrence.

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

The House recessed until the Sound of the Bell.

(After Recess)

The House was called to order by the Speaker.

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

ENACTORS
Acts

An Act To Encourage Cost Savings by State Employees
(S.P. 618) (L.D. 1686)
(C. "A" S-409; H. "A" H-765)

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. **ORDERED SENT FORTHWITH**.

ENACTORS
Emergency Measure

Resolve, To Create the Commission To Study the Recruitment, Training and Retention of Physicians for Rural and Medically Underserved Areas of Maine

(S.P. 204) (L.D. 595)
(C. "A" S-549)

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. 77 voted in favor of the same and 42 against, and accordingly the Resolve **FAILED FINAL PASSAGE** and was sent to the Senate.

REPORTS OF COMMITTEE
Divided Report

Majority Report of the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** reporting **Ought Not to Pass** on Bill "An Act Requiring Long-range Budget Planning"

(H.P. 1320) (L.D. 1798)

Signed:

Senators:

CATHCART of Penobscot
ROTUNDO of Androscoggin
TURNER of Cumberland

Representatives:

BRANNIGAN of Portland
MAILHOT of Lewiston
COWGER of Hallowell
DUDLEY of Portland
FAIRCLOTH of Bangor
PINGREE of North Haven
MILLS of Cornville

Minority Report of the same Committee reporting **Ought to Pass** on same Bill.

Signed:

Representatives:

ROSEN of Bucksport
O'BRIEN of Augusta
MILLETT of Waterford

READ.

On motion of Representative BRANNIGAN of Portland, the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence. **ORDERED SENT FORTHWITH**.

SENATE PAPERS

Non-Concurrent Matter

Resolve, to Fund Scholarships to the Seeds of Peace Camp
(H.P. 55) (L.D. 47)

FINALLY PASSED in the House on March 3, 2004. (Having previously been **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-704)**)

Came from the Senate with the Resolve and accompanying papers **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**.

Representative BRANNIGAN of Portland moved that the House **RECEDE AND CONCUR**.

Representative HEIDRICH of Oxford **REQUESTED** a roll call on the motion to **RECEDE AND CONCUR**.

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

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

ROLL CALL NO. 491

YEA - Ash, Barstow, Bennett, Bliss, Brannigan, Breault, Bull, Bunker, Canavan, Cowger, Cummings, Dudley, Dugay, Dunlap, Duplessie, Duprey G, Earle, Eder, Faircloth, Finch, Gagne-Friel, Gerzofsky, Goodwin, Grose, Honey, Hutton, Jackson, Kane, Koffman, Lemoine, Lerman, Lessard, Lundeen, Mailhot, Makas, Marraché, McGowan, McKee, McLaughlin, Mills J, Moody, Norton, O'Brien J, O'Brien L, O'Neil, Pellon, Percy, Perry A, Perry J, Pingree, Richardson E, Richardson J, Rines, Saviello, Simpson, Smith W, Sukeforth, Sullivan, Suslovic, Thomas, Thompson, Twomey, Watson, Wheeler, Wotton, Mr. Speaker.

NAY - Adams, Andrews, Annis, Austin, Beaudette, Berry, Berube, Bierman, Blanchette, Bowen, Bowles, Brown R, Browne W, Bruno, Bryant-Deschenes, Campbell, Carr, Churchill E, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Daigle, Davis, Fischer, Glynn, Hatch, Heidrich, Hotham, Jennings, Jodrey, Joy, Kaelin, Ketterer, Landry, Ledwin, Lewin,

Maietta, Marley, McCormick, McNeil, Millett, Mills S, Moore, Muse, Nutting, Paradis, Pineau, Rector, Richardson M, Rogers, Rosen, Sherman, Shields, Snowe-Mello, Stone, Tardy, Tobin D, Tobin J, Trahan, Treadwell, Vaughan, Walcott, Woodbury, Young.

ABSENT - Churchill J, Clark, Craven, Duprey B, Fletcher, Greeley, Jacobsen, McGlocklin, McKenney, Murphy, Norbert, Patrick, Peavey-Haskell, Piotti, Sampson, Smith N, Sykes, Usher.
Yes, 66; No, 67; Absent, 18; Excused, 0.

66 having voted in the affirmative and 67 voted in the negative, with 18 being absent, and accordingly the motion to **RECEDE AND CONCUR FAILED**.

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

Non-Concurrent Matter

An Act to Expand Funding and Services to Students of Limited Proficiency in English

(H.P. 149) (L.D. 190)

PASSED TO BE ENACTED in the House on March 9, 2004. (Having previously been **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-701)**)

Came from the Senate with the Bill and accompanying papers **INDEFINITELY POSTPONED in NON-CONCURRENCE**.

The House voted to **RECEDE AND CONCUR**.

Non-Concurrent Matter

An Act To Increase the Adult Education State Subsidy

(H.P. 153) (L.D. 194)

PASSED TO BE ENACTED in the House on March 3, 2004. (Having previously been **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-702)**)

Came from the Senate with the Bill and accompanying papers **INDEFINITELY POSTPONED in NON-CONCURRENCE**.

The House voted to **RECEDE AND CONCUR**.

Non-Concurrent Matter

An Act To Include Disability Retirement Income in Retirement Income Eligible for Tax Exemption

(H.P. 1246) (L.D. 1670)

PASSED TO BE ENACTED in the House on April 2, 2004. (Having previously been **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-787)**)

Came from the Senate with the Bill and accompanying papers **INDEFINITELY POSTPONED in NON-CONCURRENCE**.

The House voted to **RECEDE AND CONCUR**.

Non-Concurrent Matter

An Act To Provide Property Tax Relief for Veterans Who Reside in Cooperative Housing

(H.P. 1250) (L.D. 1674)

PASSED TO BE ENACTED in the House on April 2, 2004. (Having previously been **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-786)**)

Came from the Senate with the Bill and accompanying papers **INDEFINITELY POSTPONED in NON-CONCURRENCE**.

The House voted to **RECEDE AND CONCUR**.

Non-Concurrent Matter

An Act To Exempt Unemployment Benefits from State Income Tax

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

PASSED TO BE ENACTED in the House on April 12, 2004. (Having previously been **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-755) AND HOUSE AMENDMENT "A" (H-813)**)

Came from the Senate with the Bill and accompanying papers **INDEFINITELY POSTPONED in NON-CONCURRENCE**.

The House voted to **RECEDE AND CONCUR**.

Non-Concurrent Matter

An Act To Provide for Fair Treatment of Taxpayers

(H.P. 1291) (L.D. 1769)

PASSED TO BE ENACTED in the House on March 4, 2004. (Having previously been **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-699)**)

Came from the Senate with the Bill and accompanying papers **INDEFINITELY POSTPONED in NON-CONCURRENCE**.

The House voted to **RECEDE AND CONCUR**.

Non-Concurrent Matter

Resolve, To Create an Associate Degree Program in Radiology Technology

(S.P. 708) (L.D. 1862)

FINALLY PASSED in the House on April 2, 2004. (Having previously been **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-445)**)

Came from the Senate with the Resolve and accompanying papers **INDEFINITELY POSTPONED in NON-CONCURRENCE**.

The House voted to **RECEDE AND CONCUR**.

Non-Concurrent Matter

An Act To Modify Taxation of Benefits under Employee Retirement Plans, Including Retirement Plans for Teachers

(S.P. 764) (L.D. 1927)

PASSED TO BE ENACTED in the House on April 7, 2004. (Having previously been **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-481)**)

Came from the Senate with the Bill and accompanying papers **INDEFINITELY POSTPONED in NON-CONCURRENCE**.

The House voted to **RECEDE AND CONCUR**.

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

HOUSE DIVIDED REPORT - Majority (7) **Ought Not to Pass** - Minority (5) **Ought to Pass as Amended by Committee Amendment "A" (H-740)** - Committee on **TAXATION** on **RESOLUTION**, Proposing an Amendment to the Constitution of Maine To Change the Assessment of Lands Used for Long-term Ownership

(H.P. 695) (L.D. 938)

TABLED - March 10, 2004 (Till Later Today) by Representative **LEMOINE** of Old Orchard Beach.

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

Subsequently, Representative LEMOINE of Old Orchard Beach **WITHDREW** his motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

On motion of Representative PERCY of Phippsburg the Resolution was **SUBSTITUTED FOR THE REPORTS**.

The Resolution was **READ ONCE**.

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

Representative PERCY of Phippsburg **PRESENTED House Amendment "A" (H-955)**, which was **READ** by the Clerk.

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

Representative **PERCY**: Mr. Speaker, Ladies and Gentlemen of the House. Many of you are aware of my effort along with many people on both sides of the aisle to deal with property tax reform. Also, many of you are aware of the efforts of the Rural Coastal Caucus, otherwise known as the Roastal Caucus. It is a tri-partisan group of Representatives and Senators who have worked very hard to craft some kind of tool to give to our voters. This amendment provides for amending the Constitution of Maine to allow a municipality the option to limit the rate of change in the taxable value of homestead land to the rate of change in purchasing power of the United States currency as consistently measured by a reliable index adopted by the Legislature.

What this does is this amendment would allow towns to limit the increase in value of the land on which your primary residence resides. It is a local option. It is not a statewide requirement or any requirement at all. It simply allows those towns where homeowners are seeing exorbitant inflationary increases in the value of their land, to cap that increase in value for property tax purposes.

Under the Maine Constitution, towns have to assess all properties the same, whether the properties are California mansions, large paper mills, ski condos, elderly housing developments or farm houses in which the same families have lived for generation upon generation, whether the property is coastal or inland, mountainous or flat. The Maine Constitution has been amended several times to allow exceptions to the rule of fair apportionment and just value. Constitutional Amendments were passed to allow for lower taxes on farmlands, land in tree growth, open space land, game preserves and on lands dedicated by their private owners to preserve historic sights or scenic easements.

Now is the time. Now is our chance for homeowners to secure this same constitutional protection so that people will not be forced from their homes because of their rational inflation of property values caused by people who buy and build second homes down the street and pay such extraordinary monies for land, which cost half as much just a few short years ago. This bill would give homeowners that constitutional right to be free of oppressive taxation.

Why amend the Constitution you may ask? Only by Constitutional Amendment can the Legislature authorize towns to discriminate in the way they tax the land on which a taxpayer has his or her primary residence as opposed to the owner of a second home, a seasonal property or any other kind of taxable real estate.

For your information, the Maine Constitution has been amended 135 times in the past 94 years. During that time period the Legislature has actually sent out to the voters 163 amendments to the Constitution. That is since 1911 and guess

what? One hundred and thirty five of them passed. Frankly, when the Constitution was originally passed was probably only a dozen pages long and now it is about 100 pages. These Constitutional Amendments have included subjects ranging from dedicating revenues for Inland Fish and Wildlife and gas tax revenues clarifying the right to bear arms, determining a time of voting on referendum issues, limiting certain bonds, allowing the deputy Treasurer and deputy Secretary of State to fill the vacancies left when their bosses leave, protecting state retiree pensions, requiring the state to fund any local mandates except by two-thirds vote and preserving state parks and recreation lands in tact, except by two-thirds vote of the Legislature.

While the statutory homestead exemption and circuit breaker programs give some benefit to homeowners whose property taxes have exceeded their ability to pay, these programs do not attack the major cause of the current taxpayer revolt, the soaring inflation in land values. This bill does not allow someone who builds a mansion to escape taxation. It only applies to the value of your homestead land. Assessors routinely value land and buildings separately. It does not place an arbitrary tax cap on all properties. It is not Palesky or even Palesky like. It will provide targeted tax relief to the folks who need it most, people whose primary homes are now being taxed out of sight. The great thing about this amendment is we are actually doing something. We are sending a tool to our municipalities. Give them the option to decide how they want to deal with this crisis in these communities, whether it is Rangeley, Millinocket or Popham Beach. Thank you very much.

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

Representative **MILLS**: Mr. Speaker, Men and Women of the House. I, too, would urge your careful consideration of the language that is in this proposed Constitutional Amendment. It was developed over many cups of coffee at 7:00 in the morning and a series of meetings of the rural and coastal caucuses. I think it is the one theme that drew together members of the rural and coastal caucuses. I remember that I went to my first meeting of the coastal caucus and people wanted to know why I was there. I said that I represent people on Great Moose Lake and Big Indian Pond who have the same problem that you folks do on the salt water. They are being inflated out of being able to afford their homes. This concept resulted in some drafting experiences that I won't bore you with, but we started out with the idea that maybe homesteads, not all property, but homesteads only ought to have some special treatment. In order to give homesteads that special treatment, you really have to enter the Constitution. The City of Portland tried to do something similar last year and was told that they can't do it on their own and I think for good reason. The Constitution says that all properties, all kinds of real estate that is taxed have to be taxed on the basis of the just value of their own, which is interpreted to mean market value. You have to treat all property the same unless you have a good reason to do otherwise. We do have special reasons in the Constitution to treat open space and farmland differently at least for a time. We have a special provision in the Constitution to treat tree growth land separately until you have sold it.

We thought why not treat homestead? First of all we would have to decide whether to apply it to all towns in the state or whether it ought to be a local choice, a local option. We thought that this ought to be a local issue. Why not empower each municipality to decide for itself whether it wants to permit restraining the growth values to the rate of inflation for as long as the homeowner owns his own home. We thought it best to give this as a tool to the municipalities.

Those of you who have read the Palesky bill will recognize that there is a statewide mandate that would apply to all properties and all real estate as a roll back. There are limits on growth and value for real estate. For a host of reasons, the Palesky bill is utterly and flagrantly unconstitutional in term of its dealing with valuation issues. If you ask people about the bill, they find that piece of it the most appealing segment of what she has presented. That is the part that people seem to like the most. Why should my real estate, particularly that I live in, be allowed to inflate out of control?

I listened to the news this evening. Peaks Island is in an uproar because valuations on homes have gone up by 400 percent. Some of them are complaining about the methods and the means and so forth, but the reality is those values have gone up by three or four times and it is tough if you make that property your home.

What we thought we would do is to take just the kernel, the essence of this very popular notion that is elucidated in some odd ways in the Palesky bill, take it out and do a proper job of giving the municipalities in this state a tool in which to control rapid growth and inflation for homestead land if the town so chooses. We also came to believe that the problem was in land, not in buildings. If you start to control or attempt to control inflation on the building side, then you have to deal with things like improvements, obsolescent, fire and destruction and all of this bill that the Palesky bill would lead you into and indeed Proposition 13 has lead California into a swamp of complexities in assessing property taxes. We wanted to avoid that at all costs. We stuck with land, which is where inflation hits the hardest, certainly. It is the value of the land under your building, under your home.

The Resolution is very limited. It applies only to homeowner who is a Maine resident and only for so long as that homeowner owns that home. If he dies or sells it or there is a change in ownership, bingo, it goes back up to just value, which is where it should go.

We also had one other concern. What would happen if the town tried to use this somewhat lower valuation as a way of saying that I am entitled to more school funding now? I am entitled to more revenue sharing. I don't want to pay as much in property taxes. All three of these things are based on the total value of taxable real estate within the boundary of the municipality. We took care of that issue. The very last sentence of this Resolve says that the decision, the local choice by a municipality to limit the rate of change in value of homestead land under this subsection does not affect the determination of the equalized just value of taxable property in the municipality for any purpose. All that means is they have to pay the same county taxes. They don't get any extra revenue sharing. They don't get any extra school funding. They basically have to fund this tax shift, that is what it is really, within the boundaries of the municipality that decides to do this.

I think there will be some contentions in the municipalities that consider this if this passes. I don't think this will be easy necessarily for a municipality to come to grips with. You know what? I think this is basically a local problem. I think there are many people in this state who are trying to elevate a distinctly local problem into being a statewide issue. When I went down to hear the people who testified at the hearing on the Palesky initiative in the Taxation Committee, I heard people from Yarmouth, by enlarge, a lot of them retired people who live on salt water who were coming down to the committee and complaining about losing a debate within the Town of Yarmouth about taxation policy. I am thinking to myself, is this an escalation of an issue that really belongs down there in front of

the town council or in front of the selectmen? Let's send this issue back to the municipalities. Give them a tool that they can use to solve this discussion if they choose to and let's let the towns, the residents of our towns, duke it out at the local level if they so choose and fund the tax shift if they wish to at the local level. There is absolutely no good reason in policy why the state should step in as the Palesky bill invites us to do and try to mess around with changing valuations for all property owners in the state.

I think this is a local issue and an issue that the localities will be empowered to solve if we vote for this.

I want to address the politics of this. If this referendum appears on the ballot in November, my own hope is that it will appear on the ballot along with a state and local spending cap Constitutional Amendment. That is probably for tomorrow or another day, but if the Palesky bill appears on the ballot with this provision as a choice, we will be able to argue with considerable forthright that you can either vote for a patently defective and ineffective piece of legislation authored by Palesky and copied, frankly, from California's own Constitution or you can vote for something that will work and will address the issue that the people on Peaks Island, Chebeague Island, Great Moose Lake and Big Indian Pond and Clearwater Lake and everywhere else are truly concerned about. You can do something effective that has been prepared carefully by the Maine Legislature or you can do something that is ineffective and, frankly, quite stupid and vote for the Palesky bill.

I think that speaks to the politics of this issue and it is for that reason that I do urge you to vote for the pending motion. Thank you for your patience. I know this is difficult.

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

Representative LEMOINE: Mr. Speaker, Men and Women of the House. I will be opposing this motion and I do so having given great thought to the values that are being put forward here. I would remind my colleagues that the property tax issues in this state are the result of three factors. The first of which is the valuation of the land. The second of which is the mil rate applied to that valuation. The final is the raw dollar number that is the amount that must be paid by the taxpayer. There are other ways to get at this issue. We have talked about them in the past with the circuit breaker type programs that look at the raw dollar amount and say, is that dollar amount too high for individuals? If it is, we will help protect them from the size of that bill. We have pending before this Legislature a citizen's initiative that would limit the mil rate that goes out that is available to municipalities. We have an education funding formula change, which would establish a mil rate expectation for each community.

The idea of going to the market, shifting the natural function of the market regarding valuation, is one which while extraordinarily well intentioned and designed to protect Maine communities, I believe in the long run is a poison pill to those communities. I say that because if you have over the course of time two identical homes and one is owned continuously by the same couple, 30 years out, remember we are talking Constitution, a long-term approach, their tax bill is very low. The family who is trying to move in next door has to pay on the new valuation, which has 30 years additional accumulation of value on it, their tax bill is extraordinarily different. When it comes time to do the town budget, to set spending priorities, decide who is going to spend how much, that is a very different world than the world of fair and shared and equal burden that we have now. The new burden will end up on the shoulders of people who are trying to move into town, probably new homeowners in many cases. They will be forced into other communities. It will also

end up on the shoulders of the business community. You will be increasing taxes on a portion of the economy we are trying to enhance.

I recognize the intent of this legislation as being to preserve those communities and the people who live there. I suggest that rather than do it at the valuation variable, we focus on mil rates and the actual dollar amount and provide relief there. Thank you.

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

Representative **BUNKER**: Mr. Speaker, Men and Women of the House. I would ask that you would support adoption of this and take it very seriously and think through the implications as the good Representative indicated. All of the concerns he has indicated will not happen unless the town itself decides that it wants to do it. Those towns who don't wish to want to do it are never going to have that implication of people moving in next door and this suddenly unbalanced system that he just explained to us.

Quite frankly, I have been here for 10 years and asking for tax reform and asking for one simple thing, reward those who choose to call Maine their home, pay their taxes here, pay their excise taxes to the town and pay their dues to the community they reside in, not come here and live part time and get the benefits of this state. Let's put the burden on those people that come here and use the wonderful state we call the State of Maine.

If some of you had lived in my community for 30 years, they are probably a little bit older than I and probably are in a little bit more limited income situation. What I am seeing in the woods, the trees, the moose and the deer is a whole bunch of Land for Maine's Future buy outs for \$100,000 an acre and then suddenly Drew Plantation lost 500 acres of their towns evaluation off the records, but that \$100,000 an acre sale still comes into the computation of what land values are in the rest of the town. That little old lady in tennis shoes that has lived on that piece of property for hundreds of years through their family who has 200 acres of land now has the burden of that, well if you have been in Drew Plantation, there is not many mansions there. It is not the value of her home that is driving her to sell off her property for sprawl and cut and run and liquidation harvesting. All these things we debate are all tied into this if you really think about it and who best to control that decision than the people sitting in that small community that knows what the impacts of this tax policy is.

If you ask anybody down at the local level who is at fault for that high taxation on the property and why they are being forced to sell their property or move out of their homes or sell their homes or sell it to a liquidator, they will blame Augusta and our tax policy. I think this is the first real piece of tax reform if we are lucky enough to pass it, that is really going to go down to the local level and be a great reward for the folks that have lived here all their lives and earned the respect of having some kind of steady idea that they will be able to maintain their home that they have had for years as long as their family wishes to hold it.

At this point, pursuant to his authority under House Rule 401.1, the Chair assigned Representative SMITH of Monmouth to Seat 142 and Representative NORBERT of Portland to Seat 52 for the rest of today's session.

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

Representative **CLOUGH**: Mr. Speaker, Ladies and Gentlemen of the House. I think this is a concept that could work

very well for those communities that might determine that it was a good policy for them to adopt it. For that reason, I would ask for your support. Mr. Speaker, when the vote is taken, I would ask for a roll call.

Representative CLOUGH of Scarborough **REQUESTED** a roll call on the motion to **ADOPT House Amendment "A" (H-955)**.

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 Belfast, Representative Ash.

Representative **ASH**: Mr. Speaker, Men and Women of the House. I commend the caucuses for putting this together, but I don't think it has been thought out very clearly. I am small business in my area. The way I understand this bill, I will be picking up the burden for somebody else's taxes in my small business. I don't know as if I stand much more of somebody else's burden. In our area, up on the coast, we have a tremendous amount of motels and stuff that are on the water. The season is so short in those areas that these people are just getting by as it is at this time. I feel very strongly that this would be putting an extra burden onto business. I don't see an awful lot of communities, and I bet mine is one of them, that would jump on this, especially if a dozen people come into the city council and lobby the council. They would probably jump right on with it right now. It is just another big hit for small business. Thank you.

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

Representative **WATSON**: Mr. Speaker, Men and Women of the House. I would like to thank the Representative from Cornville, Representative Mills, for his explanation of this. I would like to add only one other thing to that explanation. This makes it very clear that we are not talking about acres and acres of property. We are talking about a parcel only large enough to support a principle residence. A lot of the problems brought up by my brother, Representative Lemoine and just brought up by Representative Ash, are local problems. Those are discussions that would had at the municipal level as to how to handle those individual situations. With regard to the chairman of the Taxation Committee's comment about a new family moving in and facing a higher tax burden than the neighbor next door who has lived there for 30 years. I would grant you that that is happening now anyway. The difference is without this kind of tool in the municipality's toolbox, that new family will be moving in next door to a vacant lot. The people living there for 30 years are no longer able to afford to live there. There will be problems with businesses located on waterfront areas. I have caused a problem moving into Bath. I was foolish in the price that I paid for my property. The lobstermen living on either side of me are suffering to this day for it. Bath needs a method of adjustment. This would allow them to do that and allow other municipalities to do the same. If they decide it is too much of a problem or it creates too many inequities, then they don't have to do it. At least we are making an attempt to resolve a problem at the local level without directing how it is to be done. Thank you Mr. Speaker.

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

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

The SPEAKER: The Representative may pose his question.

Representative **DAIGLE**: Mr. Speaker, Men and Women of the House. I am struck by the comments from my friend from Old Orchard Beach, Representative Lemoine, because I imagine with my constituents would that scenario happen of new versus old. I think it would be very likely. In fact, I have a couple of towns

where long-term residents overwhelm the newer residents at many of the town meetings. My question to anybody who could answer, under this proposal, what are we talking about for the mechanism by which a town would trigger this? Are we talking about the potential of a town meeting where only 20 or 30 people show up? Are we talking about a referendum in November where we have a more substantial reflection of how the town feels about it? I think that mechanism of triggering this to be sure that it is truly representing the whole community would make a difference in how I would feel.

The **SPEAKER**: The Representative from Arundel, Representative Daigle has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Farmington, Representative Mills.

Representative **MILLS**: Mr. Speaker, Men and Women of the House. I think the answer to the gentleman's question lies in the very beauty of this Constitutional Amendment. Future Legislatures can direct the course of things by implementing legislation. We can authorize that a town do this only by referendum or we can authorize it be done by a vote of the city council or the governing body of the town or at a town meeting or that type of thing. We can look at the details as it is implemented.

With respect to the gentleman's question about businesses, I certainly feel strongly that businesses are a part of every community. Any community who looks to doing this, adopting an inflation tax cap on homestead lands, would have to seriously consider the impact on businesses and other properties in those communities. No community wants businesses to leave. That would be part of the discussion of any town in enacting such a provision. I suspect that if businesses say they can't do this, you can't transfer any part of the additional tax burden onto us, then a town would not be able to sustain that opposition. I think that is the beauty of this Constitutional Amendment that it is flexible. It allows further implementation by statute and I think the time has come to do this, do it now. This is what the people want. Thank you.

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

Representative **SUSLOVIC**: Mr. Speaker, Men and Women of the House. Just briefly, I would ask that you seriously consider your actions before supporting this bill. There are a lot of good intentions here. It clearly points out that there is a problem. Clearly the City of Portland is experiencing that problem with its much publicized recent evaluation. However, I can't support this bill for several reasons. Number one, as you have heard already, this isn't reducing the cost of local government. This is shifting the cost of that government to someone else. As has been pointed out, small business will acutely feel this shift. I think it is not good for our small businesses. I think it is not good for people who rent. In some parts of the state, mainly the service centers, there are significant renters, many of whom struggle with the high cost of housing as it is. This bill, unless I am misreading it, that property would not be eligible for this protection, because it is technically commercial property, two units or three units.

My fear is that, again, a vulnerable part of our population, low income, a lot of seniors rent and they are going to see their cost go up because we are controlling the increase in single-family home valuation at the expense of multi-families. Again, I applaud the intent behind it. I would instead ask that people consider supporting a beefed up circuit breaker program, which really gets at the route of the problem as opposed to trying to spread it out as this amendment would. Thank you.

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

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

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

Representative **SHIELDS**: Mr. Speaker, Ladies and Gentlemen of the House. This bill deals with homestead property, which means someone must live there. If a business does not have anyone living there, can it affect a business?

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

Representative **LEMOINE**: Mr. Speaker, Men and Women of the House. The answer is, yes, it will affect the business because in the mix of properties within a community you will have business and residential properties. If you lighten the load on residential properties and don't decrease the budget, therefore, the balloon pushes up in the other area that is on commercial properties. They would be affected by virtue of not being part of their reduction. I hope that answers the Representative's question.

The **SPEAKER**: The Chair recognizes the Representative from Sanford, Representative Courtney.

Representative **COURTNEY**: Mr. Speaker, Ladies and Gentlemen of the House. I really want to support this bill, but I don't really think it goes far enough. I think that was one of the discussions that we had in some of the meetings when I went to the coastal and rural caucuses. I hear that the problem is only with the land, but it isn't. It needs to include buildings as well if we are going to go down this road. It doesn't include businesses. It doesn't address the working waterfront issues. If it is a good idea, then why make it a local option. Why not put it in place and let everyone have it? I think with the just value issue, I think that if we went to purchase price rather than the just value. The impact on the local communities would be minimal because if we stay closer to the actual purchase price, we are going to get all the new revenue. I will use my example that I use in the Taxation Committee once in a while and that is that condos in Portland. They are on the books. They are valued at \$125,000. They just sold for \$350,000. The City of Portland is missing out on that taxable value from people that can afford to pay the price. They just proved they could afford the condo when they purchased it. We talked about a tax shift. If we are going to do a tax shift, this concept is a unique way for tax reform that doesn't cost us a cent. It is a way to move property tax into the realm of ability to pay. That concept if we would take it serious, would solve a lot of problems that we face in this state. If we control spending, we have heard lots of talk in the halls about controlling spending, whether it be by Constitutional Amendment, statutory spending cap. If you control spending, then the valuations, with the change in valuations, people will not see the increases that we hear this fear of. People's evaluations will only go up the cost of the CPI and if their expenses only go up that high and there is additional valuation coming on the books, it is going to provide relief for everyone. I don't think this is quite there yet. I am disappointed that we weren't more successful with the Minority Report of the original bill. Unfortunately I am not going to be able to support this. It just doesn't quite go far enough. Thank you.

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

Representative **BOWEN**: Mr. Speaker, Men and Women of the House. I just want to hit on a couple of things very quickly. I think the Representative from Bath gave us a good term to use and that is a tool in the toolbox. This is one more tool the towns can use to control how property taxes fall on their people.

Portland has been trying to find it. My selectmen have been trying to figure out a way to ease the burden of these rapidly expanding valuations. It is a tool. We have other tools for renters, the young family that moves in that has a high dollar property, but has a low income. We have the Circuit Breaker Program for them, which hopefully we will expand in a meaningful way before we walk out of here in the next couple of days as all of the proposals before us will do.

We have tools and this is just one more. I think we have to think about what this brings to the table. What it brings primarily is predictability. That is what scares people about property taxes. They don't know from one year to the next where their property taxes are going to go. Are they going to go up 2 percent, 5 percent or 50 percent or 100 percent? People don't know. We know that sales tax is only going to go up slightly a little bit. Income taxes are all laid out. What scares people about property taxes is the lack of predictability, the inability to plan how much that is going to go up every year. This is going to promise people that your valuation is going to go up at a certain rate every year. That will hopefully put some degree of slowing down of this increase in communities like mine.

Lastly is the issue that I don't think we have hit on, which is the issue of community and what the effects on the ground of this property tax crisis that we have in this state is having. I believe I have shared with this body before what has been going on in Rockport. When you come to visit lovely Rockport Harbor, which I hope you all do this summer, and you go down to the Harbor and you stand and you see the houses around the harbor down there, there are all these beautiful homes, one of them is owned by a year round resident. All of the rest are summerhouses. The inability of people in our community to stay in their houses is destroying the fabric of the community itself.

We have divided as a town. We have the summer people on the water and we have everybody else. The town is tearing itself to pieces. What is at stake here is a sense of community. That is why I think the local option is not a bad thing. It is a good thing. A community can sit down and have a discussion and say, look, we now have this additional tool. It may mean that mil rates will go up. It may mean that some of the businesses out on Route 1 their valuations will climb up and their mil rates may go up and their taxes may be more. It may also mean that we will have some predictability. We will be able to sort of phase in these increases over time. It may mean more security. That is a discussion the towns should have. Are we prepared to accept some of the side affects of this in exchange for being able to say that your valuation will only climb at a certain amount and you can predict with relative safety what your property tax burden will be year in and year out. I think it will give people a great sense of community, a sense of predictability, a sense of control over something that they don't feel they have control over now. For what it costs us, which is virtually nothing, I think it is an excellent option, a tool to put into the toolbox. I urge your support.

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

Representative **KAELIN**: Mr. Speaker, Ladies and Gentlemen of the House. I know it is late, but I feel compelled to stand in support of this motion and the work that has been done in the coastal and rural caucus around this issue. This is just one of the arrows in the quiver that has been developed. I came here for the first time two years ago as a member of this House. Like all of us, I think I came here to try to solve problems for our communities and to try to understand the complex nature of these very difficult problems that we are here to solve hopefully tonight and tomorrow and before the end of the week. We have an awful lot of work to do.

I am no expert in taxation. I have talked with people in my rural communities about this approach, about bringing this tool to our communities, to allow them to make a decision on the local level of how they want to treat low-income people, people who are trapped in this incredibly escalating property tax valuation that they find themselves in. They can't afford to stay in their homes. People who have owned homes for years and years and years, bought them for a small percentage of the price that perhaps we have paid for our homes. We need to send this tool to these communities. I had a selectwoman downstairs today on another issue, historic preservation in the small town of Brooks, Maine. We talked about this Constitutional Amendment and a couple of other ones that we hopefully will talk about in the next couple of days. She said that that would be a great tool. It would be a wonderful tool for us to have so that they could decide on the local level how they want to treat various property tax owners. Right now we give tax increment financing benefits and so forth to businesses and when that happens who picks up the tab? It has to be the other people in the community. That is knowingly done by our selectmen and by our town fathers in various forms of government.

I have been listening to the debate and I am thinking of the saying about having the perfect be the enemy of the good. We could sit here all night and come up with 1,000 different reasons why this may not work in my community. It may not work in your community, but if we don't give this tool to these communities and if we don't act as a Legislature to right what I think is the very wrong element of the Palesky bill, the only portion of the Palesky bill that has any meaning to me personally is this one. Unfortunately she has totally screwed it up. You have pass a Constitutional Amendment to get the job done, people. That is why I am so pleased that we have an opportunity to debate this tonight and vote on this. I urge you to support the motion. Thank you very much ladies and gentlemen.

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

Representative **PERCY**: Mr. Speaker, Ladies and Gentlemen of the House. Do you realize what we have done? We have had a tri-partisan debate. We have agreed that this is a possible tool. This may be the only thing we agree on in the next three days. Think of sending that word out to the public that we got together and made this happen. It is a tri-partisan effort. This amendment is about land that is yours and mine and the people of the State of Maine and we really need to take steps to ensure that we are not priced off that land. This tool is the first step.

If I may share with you some words that Representative Usher gave me, "This land is your land. This land is my land. From Millinocket to Monhegan Island, from the St. John Valley to the Piscataquis River, this land is yours and it is mine." It is Maine's. Please support this motion. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is adoption of House Amendment "A" (H-955). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 492

YEA - Andrews, Annis, Austin, Barstow, Bennett, Berry, Bierman, Blanchette, Bowen, Bowles, Breault, Brown R, Browne W, Bruno, Bunker, Campbell, Canavan, Carr, Churchill E, Clough, Collins, Cressey, Cummings, Curley, Davis, Dugay, Duplessie, Duprey G, Earle, Finch, Fischer, Glynn, Grose, Hatch, Heidrich, Hotham, Hutton, Jackson, Jodrey, Joy, Kaelin, Koffman, Landry, Ledwin, Lerman, Lessard, Lewin, Maietta, Makas, Marley, Marraché, McCormick, McNeil, Millett, Mills J, Mills S, Moody, Moore, Muse, O'Brien J, O'Neil, Paradis, Pellon, Percy, Perry A, Pingree, Rector, Richardson E,

Richardson J, Richardson M, Rines, Rogers, Rosen, Saviello, Sherman, Shields, Smith N, Stone, Sukeforth, Sullivan, Tardy, Thomas, Thompson, Tobin J, Trahan, Treadwell, Usher, Watson, Wheeler, Woodbury, Wotton, Young.

NAY - Adams, Ash, Beaudette, Berube, Bliss, Brannigan, Bryant-Deschenes, Bull, Courtney, Cowger, Crosthwaite, Daigle, Dudley, Dunlap, Eder, Faircloth, Gagne-Friel, Gerzofsky, Goodwin, Honey, Jennings, Kane, Ketterer, Lemoine, Lundeen, Mailhot, McGowan, McKee, McLaughlin, Norton, Nutting, O'Brien L, Perry J, Pineau, Simpson, Smith W, Snowe-Mello, Suslovic, Tobin D, Twomey, Walcott, Mr. Speaker.

ABSENT - Churchill J, Clark, Craven, Duprey B, Fletcher, Greeley, Jacobsen, McGlocklin, McKenney, Murphy, Norbert, Patrick, Peavey-Haskell, Piotti, Sampson, Sykes, Vaughan.

Yes, 92; No, 42; Absent, 17; Excused, 0.

92 having voted in the affirmative and 42 voted in the negative, with 17 being absent, and accordingly **House Amendment "A" (H-955)** was **ADOPTED**.

The Resolution was **PASSED TO BE ENGROSSED** as **Amended by House Amendment "A" (H-955)** and sent for concurrence.

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

HOUSE DIVIDED REPORT - Report "A" (9) **Ought Not to Pass** - Report "B" (2) **Ought to Pass as Amended by Committee Amendment "A" (H-745)** - Report "C" (1) **Ought to Pass as Amended by Committee Amendment "B" (H-746)** - Committee on **TAXATION** on Bill "An Act To Modernize the State's Tax System"

(H.P. 1020) (L.D. 1394)

TABLED - March 9, 2004 (Till Later Today) by Representative LEMOINE of Old Orchard Beach.

PENDING - ACCEPTANCE OF ANY REPORT.

On motion of Representative LEMOINE of Old Orchard Beach, Report "A" **Ought Not to Pass** was **ACCEPTED** and sent for concurrence.

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

On motion of Representative RICHARDSON of Brunswick, the House adjourned at 9:50 p.m., until 10:00 a.m., Wednesday, April 28, 2004 in honor and lasting tribute to Harry C. Crooker, of Brunswick and Robert S. Moore, of Medway.