

MAINE STATE LEGISLATURE

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

Volume I

First Regular Session

December 1, 2004 - March 30, 2005

First Special Session

April 4, 2005 – May 25, 2005

Pages 1-736

ONE HUNDRED AND TWENTY-SECOND LEGISLATURE
FIRST SPECIAL SESSION
17th Legislative Day
Tuesday, May 17, 2005

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

Prayer by Reverend Carolyn Bradley, First Congregational Church, Millinocket.

National Anthem by Sara Charette, Stacyville.

Pledge of Allegiance.

Doctor of the day, Stephen Sears, M.D., Farmingdale.

The Journal of yesterday was read and approved.

SENATE PAPERS

Non-Concurrent Matter

Bill "An Act To Authorize the Assessment and Collection of Harbor Fees"

(H.P. 1153) (L.D. 1635)

Unanimous **REFER TO THE COMMITTEE ON TAXATION** Report of the Committee on **MARINE RESOURCES READ** and **ACCEPTED** and the Bill and accompanying papers **REFERRED** to the Committee on **TAXATION** in the House on May 16, 2005.

Came from the Senate with the Bill and accompanying papers **COMMITTED** to the Committee on **MARINE RESOURCES** in **NON-CONCURRENCE**.

The House voted to **INSIST**.

Non-Concurrent Matter

Bill "An Act To Amend the Law Regarding Resale Certificates"

(H.P. 120) (L.D. 169)

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-78) in the House on March 29, 2005.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-78) AS AMENDED BY SENATE AMENDMENT "B" (S-122)** thereto in **NON-CONCURRENCE**.

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

COMMUNICATIONS

The Following Communication: (H.C. 227)

STATE OF MAINE

**ONE HUNDRED AND TWENTY-SECOND LEGISLATURE
COMMITTEE ON AGRICULTURE, CONSERVATION AND
FORESTRY**

May 9, 2005

Honorable Beth Edmonds, President of the Senate

Honorable John Richardson, Speaker of the House

122nd Maine Legislature

State House

Augusta, Maine 04333

Dear President Edmonds and Speaker Richardson:

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

L.D. 1224 Resolve, Establishing a Study Committee To Examine Methods To Assist the Potato Industry

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

Sincerely,

S/Sen. John M. Nutting

Senate Chair

S/Rep. John F. Piotti

House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 228)

STATE OF MAINE

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

May 12, 2005

Honorable Beth Edmonds, President of the Senate

Honorable John Richardson, Speaker of the House

122nd Maine Legislature

State House

Augusta, Maine 04333

Dear President Edmonds and Speaker Richardson:

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. 753 An Act To Authorize a General Fund Bond Issue for the Downeast Institute for Applied Marine Research and Education

L.D. 795 An Act To Authorize a General Fund Bond Issue for Bulkhead Restoration at the Former United States Coast Guard Site in Portland

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

Sincerely,

S/Sen. Margaret Rotundo

Senate Chair

S/Rep. Joseph C. Brannigan

House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 229)

STATE OF MAINE

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

May 12, 2005

Honorable Beth Edmonds, President of the Senate

Honorable John Richardson, Speaker of the House

122nd Maine Legislature

State House

Augusta, Maine 04333

Dear President Edmonds and Speaker Richardson:

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. 1550 An Act To Establish the Arsonist Registration Act

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

Sincerely,

S/Sen. Bill Diamond

Senate Chair

S/Rep. Patricia A. Blanchette

House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (S.C. 303)
MAINE SENATE
122ND LEGISLATURE
OFFICE OF THE SECRETARY

May 16, 2005

Honorable John Richardson
Speaker of the House
2 State House Station
Augusta, ME 04333-0002

Dear Speaker Richardson:

In accordance with Joint Rule 506 of the 122nd Maine Legislature, please be advised that the Senate today confirmed the following nominations:

Upon the recommendation of the Committee on Agriculture, Conservation and Forestry, the nomination of Ernest B. Harvey of Millinocket, Edward B. Lavery of Milo and Stephen W. Wight of Newry for reappointment to the Land Use Regulation Commission.

Upon the recommendation of the Committee on Agriculture, Conservation and Forestry, the nomination of Gwendolyn R. Hilton of Starks for appointment to the Land Use Regulation Commission.

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

READ and ORDERED PLACED ON FILE.

The Following Communication: (S.C. 304)
MAINE SENATE
122ND LEGISLATURE
OFFICE OF THE SECRETARY

May 16, 2005

Honorable John Richardson
Speaker of the House
2 State House Station
Augusta, ME 04333-0002

Dear Speaker Richardson:

In accordance with Joint Rule 506 of the 122nd Maine Legislature, please be advised that the Senate today confirmed the following nominations:

Upon the recommendation of the Committee on Education and Cultural Affairs, the nomination of Chad Marquis of Fort Kent and Marjorie M. Medd of Norway for appointment to the University of Maine System, Board of Trustees.

Upon the recommendation of the Committee on Education and Cultural Affairs, the nomination of Paul J. Dowe, Jr. of Bangor for reappointment to the University of Maine System, Board of Trustees.

Upon the recommendation of the Committee on Education and Cultural Affairs, the nomination of Shepard Lee of Cape Elizabeth, Doris Belisle-Bonneau of Lewiston and Brian C. Thayer of Cumberland for appointment to the Maine Community College System, Board of Trustees.

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

READ and ORDERED PLACED ON FILE.

The Following Communication: (S.C. 305)
MAINE SENATE
122ND LEGISLATURE
OFFICE OF THE SECRETARY

May 16, 2005

Honorable Millicent M. MacFarland
Clerk of the House
2 State House Station
Augusta, ME 04333

Dear Clerk MacFarland:

Please be advised the Senate today adhered to its previous action whereby it accepted the Majority Ought Not to Pass Report from the Committee on State and Local Government on RESOLUTION, To Amend the Constitution of Maine To Change the Number of Senators to 2 from Each County (H.P. 325 L.D. 440).

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

READ and ORDERED PLACED ON FILE.

ORDERS

On motion of Representative PARADIS of Frenchville, the following Joint Resolution: (H.P. 1184) (Cosponsored by Senator MARTIN of Aroostook and Representatives: ANNIS of Dover-Foxcroft, BARSTOW of Gorham, BROWN of South Berwick, CLARK of Millinocket, DUGAY of Cherryfield, DUPLESSIE of Westbrook, EDER of Portland, FARRINGTON of Gorham, HOGAN of Old Orchard Beach, HOTHAM of Dixfield, JACKSON of Fort Kent, McFADDEN of Dennysville, MERRILL of Appleton, PATRICK of Rumford, PERRY of Calais, SCHATZ of Blue Hill, TUTTLE of Sanford, VALENTINO of Saco, Senators: BARTLETT of Cumberland, BRYANT of Oxford, DOW of Lincoln, SNOWE-MELLO of Androscoggin)

JOINT RESOLUTION EXPRESSING THE LEGISLATIVE SENTIMENT THAT THE ATTORNEY GENERAL SHOULD SUPPORT A NEW TRIAL FOR DENNIS DECHAIINE

WHEREAS, Dennis Dechaine was convicted in March 1989 of the murder of Sarah Cherry of Bowdoin. He had requested DNA testing at the trial, but that request was denied by the trial judge; and

WHEREAS, DNA testing done in 1994 found another person's DNA under a thumbnail clipping of the victim; and

WHEREAS, the book *Human Sacrifice*, written by retired Bureau of Alcohol, Tobacco and Firearms agent James Moore, was published in October 2002, and Mr. Moore concluded that Dennis Dechaine was not the murderer and that the trial was unfair because the jury did not hear all the evidence regarding the time of death, nor any evidence of DNA testing; failure of a scent dog to find the victim's scent in Mr. Dechaine's truck; evidence of alternate suspects; or evidence of the State's psychologists; and

WHEREAS, grave questions have arisen concerning the conduct of the investigation, the reliability of the evidence, the alleged disappearance of evidence and conflicting testimony; and

WHEREAS, in May 2003, Dennis Dechaine's defense counsel filed a motion for a new trial and a motion for DNA testing through the DNA testing law passed by the Maine Legislature in 2001. The testing took more than a year, and the July 2004 results were the same as the 1994 results, except that now it is known that the unidentified DNA belongs to a male; and

WHEREAS, the Office of the Attorney General has not joined the motion for a new trial but unsuccessfully sought to show that the unidentified DNA does not belong to the perpetrator but to persons in the Maine State Police Crime Laboratory or in the Chief Medical Examiner's Office. The Office of the Attorney General now claims that the unidentified DNA likely came from nail clippers contaminated during other autopsies; and

WHEREAS, the Attorney General has the discretion to prosecute or not to prosecute cases, and the Attorney General also has the option of returning to a court where a questioned conviction occurred, asking the court to vacate a judgment and requesting a new trial; and

WHEREAS, as representative of the people of the State, the Maine Legislature has from time to time passed resolutions on a variety of issues. A resolution that asks the Attorney General to support a retrial is not an interference with the judicial process but an effort to express a legislative sentiment to the Attorney General that the people of the State support a new trial in the interest of ensuring justice; and

WHEREAS, no Maine citizen should tolerate the idea that an innocent person could already have served 16 years in prison while the guilty person is free. A new trial is in order so that a jury can hear and see all the evidence; now, therefore, be it

RESOLVED: That in view of the many questions raised about the investigation and conviction of Dennis Dechaine, and in the interests of restoring the public's faith in the Maine criminal justice system, the Legislature asks the Attorney General to support a new trial for Dennis Dechaine.

READ.

Representative TARDY of Newport **REQUESTED** a roll call on **ADOPTION**.

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 Frenchville, Representative Paradis.

Representative **PARADIS**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. The gist of this Legislative Joint Order is not to cast dispersions on any form of government or any form of office or anything, it is to, based on the preponderance of evidence, to move things along and to assure justice for all. This is really what it's all about. The sooner this is resolved then I think our recommendation to the Attorney General's office and, not to anyone in particular there, will help us to further this along. Thank you.

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

Representative **CARR**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I just want to say a few words on this to read into the record because I think it is very important.

Personally, I believe that this sets a very bad precedent for the Legislature to be involved in the criminal justice process. We have three branches of government and we have three branches of government for a reason. Each one is supposed to act independently from the others. There are processes for persons who have a reason for an appeal to appeal judgments and to appeal several different aspects of the criminal justice system and those processes need to be used rather than coming to the Legislature and asking for their input as to whether or not a person should have a retrial. I suspect that we have 3,000 to 4,000 other people that are presently incarcerated that would love to have the Legislature become involved and ask for retrials. I also suspect that if that should happen there are many of us that would like to support those, but we do have these three branches of government and they need to be separate and they need to be kept separate.

As far as this particular Joint Order, one part of this I think bothers me more than others and I want to read that part that does bother me and that says, "Whereas, no Maine citizen should tolerate the idea that an innocent person could already have served 16 years in prison while the guilty person is free. A new trial is in order so that a jury can hear and see all the

evidence; now, therefore be it resolved..." and so forth. This resolve indicates that we already know that somebody is in prison that is not guilty. I don't think that is the case.

I have read the book and watched the videos and all of the other information and although there are some areas that could have been covered better, we do have a system. It is presently in place and I would ask that everybody vote against this particular Joint Order because it is a bad way to get involved in the criminal justice system. Thank you Mr. Speaker.

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

Representative **PARADIS**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. There is no interference here in the separation of the powers at all and there is no definite assertion that Mr. Deschaine is innocent, it said that there is a possibility that he could be. Thank you.

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

Representative **MILLS**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I agree with the good Representative from Lincoln, Representative Carr, that this proposed Resolution sets a bad precedent and it establishes a different, unusual and negative process and I don't think that this body should be taking a position and telling the Attorney General what position to take on a case when that position and that case should be based only on the evidence and that courts ruling will be based solely on the evidence before the court and not on a political process such as this and also, this order seems to assume that Mr. Deschaine is innocent and I point to the penultimate paragraph saying, "Whereas, no Maine Citizen should tolerate the idea that an innocent person could have already served...while the guilty person is free." This prejudices the result for a motion for a new trial and I just don't think that that is appropriate for a Resolution of this body. The court is doing its work. The court has a hearing scheduled, as I understand, for September, on the motion for a new trial. Let's let the court do its work based on the evidence that will be before it and not interfere in a political sense with that process – the judicial process. Thank you.

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

Representative **HOTHAM**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I am not one to join causes, but I proudly sign my name to this Resolution because of a rational review of the evidence in this case and I believe that a new trial is in order. I have had the pleasure and the honor of traveling with the good Representative from Frenchville, Representative Paradis to the Maine State Prison and I spent two hours talking with Dennis Deschaine and I can tell you that he is a very intelligent and engaging conversationalist.

The two hours that I spent there went by rather quickly, but the two hours that I spent there was not what made me decide to put my name to this document; it was the evidence. Purely and simply, it was the evidence and I ask you – as you have had an opportunity collectively and individually to review that evidence – to recognize that it is an important role for this body to stand up when there is an injustice and I hope that you will do that here tonight. Thank you very much.

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

Representative **TRAHAN**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I sympathize with the

plight of Mr. Deschaine and with the efforts of the Representative from Frenchville in trying to gather support for a retrial. Originally, when this evidence came forward, I said that I supported reviewing not just Dennis Dechaine's case but any case where new technology comes along to analyze DNA or new evidence come forward and I think that that is appropriate of all of us. We should all support reviews of cases that are in our past and we might release somebody from jail who is innocent. At that time, I said that I could support a Resolution if the wording of that Resolution was proper and I said that my concerns were not as much about the innocence or guilt of Dennis Deschaine but the separations of power. I felt it was inappropriate for the Legislature to tell the Attorney General's office to do anything and that the Attorney General's office should have the freedom to make decisions, and good decisions, based on the facts and evidence. Although I sympathize with the Representative from Frenchville and Dennis Deschaine I think that this Resolution is worded in a way that I just cannot support. I wish that I could have reviewed this Resolution before it was put before us, but I wasn't given that opportunity.

For those people out there that support Dennis Deschaine and that believe that I would be supporting this Resolution or have my name on a website I apologize to you for any misunderstanding. My opposition to this does not come from my lack of sympathy for Dennis Deschaine but simply that this Legislature does not have a right to interfere with another branch of government and I see this Resolution as going way to far. So I am sorry, but I will not be able to support this. Thank you.

The SPEAKER: The Chair recognizes the Representative from Frankfort, Representative Lindell.

Representative LINDELL: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise in support of the Joint Resolution urging that the Attorney General support a new trial for Dennis Deschaine. I have heard arguments in this chamber today that the legislature ought not to interfere with the proper function of another branch of government. I would remind the honorable members of this house that we have three separate and co-equal branches of government. That means that we can each function independently, but it does not mean that we should not give our opinions from one branch to the other concerning important matters before us.

It is not certainly the case that the judiciary does not refrain from giving us their opinions of the actions that we take in this chamber, nor should it be that we should refrain from giving the judiciary our opinion of what goes on in the courts. In the case of Dennis Deschaine I have taken some time to review the material and, frankly, I am convinced that there is enough evidence to suggest that Dennis Deschaine may not have been the individual who committed this heinous crime for which he was convicted and for that reason and that reason alone I am supporting this Resolution.

While the wording may not be perfect, while there may be things that I might like to see a little bit differently in this Resolution that is often the case with issues that come before us. How many bills have we voted in favor of that do not contain the exact wording that we favor? Therefore, I ask the members of this chamber to sit and reflect as to whether we feel duty-bound by our conscience to send a message to the Attorney General that this case needs to be reviewed and that a new trial may well be in order for Mr. Deschaine. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Berwick, Representative Burns.

Representative BURNS: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. Mr. Speaker this is not to me about interference between branches of government and it

is not about Dennis Deschaine, it's about you, it's about me, it's about all of us in the State of Maine and across the country. It is about justice. I signed this Resolution without having looked at the evidence, without having read the book and without having met Dennis Deschaine. I signed this Resolution because there was doubt about whether or not justice had been served. After I signed this Resolution I read the book *Human Sacrifice*, by Jim Moore. After having signed this Resolution I went to Warren and I visited with Dennis Deschaine and I walked away from the book and I walked away from my visit with Dennis Deschaine still believing that justice has not been served and if justice is not served, than none of us are served and all of us are in jeopardy of someday finding ourselves in a cell without ever having the opportunity to see justice. Thank you Mr. Speaker, Ladies and Gentleman of the House.

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

Representative O'BRIEN: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. The assumptions this Resolution asks you to make are not entirely true. It is based on the fact that Dennis Deschaine would like to get out of prison for a crime that he was convicted of. Mr. Moore's book is also intending to convince you of that fact. Let's remember that justice, at the time of the trial, was brought to bear on Mr. Deschaine.

The other part of what I hope you will consider is that there is another part to this crime. It is the victim and the victim's family. What this Resolution is asking you to do is to bring them back before the same court, or a similar court, to again have to recount the story.

I think that if we would really want to reopen every case, every single case where someone says I am not guilty and they are able to get someone to write a book to show their side now that they have been convicted, but not really, they are accepting the fact of their guilt. Hopefully, you will take into account many factors, which I think you are well able to put together before you vote. Thank you.

The SPEAKER: The Chair recognizes the Representative from Holden, Representative Hall.

Representative HALL: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I stand up today in support of this Resolution. A great deal has been said about what this Resolution says. Please understand that there are two words in this Resolution that I find absolutely critical. The first, where it says, "Whereas, no Maine citizen should tolerate the idea that an innocent person could..." - could being the key word here. Could means that it is a possibility that this has happened. It's not saying that it did happen. If that were the case than it would say that an innocent person has already served. It does not say that. It says could have and I think that, based on the evidence that has been presented that that is a distinct possibility that this could have happened.

The second word that I will draw your attention to is in the last paragraph where in the very last sentence, the second half after the comma it says, "the Legislature ask the Attorney General". We are not telling the Attorney General what to do; we are asking him to please support this. We can pass this Resolution today, the Attorney General can take it and go, "Yeah, umm, no thanks. I am not going to support a new trial." We are not telling him to do anything; we are asking him to please look at the evidence and consider giving this man a trial. I will be supporting and I ask all of you to do the same. Thank you.

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

Representative **PARADIS**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. There are a few inaccuracies that I would like to correct here. There is no interference with separation of powers between the judiciary, the Legislature and the Executive branches. There has been absolutely no attempt to interfere or influence the courts.

As far as Mr. Moore's book is concerned, he took 10 years to write this, to research this and he came in with the assumption that Dennis Deschaine was guilty and found out a lot of information that shed doubt on that. Nothing has ever been disputed by anybody of what he put in. It is accurate as far as I am concerned.

Why did we pass the DNA statute a few years ago, wasn't that with the assumption that there could likely be someone in our jails who is not guilty? Why did we do that? Why did we pass other laws also, like videotaping interrogations to make sure that those are accurate? This Legislature has weighed in on this before and I think with very good reason we cannot afford to have any innocent people in jail.

Around the country the Innocence Project right now has succeeded in exonerating 160 people, some on death row and a week away from death. It could happen. There is no rush here, in this state, of inmates asking for a new trial. This one is different and it has been for 16 – 17 years. So, I would recommend and urge you to vote in favor of this Resolution. Thank you.

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

Representative **GERZOFSKY**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House and any pigeons in the sound of my voice. I rise today supporting this sentiment. Mr. Moore lives in Brunswick. I have never read his book. I have an autographed copy but I have never read it. I would hate to see facts get in the way of my good judgment. There was a period of time where I worked at the prison up in Thomaston. I was the Industries Director, which means that everybody that's incarcerated worked for me. Dennis Deschaine was one of my clerks.

I made a practice when I was there of never asking why people were there. First, I thought they were all going to say that they were innocent. Second of all, I thought it would taint my way of dealing with them. If somebody was a child molester I would certainly not be very nice to them. I couldn't help myself; it would be my human nature. But, one day I happened to make a comment about wishing to know how long I was going to have this kid because he was quite smart and articulate and I would like to teach him something for the day when he gets out where he can make a real living. The inmate that was standing there said, "Well, he's not getting out. He's here for murder." I said, "Oh my, how can he do such a thing." He said, "He didn't." All of us in here are guilty. I never once, believe it or not, never once, heard an inmate say they were innocent. They might not have been as guilty as they were charged in their minds, but they all said they were guilty. They all said they were paying for their crime. They all said they were doing time for crimes that they had committed in the past if not for the one they were incarcerated for. I have never heard anybody say they were innocent except for this man that said Deschaine was innocent. We know that.

In prison they have their own set of rules. Now, the guards enforce the state's rules but the inmates enforce their own rules. If they know somebody is molesting a child they are really tough

on them and that is why they are kept in segregated confinement - protected from the other inmates. Dennis Deschaine is still alive. He lives in the general population. The reason is because the inmates themselves know he is innocent. To me that was a very, very powerful statement because they are supposed to be the harshest critics on themselves, far harsher than we are on our sentencing with some of them.

I came into this body knowing that we have separation of powers, but we also have checks and balances. That is why we have the three branches of government. I can understand why prosecutors and DAs would have an issue with this sentiment; they might have made a mistake. Which one of us likes to admit that we made a mistake? Law enforcement might be against this? Maybe they made a mistake? Maybe they have just as hard a time of admitting that they made a mistake as some of us might. It is human nature. The most important thing to me is that Dennis Deschaine is living in general population amongst 1000 felons, each and every one of them would put a shiv in his back in a minute if they thought that he committed this crime. To me that is a very powerful statement. It's also a very powerful statement to me that this case has dragged on, not only in the media, but amongst a lot of people disgusted with the DNA testing not finding reprove.

Like I said with the book coming out, and I said I have never read it, but I have read enough about it to find that there are some mistakes that were made. I have sat in this body and am now in my third term and I have sent signed sentiments to the President of the United States, to the Congress of the United States telling them what we think here in this body. We are the people's body and that is why I signed this sentiment and why I support it. I believe that we can tell the Attorney General that we think there might have been a mistake and to please look at it closer. I think that we can send sentiments to the federal government and tell them our concerns for our citizens wherever they might be because we were elected to take care and represent our citizens. Dennis Deschaine is one of our citizens so please support this sentiment. All we are doing is for people to look at something with an open mind. Thank you very much for your time.

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

Representative **FAIRCLOTH**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I want to commend Representative Paradis for his efforts. I have never seen anyone who is so relentless and sincere in what he brings forward.

I agree with him when he talks about the separation of powers issues. I respectfully don't think that there is a separation of powers problem with the sentiment that requests the Attorney General to seek a new trial. Where I respectfully disagree with the specific wording of this Resolution is in that it asks him, in the final sentence, to seek a new trial in this case where I – maybe there are others who have far more knowledge than me – certainly have not read all the trial evidence in this case. People refer to a book and I respect that and I respect that the investigator of that book may be a very well reasoned and knowledgeable person, but that is nowhere near the same thing as having read all of the trial evidence in a case. That is what the judge does and when people speak about having a new trial as if it's a minor thing, it's not a minor thing.

I respect those who went to visit Dennis Deschaine. That is a commendable thing to do and I honor them for doing that, but there was a family here that lost a child and you don't go to a new trial except in very rare circumstances. I am not taking a position one way or the other about whether this is one of those rare cases, but someone I have great faith in is considering this

carefully, and that is the Attorney General of the State of Maine, Steven Rowe. There are few people that I have as much faith in, in their pledge to justice.

I served as an Assistant Attorney General and you raised your hand not to prosecute people, or to put people in jail. That is not what you raised your hand for. You raised your hand for justice and I have complete faith in Steven Rowe. He has appointed a three-attorney panel to consider this matter and to review it very carefully. A very excellent attorney is advocating for a new trial in this case and she is doing a fantastic job, I am sure. She has a fantastic reputation in this state.

If this sentiment were to read that the Legislature respectfully requests that our Attorney General of the State of Maine consider a new trial after considering the report of that three-attorney panel, which we have yet to see and he has yet to see, and after considering all of the other evidence in his mind, the mind of our Attorney General, that there is a true measure of reasonable doubt in this case that gives him pause then I would support this sentiment. Right now I think there is a process in place with that three-judge panel. I think the attorney representing Mr. Deschaine, Michaela Murphy does an excellent job. I don't presuppose the results of any of that and I would really support this resolve if it were just slightly rephrased to request the Attorney General to consider, after that kind of review. I think that makes sense and it would give the gravity because clearly there is a lot of sentiment here and a lot of concern and there is nothing wrong, nothing at all wrong with the Legislature expressing that. So, for me while I can't support it as phrased I would just hope that those who are very commendable proponents of this would consider a rephrasing of it, then it would be something that I would be eager to support. I thank the Men and Women of the House.

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

Representative **TRAHAN**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. The previous speaker really said what I couldn't say in my previous statements, but I would like to tell you why I agree whole-heartedly with what he just said and he has picked out the same line in the Resolution that brings me such heartburn. That is the Attorney General's support of a new trial and why I think that is a violation of the separation of powers - it is important for me to explain that.

Ladies and Gentlemen I remind you that this body elects the Attorney General. His job, or his future job relies on this Legislature continuing to support the Attorney General. I don't think that the Attorney General of this state should ever have to think to himself, "I wonder what will happen if I decide not to do this?" Not that anyone here would ever seek vengeance upon the Attorney General's office, but I don't think that he should have to think to himself, "I wonder if I will have my job next time around?"

There is a serious issue here about the Attorney General being elected by this body and that is why I think that it is very important that we be very careful in how we word this Resolution. We shouldn't put pressure on the Attorney General's office to do anything and I ask you to support the previous speaker's intention, which is a redraft of this Resolution, so that many more here in this chamber can support this issue. Thank you.

The SPEAKER: The Chair recognizes the Representative from Windham, Representative Plummer.

Representative **PLUMMER**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I believe the people sent me to this Legislature to legislate, not to second-guess the decisions of the judicial branch of our government; therefore, I must oppose this Resolution. Thank you.

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

ROLL CALL NO. 144

YEA - Adams, Annis, Ash, Blanchard, Bliss, Brannigan, Brown R, Burns, Campbell, Canavan, Clark, Davis G, Davis K, Dugay, Duplessie, Eder, Edgecomb, Farrington, Finch, Fischer, Gerzofsky, Hall, Harlow, Hogan, Hotham, Hutton, Jackson, Jacobsen, Joy, Lerman, Lindell, Lundeen, Marraché, McFadden, McKane, Merrill, Miller, Nutting, Paradis, Patrick, Percy, Perry, Pilon, Pingree, Piotti, Schatz, Seavey, Tuttle, Twomey, Valentino, Webster.

NAY - Austin, Babbidge, Beaudette, Bierman, Bishop, Bowen, Bowles, Brautigam, Browne W, Cain, Carr, Cebra, Churchill, Clough, Collins, Craven, Cressey, Crosthwaite, Cummings, Curley, Curtis, Daigle, Driscoll, Duchesne, Dudley, Dunn, Duprey, Eberle, Emery, Faircloth, Fisher, Fitts, Fletcher, Flood, Glynn, Goldman, Greeley, Grose, Hamper, Hanley B, Hanley S, Jennings, Jodrey, Koffman, Lansley, Lewin, Marean, Marley, Mazurek, McCormick, McKenney, McLeod, Millett, Mills, Moody, Moore G, Moulton, Nass, Norton, O'Brien, Ott, Pelletier-Simpson, Pineau, Pinkham, Plummer, Rector, Richardson D, Richardson W, Robinson, Rosen, Sampson, Saviello, Sherman, Shields, Smith N, Smith W, Sykes, Tardy, Thomas, Thompson, Trahan, Walcott, Watson, Wheeler, Woodbury.

ABSENT - Barstow, Berube, Blanchette, Bryant, Bryant-Deschenes, Crosby, Kaelin, Makas, Muse, Richardon E, Richardson M, Rines, Stedman, Vaughan, Mr. Speaker.

Yes, 51; No, 85; Absent, 15; Excused, 0.

51 having voted in the affirmative and 85 voted in the negative, with 15 being absent, and accordingly the Joint Resolution **FAILED ADOPTION**.

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

REPORTS OF COMMITTEE
Divided Report

Majority Report of the Committee on **LABOR** reporting **Ought Not to Pass** on Bill "An Act To Improve Prevailing Wage Standards in Maine"

(H.P. 135) (L.D. 184)

Signed:

Senator:

SNOWE-MELLO of Androscoggin

Representatives:

SMITH of Van Buren

DRISCOLL of Westbrook

HALL of Holden

DUPREY of Hampden

CRESSEY of Cornish

HAMPER of Oxford

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A"** (H-375) on same Bill.

Signed:

Senators:

STRIMLING of Cumberland

BARTLETT of Cumberland

Representatives:

JACKSON of Fort Kent
HUTTON of Bowdoinham
TUTTLE of Sanford
CLARK of Millinocket

READ.

Representative SMITH of Van Buren moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

On further motion of the same Representative, **TABLED** pending his motion to **ACCEPT** the Majority **Ought Not to Pass** Report and later today assigned.

Majority Report of the Committee on **LABOR** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-372)** on Bill "An Act To Require Proof of Equipment Ownership for Employers Using Foreign Laborers"

(H.P. 525) (L.D. 730)

Signed:

Senators:

STRIMLING of Cumberland
BARTLETT of Cumberland

Representatives:

SMITH of Van Buren
DRISCOLL of Westbrook
JACKSON of Fort Kent
HUTTON of Bowdoinham
TUTTLE of Sanford
CLARK of Millinocket

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

Signed:

Senator:

SNOWE-MELLO of Androscoggin

Representatives:

HALL of Holden
DUPREY of Hampden
CRESSEY of Cornish
HAMPER of Oxford

READ.

Representative SMITH of Van Buren 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 **LABOR** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-376)** on Bill "An Act To Require Employers and Employees To Provide a 2-Week Notice before Terminating Employment"

(H.P. 929) (L.D. 1346)

Signed:

Senators:

STRIMLING of Cumberland
BARTLETT of Cumberland

Representatives:

SMITH of Van Buren
DRISCOLL of Westbrook
JACKSON of Fort Kent
HUTTON of Bowdoinham
TUTTLE of Sanford
CLARK of Millinocket

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

Signed:

Senator:

SNOWE-MELLO of Androscoggin

Representatives:

HALL of Holden
DUPREY of Hampden
CRESSEY of Cornish
HAMPER of Oxford

READ.

Representative SMITH of Van Buren 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 **STATE AND LOCAL GOVERNMENT** reporting **Ought Not to Pass** on RESOLUTION, Proposing an Amendment to the Constitution of Maine To Reduce the Size of the Legislature

(H.P. 339) (L.D. 461)

Signed:

Senators:

SCHNEIDER of Penobscot
ROTUNDO of Androscoggin
ANDREWS of York

Representatives:

BARSTOW of Gorham
MOULTON of York
HARLOW of Portland
BISHOP of Boothbay
SAMPSON of Auburn
BLANCHARD of Old Town
MUSE of Fryeburg
SCHATZ of Blue Hill

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-350)** on same RESOLUTION.

Signed:

Representatives:

McFADDEN of Dennysville
CROTHWAITE of Ellsworth

READ.

Representative BLANCHARD of Old Town moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

Representative TARDY of Newport **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

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

The **SPEAKER**: The Chair recognizes the Representative from Presque Isle, Representative Fischer.

Representative **FISCHER**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. In the absence of the good Chair of the State and Local Government Committee today I would just point out that this bill is something that many of us in rural Maine would be very worried about so I urge you to support the **Ought Not to Pass** motion because it is rural Maine that would lose seats if this bill passed. Thank you.

On motion of Representative CUMMINGS of Portland, **TABLED** pending the motion of Representative BLANCHARD of Old Town to **ACCEPT** the Majority **Ought Not to Pass** Report and later today assigned. (Roll Call Ordered)

Majority Report of the Committee on **TRANSPORTATION** reporting **Ought Not to Pass** on Bill "An Act To Reduce School Truancy"

(H.P. 370) (L.D. 495)

Signed:

Senator:

DIAMOND of Cumberland

Representatives:

FISHER of Brewer

PARADIS of Frenchville

HOGAN of Old Orchard Beach

McKENNEY of Cumberland

COLLINS of Wells

THOMAS of Ripley

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-369)** on same Bill.

Signed:

Senators:

DAMON of Hancock

SAVAGE of Knox

Representatives:

MARLEY of Portland

SAMPSON of Auburn

MAZUREK of Rockland

BROWNE of Vassalboro

READ.

Representative MARLEY of Portland moved that the House **ACCEPT** the Minority **Ought to Pass as Amended** Report.

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

Majority Report of the Committee on **TRANSPORTATION** reporting **Ought Not to Pass** on Bill "An Act To Prohibit the Issuance of a Driver's License to an Undocumented Illegal Alien"

(H.P. 540) (L.D. 763)

Signed:

Senators:

DAMON of Hancock

DIAMOND of Cumberland

Representatives:

HOGAN of Old Orchard Beach

FISHER of Brewer

SAMPSON of Auburn

MARLEY of Portland

PARADIS of Frenchville

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-368)** on same Bill.

Signed:

Senator:

SAVAGE of Knox

Representatives:

McKENNEY of Cumberland

THOMAS of Ripley

COLLINS of Wells

BROWNE of Vassalboro

MAZUREK of Rockland

READ.

Representative MARLEY of Portland moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

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

Representative **MARLEY**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Just to give you an overview of this bill. It is very well intended and we all recognize the concerns here. The bill's title is "An Act to Prohibit the Issuance of a Driver's License to an Undocumented Illegal Alien". As the bill is printed, the bill would require an applicant for a driver's license to provide proof of citizenship or documentation that an applicant is a legal resident of the United States.

While that seems very simple, you would be amazed as far as how many actual types of temporary visas are available. One of the people that testified said that determining immigration status is extremely complicated due to the wide variety of legal immigration statuses. There are over forty of them that are just simply temporary, some of them as much as a simple carbon copy filing receipt, there are court papers, paper cards without photos, letter sized IDs, simply even memos that are six months past expiration dates and they sent a memo to the immigration department to say accept these visas for another six months. If this bill passed we would be asking the BMV – who, I jokingly say, barely gave me my license and I'm born in Westbrook – to become immigration agents. Additionally the bill goes on to require the Secretary of State to notify the Homeland Security Department as well as immigration services if an applicant fails to provide such proof. So, now we are turning the DMV into a law enforcement agency. I have real concerns there. I believe we all should have concerns there around civil liberties. Additionally, at the time of this many of the people who voted for the bill wanted to see something happen quickly and I agree that there is a sense of urgency.

There is a commission set up that our Secretary of State, Matt Dunlap, was going to be on that would have addressed this. That has actually been scrapped because Congress, through a conference committee, has come up with what has become the Real ID Act. While I don't necessarily agree with what they have done, if you are going to do something with immigration law and licenses you really do have to do it at the federal level so these things really are immersed together. That is pending what I believe is the President's signature.

We shouldn't go in this direction, as well intended as it is because it will cost us money, time and training simply to turn around and go in a different direction. I agree that this is well intended and that there is a need here but I just simply don't believe that this is the way to go so I hope that you will support the Majority Ought Not to Pass. Thank you.

The SPEAKER: The Chair recognizes the Representative from Wells, Representative Collins.

Representative **COLLINS**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. House Chair, Representative Marley may have forgotten, but during the committee deliberations I submitted an amendment, which is noted on today's calendar.

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

Representative **MARLEY**: Mr. Speaker, Point of order.

The SPEAKER: The Representative may proceed.

Representative **MARLEY**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. Just simply we are discussing the Majority Report and not the amendment. Thank you Mr. Speaker.

The SPEAKER: The Chair would answer in the affirmative.

Representative **COLLINS**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Well, I guess I am a little confused because the Minority Report replaced the language of the bill and that is what we should be voting on. The Majority Report, with seven votes on the committee, was voting for this bill.

The **SPEAKER**: The Chair recognizes the Representative from Cumberland, Representative McKenney.

Representative **MCKENNEY**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Anybody in this body who thinks it's a good idea to issue licenses to illegal aliens just raise your hand, I'm sorry, just push your red button and that's all that you need to do.

The **SPEAKER**: The Chair recognizes the Representative from Waterboro, Representative Jacobson.

Representative **JACOBSON**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I believe that we all remember 9/11. We all know how Maine was involved in that, how a plane left from Maine, how they got on the plane by showing a license. Isn't it time that we take a little responsibility for ourselves and try to prevent these tragedies from happening again.

We can all sit here in comfort and not worry, but it is going on out there and we are at war. There are those who would like to kill all of us. There should be no doubt in our minds. We see it everyday. It is going on throughout the world. We are a target! What can we do here to prevent these tragedies? When you walk through the door every morning do you feel safe when you come in here? I think that you ought to think about it. I think you ought to think about it when you get on a plane. We have legal immigrants here that do a good job that took the long way of getting in here - the right way. Why should we cater to the illegal immigrants who are criminals? There is no other way to describe them. A little time, a little effort and sure, it might cost a little money to be positive, but we can find money to spend on flowers and parks and buying land for Maine's future. What future are we going to have if our country is not secure? I think we ought to take a little bit of responsibility for ourselves and stand up and do what is right. I don't have to tell you which button to push, there should be no question of it. Thank you.

Representative **COLLINS** of Wells **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

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

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

Representative **SAMPSON**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I originally, listening to the whole debate, was in favor of the prohibition of the driver's license and then when the Immigration folks came to see us, I decided that the problem we have is that there are so many documents that will prove or disprove immigration. It is very hard to keep track of it and we would be laying a huge burden on the department to try to prove or disprove the immigration status and we just don't have any lawyers down there that can wade through all of that. So, while I think we are on the right track I also believe that nationwide we are going through an identification process where we are trying to give them a chance to do that. I believe that it is happening in '06 so we would be premature in putting this through now. I ask you to vote with the Ought Not to Pass.

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

Representative **SHERMAN**: Mr. Speaker, may I pose a question through the Chair?

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

Representative **SHERMAN**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Could anybody on the committee tell me what is in place right now? What does the Secretary of State have to do? What documents does he have to look at in order to issue a license?

The **SPEAKER**: The Representative from Hodgdon, Representative Sherman has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Wells, Representative Collins.

Representative **COLLINS**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. Currently it is a federal regulation imposed on states to collect and store Social Security numbers when you apply for a driver's license. That is what is required of the Secretary of State's office. They are currently doing that under the rulemaking process; it is dictated through the rulemaking. It is not part of statute to do that yet.

Supposedly when you have a Social Security number you are a citizen of this country and if you can't prove that you have a Social Security number or some kind of waiver documentation that application for a license is denied. Thank you.

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

Representative **DAIGLE**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I understand from the debate that the main reason why people feel that we should support the Majority Ought Not to Pass is because doing this is very hard. Well, I guess it is. I guess that it is very, very hard to defend our freedom. I think it is actually as difficult as anything to defend America and I think that throughout our history it has been awfully difficult. It was very, very hard for the Continental soldiers to fight the British. It must have been so hard to go against Europe as a Doughboy in World War I and gosh, ask any of your parents, how hard was it to fight Nazis in World War II? That was just so tough. So, what are we asking you today? We have a fight right now about terrorism. It's very, very hard to check drivers' licenses. Well what would you rather have? Would you want the life of your parents and grandparents - saving rubber and steel and planting victory gardens and going off to war to fight Nazis? That was hard. Checking a couple of pieces of paper with today's computer systems to make sure that illegal immigrants who don't belong in this country and who we know don't belong in this country and are for the purpose of killing us, if that is called hard, then look what that means for just how weak we have become as a nation. The best thing that has happened to this body in years is the roll call called for right now, so that the people of Maine can see who thinks defending our culture, our nation and our society is hard and who believes that we are ready to stand up and do it?

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

Representative **PERRY**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I live in a border town and we have families that are on both sides of this. I have a friend who tried to get a visa and despite that she was born of two American parents, her birthplace was St. Steven, New Brunswick. When she went to get her visa they had no proof that she was an American citizen because her birthplace was in Canada. It took her a while to straighten that out. She was not an illegal alien. She is an American citizen, but because of the place of her birth she had to prove her citizenship. We have a number of people on the border who are dual citizens. We have a number of people born abroad who are dual citizens.

If visas are one thing that we are looking at than one thing America was built on is that we are open and that we do have certain freedoms. If we close everything off do we also close out

the people who are our citizens and make it more difficult for them to get the documents that they need? It is hard enough to figure out, when you are living on a border, which citizen you are when you are trying to get a visa and it took her a very long time to straighten that out. I think that we have got to be careful of how we do this and I think taking the time to do it is important and I would ask that you support the Ought Not to Pass Majority Report.

The SPEAKER: The Chair recognizes the Representative from Frankfort, Representative Lindell.

Representative LINDELL: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I would remind the members of the House that what we are talking about is what is quickly becoming the official form of identification for citizens of this country and that in this state, had initially been a government issued permit to drive a vehicle and has quickly become the standardized form of identification. For that reason I believe that we need to take safeguards to make sure that that identification is proper, that it reflects the correct nature and status of the person being identified and I share the concern that other members have with respect to different types of travelers to our country. We are an open society, we want to encourage people from overseas to come here legally, to do business here legally and if they have the proper permission to seek work and seek permanent status and hopefully citizenship here. There are systems in place for doing this.

The objection that has been raised on this floor concerning all of the various forms of visas and permissions of entry in this country are, I think, a little bit of a Red Herring because the fact of the matter is that in order for a foreign citizen to obtain a permit to drive here in the United States - here in the State of Maine - requires no more than a driver's license from their home country and an international driver's license. Mr. Speaker, since 1949 the United Nations sanctioned the use of an international driver's permit. It has allowed travelers to drive freely throughout the world. The U.N. Convention on Road Traffic describes what an international driver's license consists of and together with a driver's license from your home country any person around the world can obtain this international driver's permit and that convention is honored by the United States of America and I think if we consult with the Secretary of State you will find that it is honored right here in the State of Maine.

This isn't about letting foreigners drive. This is about proper identification and there are very easy ways to establish your proper identification. Either you have a birth certificate or you have a certificate of naturalization or you have a passport or you have a so-called green card, which is your permanent residency status. Mr. Speaker, I was born in a foreign country but I personally have a birth certificate issued by a U.S. embassy overseas. That is my documentation. Yes I have a French birth certificate as well, but I do have the proper certification to show that I am a natural born, U.S. citizen and at the same time I can obtain a passport, which clearly identifies that status. Mr. Speaker I submit to you that the objections being expressed here to this very common sense bill to prevent the obtaining of proper ID by illegal aliens are unwarranted and that we ought to vote against the Ought Not to Pass Report and move on to enacting some common sense legislation. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Holden, Representative Hall.

Representative HALL: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise today in opposition to this motion. I think it is a very simple solution here. Much of the opposition has been that it is going to be too hard and we don't have the expertise. We don't have the people that

are going to be able to do this. I will submit to this body that if we are only 80% accurate and only 20% of the people who come in with falsified, illegal or inappropriate documentation are issued driver's licenses we will still stop 4:5 people that should not have a driver's license, from getting one and in the process our people who are working for the Department of Motor Vehicles will, over time, learn to recognize inappropriate unofficial documents and we will get better than 80%. We will get to 90% and at some point in time we will be striving for that 100% goal and we will get very close to it and we will protect ourselves. So, I urge you to join me in pressing the red button. Thank you.

The SPEAKER: The Chair recognizes the Representative from Somerville, Representative Miller.

Representative MILLER: Mr. Speaker, may I pose a question through the Chair?

The SPEAKER: The Representative may pose her question.

Representative MILLER: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I understand that there is recent federal legislation that will heavily regulate which aliens can obtain driver's licenses and I am wondering if that is indeed correct and how that will impact this bill? Thank you Mr. Speaker.

The SPEAKER: The Representative from Somerville, Representative Miller has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Portland, Representative Marley.

Representative MARLEY: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I believe I heard the question, from someone who was speaking about this issue, which asked if the federal government was doing something that would affect this. That's the piece that I have been trying to get at.

The feds have just passed what is called the Real ID act. It is taking the immigration piece and the license piece and putting them together. Since I have the floor I will try to follow up on those. I agree, and it gets to what several other Representatives have talked about as far as the legitimacy of the document is concerned. Currently you have fifty states doing fifty different things and I believe that is why the federal government has felt a need to do one thing that converges together and brings all of these pieces together.

You know, the argument wasn't that it is very hard. We are not doing this because it's very hard. The argument is that it is a very complicated process, these documents change literally daily and there is very poor documentation and that gets into the arena of federal law around immigration status. I don't think we are well prepared to do it and I believe it would be quite expensive and costly to try to train the DMV staff to do this and you would constantly have to train them on this issue. As I said, immigration status changes constantly. Even then, with the frequent changes and regulation documents errors are going to be made that will be inevitable. I know that one of the Representatives talked about that if we even get 80% of people to think about how frustrated you are when you are in line for a couple of hours at a DMV office.

If you are legitimately here and you are legitimately able to get an ID or a license and if you are one of those 20% it is very personal. I can't disagree around the issue of public safety. You are right that there is an issue of public safety and I believe that's why, once again, the federal government went forward with this instead of putting this committee together and is implementing something that, I believe, the President is ready to sign any day now. Additionally, many people who may appear to be immigrants are, in fact, United States citizens and are not required to carry proof of immigration status with them. Such as

naturalized citizens or even people who are born in Puerto Rico who may speak only limited English, despite being United States Citizens from birth. These people may be erroneously denied driver's licenses or state ID's by employers because of their failure to have the documentation on them just for presentation. This may put the DMV at jeopardy for legal challenges. I think it is considered national origin lawsuits.

Who wants to give a license to a criminal, raise your hand? Hopefully none of us do. No one should raise their hand on that. The issue here is really around what the best mechanism to do it is. I think it should be federal legislation and not state legislation so that there is uniformity.

Now, the last thing I want to say is that you are right in that this is very hard and we are at war. But if we are at war then why are we eliminating military bases in the state of Maine? Thank you.

The SPEAKER: The Chair recognizes the Representative from Wells, Representative Collins.

Representative **COLLINS**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I was just trying to elaborate on answering the question that was asked.

There is federal legislation working through the pipeline in Washington D.C. to tighten up requirements for issuing out of state licenses. However, that is not law yet. Even after it is made into law it's my understanding that there is going to be a three-year rotation period before they require the states to do it.

Three years is a very long time as you all know quite well and that was the reason for this legislation. There have been a number of bills brought forward concerning additional requirements to the issuing of licenses. The U.S. federal government has recognized the urgency of doing this, but I do have concerns about that three-year waiting period for having the states implement their changes and what they have to do in order to conform to what the federal law will do. There are concerns and that is the reason for this present legislation. Thank you.

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

Representative **HOGAN**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Being on the Majority Ought Not to Pass Report, I think there are bills that come before every committee that are very difficult to decide and when you get to that point, in the short time that I have been here, I know that you have to rely on people who are in the know. The people who are in the know, so to speak, are certainly immigration people who spoke in opposition to this bill, but more than that, the Secretary of State said to basically hold on and that this could be an exercise in futility because the federal government is dealing with this problem. I think we have to wait. Thank you.

The SPEAKER: The Chair recognizes the Representative from Appleton, Representative Merrill.

Representative **MERRILL**: Mr. Speaker, may I pose a question through the Chair?

The SPEAKER: The Representative may pose her question.

Representative **MERRILL**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. The last question touched on the question that I would like to have answered but this is a slightly different question. Mr. Speaker I would like to ask the question for anyone that may care to answer, has the Department of Homeland Security made any recommendations on this issue?

The SPEAKER: The Representative from Appleton, Representative Merrill has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Portland, Representative Marley.

First of all I hope none of the answers count against my opportunities to speak again – I have answered two questions now. The Department of Homeland Security has not weighed in on this and once again I will use this as an opportunity to talk about what I believe they are involved with on the federal level, the Real ID Act. That is where Immigration, Homeland Security – all the departments which I think would be keeping us safe – are trying to address this so they have not weighed in on this issue.

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

Representative **MOODY**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. This has been a fascinating exchange here this morning and it has just come to my attention via the ever-reliable source of the Internet that under Maine law anyone can go into any town hall in Maine and purchase a certified copy of anyone's birth certificate. That is not hard at all.

The good Representative from Waterboro, my good friend Representative Jacobsen has told us that there are people out there, who want to kill us and, Mr. Speaker I suspect that many of those are residents of my district.

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

Representative **JACOBSEN**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I will make this quick. I hear a lot of people talking about the inconvenience. Well, if anybody flies a lot, I've been doing it quite a bit lately, and if you go to the airport and you present your ID that says you are in the House of Representatives for the State of Maine and you have no luggage and you are traveling alone you will probably be asked to go in a special line and then they go through the process. Off come the rings, off come the belt, off come the sneakers and then they proceed to tear the sneakers apart because I got them at Marden's and they were a little oddly shaped. I almost missed the plane.

For well over an hour you are asked questions. We are citizens and this is what we are doing to protect ourselves and we are worried about a little inconvenience for somebody who is not a citizen? I don't get it.

The SPEAKER: The Chair recognizes the Representative from Durham, Representative Vaughan.

Representative **VAUGHAN**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. The other day I was speaking with a fairly expert consultant on this topic - my mom. My father was - and thank you for the remarks of Representative Daigle - was one of those people who went to Germany in the 1940's and my mom was brought back here from the ruins reaped on that country by the Nazis. She came over here in 1948 and she was a legal immigrant. She was a foreign national. In those days you had to – by the way it wasn't very popular to be a German in those days in the United States – learn to speak English. You had to bring something with you on your résumé to be considered as a citizen of this country. She had worked in banks and she was familiar with insurance. She had to learn to speak English and she had to take citizenship tests. She had to study for those tests and study the Constitution of the United States. She had to learn the laws and she had to learn what it meant to be an American. She learned that she could still celebrate her culture but she had to integrate into American culture.

When my mom finally got her naturalization complete and had passed, as did my grandmother and became a naturalized American, the first thing that she did was do battle with a 1954 three speed sedan to learn how to drive so that she could proudly become an American driver. My mom says, "I had to learn to

speak English. I had to take those tests. I had to jump through hoops for years." It was in the mid '50s because I wasn't born yet in the '40s. I remember her, when I was probably age seven, taking her driver's license test and the glee that she expressed after having achieved those things. My mom is outraged when she hears of things like this and she asks me to speak out and say that she opposes this Ought Not to Pass Report and I would urge you to vote the same way. Thank you.

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

Representative GERZOFSKY: Mr. Speaker, may I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative GERZOFSKY: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. My question is if it is better to have an illegal alien with a driver's license and insurance if it is better to have an illegal alien just driving a car? Can anybody answer that?

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

ROLL CALL NO. 145

YEA - Adams, Blanchard, Blanchette, Bliss, Brannigan, Brautigam, Bryant, Burns, Cain, Canavan, Cummings, Duchesne, Dudley, Dugay, Dunn, Duplessie, Eberle, Eder, Faircloth, Fisher, Gerzofsky, Goldman, Grose, Harlow, Hogan, Hutton, Koffman, Lerman, Makas, Marley, Marraché, Merrill, Moody, O'Brien, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pineau, Pingree, Piotti, Rines, Sampson, Schatz, Smith N, Smith W, Thompson, Twomey, Valentino, Walcott, Watson, Webster, Wheeler.

NAY - Annis, Ash, Austin, Babbidge, Beaudette, Bierman, Bishop, Bowen, Bowles, Brown R, Browne W, Campbell, Carr, Cebra, Churchill, Clark, Clough, Collins, Cressey, Crosthwaite, Curley, Curtis, Daigle, Davis G, Davis K, Driscoll, Duprey, Edgecomb, Emery, Farrington, Finch, Fischer, Fitts, Fletcher, Flood, Glynn, Greeley, Hall, Hamper, Hanley S, Hotham, Jackson, Jacobsen, Jennings, Jodrey, Joy, Lansley, Lewin, Lindell, Lundeen, Marean, Mazurek, McCormick, McFadden, McKane, McKenney, McLeod, Miller, Millett, Mills, Moore G, Moulton, Nass, Nutting, Ott, Pinkham, Plummer, Rector, Richardson D, Richardson W, Robinson, Rosen, Saviello, Seavey, Sherman, Shields, Sykes, Tardy, Thomas, Trahan, Tuttle, Vaughan, Woodbury.

ABSENT - Barstow, Berube, Bryant-Deschenes, Craven, Crosby, Hanley B, Kaelin, Muse, Norton, Richardson E, Richardson M, Stedman, Mr. Speaker.

Yes, 55; No, 83; Absent, 13; Excused, 0.

55 having voted in the affirmative and 83 voted in the negative, with 13 being absent, and accordingly the Majority Ought Not to Pass Report was NOT ACCEPTED.

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

The Bill was READ ONCE. Committee Amendment "A" (H-368) was READ by the Clerk and ADOPTED. The Bill was assigned for SECOND READING Wednesday, May 18, 2005.

**CONSENT CALENDAR
First Day**

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

(H.P. 139) (L.D. 188) Bill "An Act To Promote the Uniform Implementation of the Statewide Standards for Timber Harvesting

and Related Activities in Shoreland Areas" Committee on AGRICULTURE, CONSERVATION AND FORESTRY reporting Ought to Pass as Amended by Committee Amendment "A" (H-371)

(H.P. 972) (L.D. 1408) Resolve, Directing the Air Toxics Advisory Committee To Review the Status of Toxic Emissions from Waste-to-energy Facilities in the State and Recommend Actions Aimed at Reducing and Monitoring These Emissions Committee on NATURAL RESOURCES reporting Ought to Pass as Amended by Committee Amendment "A" (H-374)

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

There being no objection, the House Papers were PASSED TO BE ENGROSSED as Amended and sent for concurrence.

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

**BILLS IN THE SECOND READING
Senate as Amended**

Bill "An Act To Exempt Maine Agricultural Fairs from the Requirements of the Site Location of Development Laws" (S.P. 203) (L.D. 648) (C. "A" S-151)

Bill "An Act To Establish the Homeland Security Relief Fund" (S.P. 387) (L.D. 1125) (C. "A" S-140)

Bill "An Act Directing the State Planning Office To Study Municipal Capabilities To Become Providers of Internet Services" (S.P. 392) (L.D. 1128) (C. "A" S-162)

House

Bill "An Act To Amend the Laws Concerning the Maine State Retirement System" (H.P. 299) (L.D. 396)

House as Amended

Bill "An Act To Rename the Bangor Mental Health Institute the Dorothea Dix Center for Public Service and To Establish the Dorothea Dix Award" (H.P. 416) (L.D. 561) (C. "A" H-349)

Bill "An Act To Amend Maine's Shellfish Laws To Maintain Compliance with Federal Law and Protect Maine's Shellfish Industry" (H.P. 1013) (L.D. 1449) (C. "A" H-351)

Reported by the Committee on Bills in the Second Reading, read the second time, the Senate Papers were PASSED TO BE ENGROSSED AS AMENDED in concurrence and the House Papers were PASSED TO BE ENGROSSED or PASSED TO BE ENGROSSED AS AMENDED and sent for concurrence. ORDERED SENT FORTHWITH.

ENACTORS

Emergency Measure

An Act To Regulate the Use of Alternative Bait in Marine Fisheries (S.P. 153) (L.D. 527) (C. "A" S-148)

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

Emergency Measure

An Act To Extend the Number of Days Nonprofit Organizations Are Allowed To Operate Games of Chance

(S.P. 173) (L.D. 547)

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. 110 voted in favor of the same and 2 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act To Enhance Driver Education and Safety

(H.P. 410) (L.D. 555)

(C. "A" H-289)

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. 115 voted in favor of the same and 5 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act To Reauthorize the Petroleum Market Share Act

(S.P. 194) (L.D. 585)

(C. "A" S-128)

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. 116 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.

Emergency Measure

An Act To Establish the Agricultural Water Management and Irrigation Fund

(H.P. 671) (L.D. 961)

(C. "A" H-284)

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. 118 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.

Emergency Measure

An Act To Create the Fryeburg Water District

(H.P. 766) (L.D. 1113)

(C. "A" H-251)

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. 113 voted in favor of the same and 2 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act To Permit the Establishment of Regional Water Councils

(H.P. 805) (L.D. 1162)

(C. "A" H-308)

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. 113 voted in favor of the same and 2 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act To Extend the Kim Wallace Adaptive Equipment Loan Program

(S.P. 447) (L.D. 1267)

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. 113 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.

Emergency Measure

An Act Regarding Speech-language Pathology Aides

(H.P. 874) (L.D. 1277)

(C. "A" H-272)

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. 123 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.

Emergency Measure

An Act To Allow Applicants for Limited Radiographer Licenses To Take Qualifying Views

(H.P. 880) (L.D. 1283)

(C. "A" H-319)

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

Emergency Measure

An Act To Create the ATV Trail Advisory Council

(H.P. 897) (L.D. 1300)

(C. "A" H-287)

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. 123 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.

Emergency Measure

Resolve, To Create the Committee To Study State Compliance with the Federal Indian Child Welfare Act of 1978
(S.P. 139) (L.D. 415)
(C. "A" S-138)

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

On motion of Representative CUMMINGS of Portland, the Resolve was placed on the Special Study Table pursuant to Joint Rule 353 pending **FINAL PASSAGE**.

Emergency Measure

Resolve, Directing the Intergovernmental Advisory Group to Review Unfunded Mandates
(H.P. 955) (L.D. 1369)
(H. "A" H-286 to C. "A" H-260)

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. 121 voted in favor of the same and 1 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

Emergency Measure

Resolve, Regarding Legislative Review of Chapter 15: Batterer Intervention Program Certification, a Major Substantive Rule of the Department of Corrections
(H.P. 968) (L.D. 1391)

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. 125 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.

Acts

- An Act To Review Climate Change Policy Effectiveness
(H.P. 68) (L.D. 72)
(C. "A" H-274)
- An Act Guaranteeing Freedom of Choice Regarding the Disposition of One's Own Organs
(H.P. 83) (L.D. 107)
- An Act To Improve Access to Public Lands
(S.P. 49) (L.D. 143)
(C. "A" S-146)
- An Act To Restrict Undocumented Mortgage Agreements
(S.P. 65) (L.D. 159)
(C. "A" S-129)
- An Act To Amend the Law on Mercury-added Products
(H.P. 136) (L.D. 185)
(C. "A" H-271)
- An Act To Amend the Laws Governing Patronizing Prostitution of a Minor
(H.P. 163) (L.D. 212)
(C. "A" H-321)
- An Act To Amend the Eligibility Requirements for the Maine Biomedical Research Program
(S.P. 103) (L.D. 341)
(C. "A" S-135)
- An Act Regarding Bail Conditions
(H.P. 270) (L.D. 357)
(C. "A" H-322)

- An Act To Limit Property Tax Abatement for Reasons of Poverty or Infirmary to Applicants' Residential Property
(H.P. 271) (L.D. 358)
- An Act To Make Technical Changes to the Medical Licensure Laws
(H.P. 301) (L.D. 398)
(C. "A" H-318)
- An Act To Amend the Dates Associated with the State's Recycling and Waste Reduction Goals and To Amend the Law Regarding Contracts for the Provision of Solid Waste Hauling Services
(S.P. 130) (L.D. 406)
(C. "A" S-134)
- An Act To Require Health Insurers To Cover the Costs of Hearing Aids
(S.P. 145) (L.D. 447)
(C. "A" S-149)
- An Act To Amend the Statewide Building Code
(H.P. 347) (L.D. 472)
(C. "A" H-295)
- An Act To Provide Funding towards the Employment of a Demersal Finfish Ecologist by the Gulf of Maine Research Institute
(H.P. 455) (L.D. 622)
(C. "A" H-230)
- An Act To Ensure Participation by Voters with Disabilities in the Electoral Process
(H.P. 456) (L.D. 623)
(C. "A" H-283)
- An Act To Allow Dental Hygienists To Perform Temporary Filling Procedures
(H.P. 481) (L.D. 661)
(C. "A" H-294)
- An Act To Clarify Reporting Responsibilities to Licensing Boards
(S.P. 234) (L.D. 697)
(C. "A" S-130)
- An Act Deleting Gender-specific and Archaic Language from Certain Laws Concerning the Office of the Attorney General
(H.P. 517) (L.D. 722)
(C. "A" H-277)
- An Act To Require Legislative Review of Rules Governing Private Schools
(H.P. 521) (L.D. 726)
(C. "A" H-246)
- An Act To Clarify the Law Relating to Motor Vehicle Repair Posters
(H.P. 590) (L.D. 831)
(C. "A" H-249)
- An Act To Prevent Camcorder Piracy
(H.P. 593) (L.D. 834)
(C. "A" H-259)
- An Act To Amend the Education Laws Regarding Equivalent Instruction and Adult Education
(S.P. 295) (L.D. 887)
(C. "A" S-133)
- An Act To Expand the Authority of Maine's Lobster Management Policy Councils
(S.P. 303) (L.D. 895)
(C. "A" S-153)
- An Act To Create Entrepreneurship Internships for Maine High School and College Students
(H.P. 685) (L.D. 975)

LEGISLATIVE RECORD - HOUSE, May 17, 2005

An Act To Make Technical Changes to the Maine Criminal Code
(H.P. 693) (L.D. 983)
(C. "A" H-323)

An Act To Monitor the Distribution of Land Acquisitions
(H.P. 701) (L.D. 1017)
(C. "A" H-252)

An Act To Strengthen Certain Student Support Services within the Maine Community College System
(H.P. 715) (L.D. 1030)

An Act To Improve Landowners' Access to Their Land
(S.P. 355) (L.D. 1038)
(C. "A" S-145)

An Act To Allow Optional Auxiliary Lighting on Motor Vehicles
(H.P. 730) (L.D. 1077)
(C. "A" H-290)

An Act To Set Emission Limits for Certain Architectural Coatings
(H.P. 753) (L.D. 1100)
(H. "A" H-270 to C. "B" H-169)

An Act To Amend Certain Animal Health Laws
(H.P. 759) (L.D. 1106)
(C. "A" H-305)

An Act To Recognize the Recipients of the Korea Defense Service Medal
(H.P. 791) (L.D. 1148)
(C. "A" H-248)

An Act To Adopt Recommendations of the Soft-shell Clam Advisory Council
(S.P. 412) (L.D. 1184)
(C. "A" S-147)

An Act To Establish a Uniform Private Facilities Tuition Rate Establishment Procedure
(H.P. 828) (L.D. 1200)
(C. "A" H-292)

An Act To Amend the Charter of the Farmington Village Corporation
(S.P. 418) (L.D. 1204)
(C. "A" S-158)

An Act To Improve the Process for Reporting Accidents Involving Recreational Vehicles
(H.P. 838) (L.D. 1220)
(C. "A" H-288)

An Act To Amend and Update Laws Regulating the Practice of Nursing
(H.P. 843) (L.D. 1225)

An Act To Amend the Crimes of Unlawful Sexual Contact and Unlawful Sexual Touching
(H.P. 867) (L.D. 1249)
(C. "A" H-325)

An Act To Require Additional Disclosure Regarding Private Mortgage Insurance
(H.P. 883) (L.D. 1286)
(C. "A" H-309)

An Act To Prohibit and Provide Penalties for the Issuance, Manufacture and Use of False Academic Degrees or Certificates
(H.P. 915) (L.D. 1317)
(C. "A" H-273)

An Act To Improve Cooperative Energy Purchasing for Schools, Towns and Nonprofits
(S.P. 473) (L.D. 1375)

An Act To Amend the Maine Consumer Credit Code
(H.P. 980) (L.D. 1416)
(C. "A" H-310)

An Act To Amend the Law Governing Spill Prevention Control and Countermeasure Regulation of Oil Storage Facilities
(H.P. 1029) (L.D. 1466)
(C. "A" H-316)

An Act To Amend the Laws Governing Water Quality Standards for Ragged and Seboomook Lakes
(S.P. 515) (L.D. 1497)
(C. "A" S-154)

An Act To Update the Laws Governing Borrow Pits and Quarries
(S.P. 522) (L.D. 1506)
(C. "A" S-155)

An Act To Transfer the Pest Control Compact from the Department of Conservation to the Department of Agriculture, Food and Rural Resources
(H.P. 1098) (L.D. 1560)

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.

Resolves

Resolve, To Support Long-term Forest Management and Sound Silviculture
(H.P. 111) (L.D. 133)
(C. "A" H-253)

Resolve, Regarding the Recycling Assistance Fee
(H.P. 402) (L.D. 526)
(C. "A" H-314)

Resolve, Directing the Board of Dental Examiners To Establish by Rule Protocols To Allow Dental Hygienists Practicing under Public Health Supervision Status To Administer Fluoride or Other Antimicrobials
(H.P. 407) (L.D. 552)
(C. "A" H-256)

Resolve, To Study the Insured Value Factor in School Tuition
(S.P. 329) (L.D. 989)
(C. "A" S-126)

Resolve, To Establish the Wabanaki Trail
(H.P. 775) (L.D. 1122)
(C. "A" H-262)

Resolve, To Increase Wetland Protection
(H.P. 803) (L.D. 1160)
(C. "A" H-315)

Resolve, Regarding Source Water Protection
(S.P. 445) (L.D. 1265)
(C. "A" S-157)

Resolve, Regarding the Conveyance of a Right-of-way across the Elizabeth Levinson Center in Bangor
(S.P. 500) (L.D. 1458)
(C. "A" S-127)

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

An Act To Authorize the Maine State Retirement System To Provide Names and Addresses to Public Retiree Organizations
(H.P. 160) (L.D. 209)
(C. "A" H-153)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed.
On motion of Representative CUMMINGS of Portland, 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**: 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. 146

YEA - Adams, Ash, Babbidge, Beaudette, Blanchard, Bliss, Brannigan, Brautigam, Bryant, Burns, Cain, Campbell, Canavan, Clark, Craven, Cummings, Duchesne, Dudley, Dunn, Duplessie, Duprey, Eberle, Eder, Edgecomb, Faircloth, Farrington, Finch, Gerzofsky, Goldman, Grose, Hall, Hamper, Hanley S, Harlow, Hogan, Jackson, Jacobsen, Koffman, Lerman, Lundeen, Makas, Marley, Marraché, Mazurek, McCormick, McFadden, McKane, McKenney, McLeod, Merrill, Miller, Millett, Mills, Moody, Moore G, Moulton, Nass, Norton, Nutting, O'Brien, Ott, Paradis, Patrick, Pelletier-Simpson, Percy, Pilon, Pineau, Pingree, Piotti, Sampson, Schatz, Smith N, Smith W, Thompson, Tuttle, Twomey, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - Annis, Austin, Bierman, Bishop, Bowen, Bowles, Brown R, Browne W, Carr, Cebra, Churchill, Clough, Collins, Cressey, Crosthwaite, Curley, Curtis, Davis G, Davis K, Driscoll, Dugay, Emery, Fisher, Fitts, Fletcher, Flood, Glynn, Greeley, Hanley B, Hotham, Hutton, Jodrey, Joy, Lansley, Lewin, Lindell, Marean, McCormick, McFadden, McKane, McKenney, McLeod, Merrill, Moore G, Moulton, Nass, Nutting, Ott, Pinkham, Plummer, Rector, Richardson D, Richardson W, Rines, Robinson, Rosen, Saviello, Seavey, Sherman, Shields, Sykes, Tardy, Thomas, Trahan, Vaughan.

ABSENT - Barstow, Berube, Blanchette, Bryant-Deschenes, Crosby, Daigle, Fischer, Jennings, Kaelin, Muse, Perry, Richardson E, Richardson M, Stedman.

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

72 having voted in the affirmative and 65 voted in the negative, with 14 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

An Act Regarding the Voting Place

(S.P. 121) (L.D. 374)
(C. "A" S-150)

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

On motion of Representative **CUMMINGS** of Portland, was **SET ASIDE**.

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

An Act To Limit Faxes from Telemarketers

(H.P. 667) (L.D. 957)

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

On motion of Representative **CUMMINGS** of Portland, 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**: 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. 147

YEA - Adams, Annis, Ash, Austin, Babbidge, Beaudette, Bierman, Bishop, Blanchard, Blanchette, Bliss, Bowen, Bowles, Brannigan, Brautigam, Brown R, Browne W, Bryant, Burns, Cain, Campbell, Canavan, Carr, Cebra, Churchill, Clark, Clough, Collins, Craven, Cressey, Crosthwaite, Cummings, Curley, Curtis, Davis G, Davis K, Driscoll, Duchesne, Dudley, Dunn, Duplessie, Duprey, Eberle, Eder, Edgecomb, Emery, Faircloth, Farrington, Finch, Fisher, Fitts, Fletcher, Flood, Gerzofsky, Glynn, Goldman, Greeley, Grose, Hall, Hamper, Hanley B, Hanley S, Harlow, Hogan, Hotham, Hutton, Jackson, Jacobsen, Jennings, Jodrey, Joy, Koffman, Lansley, Lerman, Lewin, Lindell, Lundeen, Makas, Marean, Marley, Marraché, Mazurek, McCormick, McFadden, McKane, McKenney, McLeod, Merrill, Miller, Millett, Mills, Moody, Moore G, Moulton, Nass, Norton, Nutting, O'Brien, Ott, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pineau, Pingree, Pinkham, Piotti, Plummer, Rector, Richardson D, Richardson W, Rines, Robinson, Rosen, Sampson, Saviello, Schatz, Seavey, Sherman, Shields, Smith N, Smith W, Sykes, Tardy, Thomas, Thompson, Trahan, Tuttle, Twomey, Valentino, Vaughan, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - NONE.

ABSENT - Barstow, Berube, Bryant-Deschenes, Crosby, Daigle, Dugay, Fischer, Kaelin, Muse, Richardson E, Richardson M, Stedman.

Yes, 139; No, 0; Absent, 12; Excused, 0.

139 having voted in the affirmative and 0 voted in the negative, with 12 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

An Act To Expand the Items That May Be Sold by Malt Liquor and Wine Licensees

(H.P. 728) (L.D. 1075)
(C. "A" H-313)

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

On motion of Representative **PATRICK** of Rumford, was **SET ASIDE**.

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

An Act To Exempt from the Sales Tax Electricity Used in Homes

(H.P. 769) (L.D. 1116)
(C. "A" H-175)

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

On motion of Representative **BOWLES** of Sanford, 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**: 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. 148

YEA - Adams, Annis, Ash, Austin, Babbidge, Bierman, Bishop, Blanchette, Bliss, Bowen, Bowles, Brown R, Browne W, Cain, Campbell, Canavan, Carr, Cebra, Churchill, Clough, Collins, Craven, Cressey, Crosthwaite, Cummings, Curley, Curtis, Davis G, Davis K, Driscoll, Dudley, Dugay, Dunn,

Duplessie, Duprey, Eberle, Eder, Edgecomb, Emery, Farrington, Finch, Fischer, Fisher, Fitts, Fletcher, Flood, Gerzofsky, Glynn, Greeley, Grose, Hall, Hamper, Hanley B, Hanley S, Hogan, Hotham, Jackson, Jacobsen, Jennings, Jodrey, Joy, Lansley, Lerman, Lewin, Lindell, Lundeen, Makas, Marean, Marley, Marraché, Mazurek, McCormick, McFadden, McKane, McKenney, McLeod, Merrill, Miller, Millett, Mills, Moody, Moore G, Moulton, Nass, Norton, Nutting, O'Brien, Ott, Paradis, Patrick, Percy, Perry, Pilon, Pingree, Pinkham, Plummer, Rector, Richardson D, Richardson W, Rines, Robinson, Rosen, Saviello, Schatz, Seavey, Sherman, Shields, Smith N, Smith W, Sykes, Tardy, Thomas, Thompson, Trahan, Tuttle, Twomey, Valentino, Vaughan, Walcott, Webster, Wheeler, Mr. Speaker.

NAY - Beaudette, Brannigan, Brautigam, Bryant, Clark, Duchesne, Faircloth, Goldman, Harlow, Hutton, Koffman, Pelletier-Simpson, Pineau, Piotti, Sampson, Watson, Woodbury.

ABSENT - Barstow, Berube, Blanchard, Bryant-Deschenes, Burns, Crosby, Daigle, Kaelin, Muse, Richardson E, Richardson M, Stedman.

Yes, 122; No, 17; Absent, 12; Excused, 0.

122 having voted in the affirmative and 17 voted in the negative, with 12 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

An Act To Increase Funding for Meals on Wheels Program
(H.P. 931) (L.D. 1348)
(C. "A" H-279)

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

On motion of Representative BOWLES of Sanford, 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**: 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. 149

YEA - Adams, Annis, Ash, Austin, Babbidge, Beaudette, Bierman, Bishop, Blanchard, Blanchette, Bliss, Bowen, Bowles, Brannigan, Brautigam, Brown R, Browne W, Bryant, Cain, Campbell, Canavan, Carr, Cebra, Churchill, Clark, Clough, Collins, Craven, Cressey, Crosthwaite, Cummings, Curley, Curtis, Davis G, Davis K, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Duprey, Eberle, Eder, Edgecomb, Emery, Faircloth, Farrington, Finch, Fischer, Fisher, Fitts, Fletcher, Flood, Gerzofsky, Glynn, Goldman, Greeley, Grose, Hall, Hamper, Hanley B, Hanley S, Harlow, Hogan, Hotham, Hutton, Jackson, Jacobsen, Jennings, Jodrey, Joy, Koffman, Lansley, Lerman, Lewin, Lindell, Lundeen, Makas, Marean, Marley, Marraché, Mazurek, McCormick, McFadden, McKane, McKenney, McLeod, Merrill, Miller, Millett, Mills, Moody, Moore G, Moulton, Nass, Norton, Nutting, O'Brien, Ott, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pineau, Pingree, Pinkham, Piotti, Plummer, Rector, Richardson D, Richardson W, Rines, Robinson, Rosen, Sampson, Saviello, Schatz, Seavey, Sherman, Shields, Smith N, Smith W, Sykes, Tardy, Thomas, Thompson, Trahan, Tuttle, Twomey, Valentino, Vaughan, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - NONE.

ABSENT - Barstow, Berube, Bryant-Deschenes, Burns, Crosby, Daigle, Kaelin, Muse, Richardson E, Richardson M, Stedman.

Yes, 140; No, 0; Absent, 11; Excused, 0.

140 having voted in the affirmative and 0 voted in the negative, with 11 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

An Act To Prohibit Unfair Charges in Mobile Home Parks
(H.P. 938) (L.D. 1355)
(C. "A" H-285)

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

On motion of Representative CUMMINGS of Portland, 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**: 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. 150

YEA - Adams, Annis, Ash, Austin, Babbidge, Beaudette, Bierman, Bishop, Blanchard, Blanchette, Bliss, Bowen, Bowles, Brannigan, Brautigam, Brown R, Browne W, Bryant, Cain, Campbell, Canavan, Carr, Churchill, Clark, Clough, Collins, Craven, Cressey, Cummings, Curley, Curtis, Davis G, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Duprey, Eberle, Eder, Edgecomb, Emery, Faircloth, Farrington, Finch, Fischer, Fisher, Fitts, Fletcher, Flood, Gerzofsky, Glynn, Goldman, Greeley, Grose, Hamper, Hanley B, Hanley S, Harlow, Hogan, Hotham, Hutton, Jackson, Jacobsen, Jennings, Jodrey, Joy, Koffman, Lerman, Lewin, Lundeen, Makas, Marley, Marraché, Mazurek, McCormick, McFadden, McKenney, McLeod, Merrill, Miller, Millett, Mills, Moody, Moore G, Moulton, Nass, Norton, Nutting, O'Brien, Ott, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pineau, Pingree, Pinkham, Piotti, Plummer, Rector, Rines, Robinson, Rosen, Sampson, Saviello, Schatz, Seavey, Shields, Smith N, Smith W, Tardy, Thomas, Thompson, Trahan, Tuttle, Twomey, Valentino, Vaughan, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - Cebra, Crosthwaite, Davis K, Lansley, Lindell, Marean, McKane, Richardson D, Richardson W, Sherman, Sykes.

ABSENT - Barstow, Berube, Bryant-Deschenes, Burns, Crosby, Daigle, Hall, Kaelin, Muse, Richardson E, Richardson M, Stedman.

Yes, 128; No, 11; Absent, 12; Excused, 0.

128 having voted in the affirmative and 11 voted in the negative, with 12 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

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

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 License Home Building and Improvement Contractors"

(H.P. 903) (L.D. 1306)

- In House, Minority (4) **OUGHT NOT TO PASS** Report of the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT READ** and **ACCEPTED** on May 9, 2005.

- In Senate, Majority (9) **OUGHT TO PASS AS AMENDED** Report of the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-257) in **NON-CONCURRENCE**.

TABLED - May 12, 2005 (Till Later Today) by Representative PELLETIER-SIMPSON of Auburn.

PENDING - **FURTHER CONSIDERATION**.

Representative SMITH of Monmouth, moved that the House **RECEDE AND CONCUR**.

Representative TARDY of Newport **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. 151

YEA - Adams, Annis, Babbidge, Beaudette, Blanchard, Blanchette, Bliss, Brannigan, Brautigam, Bryant, Burns, Cain, Canavan, Clark, Craven, Cummings, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Eberle, Eder, Faircloth, Farrington, Finch, Fischer, Fisher, Gerzofsky, Glynn, Goldman, Grose, Hanley S, Harlow, Hogan, Hutton, Jackson, Koffman, Lerman, Makas, Marley, Marraché, Mazurek, Miller, Moulton, Norton, O'Brien, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pineau, Pingree, Piotti, Richardson D, Rines, Robinson, Saviello, Schatz, Smith N, Thompson, Tuttle, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - Ash, Austin, Bierman, Bishop, Bowen, Bowles, Brown R, Browne W, Campbell, Carr, Cebra, Churchill, Clough, Collins, Cressey, Crosthwaite, Curley, Curtis, Davis G, Davis K, Edgecomb, Emery, Fitts, Fletcher, Flood, Greeley, Hall, Hamper, Hanley B, Hotham, Jacobsen, Jennings, Jodrey, Joy, Lansley, Lewin, Lindell, Lundein, Marean, McCormick, McFadden, McKane, McKenney, McLeod, Merrill, Millett, Mills, Moody, Moore G, Nass, Nutting, Ott, Pinkham, Plummer, Richardson W, Rosen, Seavey, Sherman, Shields, Smith W, Sykes, Tardy, Thomas, Trahan, Twomey, Vaughan.

ABSENT - Barstow, Berube, Bryant-Deschenes, Crosby, Daigle, Duprey, Kaelin, Muse, Rector, Richardson E, Richardson M, Sampson, Stedman.

Yes, 72; No, 66; Absent, 13; Excused, 0.

72 having voted in the affirmative and 66 voted in the negative, with 13 being absent, and accordingly the House voted to **RECEDE AND CONCUR**.

SENATE PAPERS

Bill "An Act To Make a Standard Alternative Form of Regulation Available to Rural Telephone Companies"

(S.P. 622) (L.D. 1675)

Came from the Senate, **REFERRED** to the Committee on **UTILITIES AND ENERGY** and ordered printed.

REFERRED to the Committee on **UTILITIES AND ENERGY** in concurrence. **ORDERED SENT FORTHWITH**.

CONSENT CALENDAR

First Day

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

(S.P. 114) (L.D. 367) Bill "An Act To Monitor and Maintain Maximum Levels of Assistance in the General Assistance Program" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass**

(S.P. 239) (L.D. 741) Bill "An Act To Designate the Department of Health and Human Services as the Official State Agency Responsible for Programs for Persons Affected by Brain Injury" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A"** (S-171)

(S.P. 240) (L.D. 742) Bill "An Act To Postpone the Repeal Date on Nonhospital Expenditures in the Capital Investment Fund" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A"** (S-179)

(S.P. 278) (L.D. 839) Bill "An Act To Reduce Hardships to Small Community Hospitals Resulting from the Hospital Tax" (EMERGENCY) Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A"** (S-180)

(S.P. 318) (L.D. 943) Bill "An Act To Amend the Laws Governing the Department of Labor's Construction Industry Wage and Hour Survey" Committee on **LABOR** reporting **Ought to Pass as Amended by Committee Amendment "A"** (S-177)

(S.P. 331) (L.D. 991) Bill "An Act To Restore Municipal Authority To Review Development Using Flexible Standards" Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "A"** (S-174)

(S.P. 354) (L.D. 1037) Bill "An Act To Authorize Exemptions for Certain Private Schools from Certain Requirements" Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A"** (S-178)

(S.P. 526) (L.D. 1510) Bill "An Act To Amend the Lobster Fishing Laws of Maine" Committee on **MARINE RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A"** (S-183)

(S.P. 542) (L.D. 1558) Bill "An Act Concerning Storm Water Management" Committee on **NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A"** (S-184)

(S.P. 554) (L.D. 1576) Bill "An Act To Amend the Motor Vehicle Laws Relating to the Assignment of Security Interests" (EMERGENCY) Committee on **TRANSPORTATION** reporting **Ought to Pass as Amended by Committee Amendment "A"** (S-185)

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

There being no objection, the Senate Papers were **PASSED TO BE ENGROSSED** or **PASSED TO BE ENGROSSED as Amended** in concurrence. **ORDERED SENT FORTHWITH**.

The SPEAKER: The Chair recognizes the Representative from Bath, Representative Watson who wishes to address the House on the record.

Representative WATSON: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. Had I been present for Roll Call number 143 I would have voted yea.

The House recessed until 5:30 p.m.

(After Recess)

The House was called to order by the Speaker.

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

**REPORTS OF COMMITTEE
Divided Report**

Majority Report of the Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-181)** on Bill "An Act To Require Fair and Timely MaineCare Payments to Hospitals" (S.P. 214) (L.D. 678)

Signed:

Senators:

MAYO of Sagadahoc
MARTIN of Aroostook
ROSEN of Hancock

Representatives:

PINGREE of North Haven
WALCOTT of Lewiston
GROSE of Woolwich
WEBSTER of Freeport
MILLER of Somerville
BURNS of Berwick
SHIELDS of Auburn
CAMPBELL of Newfield
GLYNN of South Portland

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (S-182)** on same Bill.

Signed:

Representative:

LEWIN of Eliot

Representative SOCKALEXIS of the Penobscot Nation - of the House - supports the Majority **Ought to Pass as Amended by Committee Amendment "A" (S-181)** Report.

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-181)**.

READ.

On motion of Representative PINGREE of North Haven, the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (S-181)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Wednesday, May 18, 2005.

Majority Report of the Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-172)** on Bill "An Act To Discourage Further the Sale of Tobacco to Minors" (S.P. 293) (L.D. 885)

Signed:

Senators:

MAYO of Sagadahoc
MARTIN of Aroostook

ROSEN of Hancock
Representatives:
PINGREE of North Haven
WALCOTT of Lewiston
GROSE of Woolwich
WEBSTER of Freeport
MILLER of Somerville
BURNS of Berwick
SHIELDS of Auburn
CAMPBELL of Newfield
LEWIN of Eliot

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

Signed:

Representative:

GLYNN of South Portland

Representative SOCKALEXIS of the Penobscot Nation - of the House - supports the Majority **Ought to Pass as Amended by Committee Amendment "A" (S-172)** Report.

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-172)**.

READ.

Representative PINGREE of North Haven moved that the House **ACCEPT** the Majority **Ought to Pass as Amended** Report.

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

Representative **GLYNN**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Mr. Speaker, members of the house I urge you to oppose the pending measure and to not adopt this piece of legislation. I urge people to take a moment and take a look at the bill we will be voting on and, most importantly, the amendment that has been offered, (S-172).

At the public hearing when it was presented - I should begin by saying that I am somebody that has supported smoking bans - I voted in favor of the smoking ban against restaurants and I am not a smoker. However, this piece of legislation does not do what it says it's going to do and it is not a good piece of legislation. It's not some of the best work that has come out of our committee. The bill purports to reduce and discourage the sale of tobacco products to minors. It fails on every single point. What the bill actually does is it puts restrictions only on tobacco specialty shops and says that if you enter a tobacco specialty shop that you have to be accompanied by an adult so kids are still going to be in tobacco shops.

What the bill says is that in order to sell tobacco products you have got to be twenty-one years of age or older, but only at one of these specialty shops. How that came to be was a mystery to me as I sat in committee. It was one of those cases where a poorly written piece of legislation comes in front of a committee and a sponsor that everyone likes comes in and negotiates a bill with the committee. Every time an exemption or a problem with the bill was raised the committee just amended the bill and they amended the bill and they amended the bill, but there was never a holistic look at what, in fact, we were doing. The Maine Merchants Association opposed the bill and I have their letter and I wanted to read to you a passage from it. It said that the "Intent of LD 885 is praise worthy, but enactment would have the effect of preventing an unsupervised seventeen year old from selling a legal product to someone of legal age. It would impose an unnecessary burden on small stores and perhaps deny employment to some needy and deserving young people. Clerks have carding responsibilities regardless of their ages and it does

not seem logical to impose the same restrictions on tobacco products as those for alcohol. Clerks do not need to determine the impairment status of buyers of tobacco products."

Simply stated what this bill says is that you can be of legal age to buy a cigarette, you can be 20 years old and able to buy cigarettes, but you can't sell them in a store. What does that really mean? What it really means is that in my district – the calabash out by the Maine Mall – it means that if you are twenty years old you can't work in the store as a cashier because you can't work unattended without another adult that is twenty-one years of age. What that means is that we are denying these folks employment opportunities. Do you think it is right and fair that because an adult – we are talking about adults; people over 18 – that can buy cigarettes can't sell those products? Do you think it is right to say that they are going to be denied employment opportunities and that they can't work in a place because these places can't afford to have several clerks working all of the shifts and there can't be another adult over 21 in the facility to sell the products. That didn't make any sense to me.

Looking at the legislation I was like okay, we are going to discourage the sale of tobacco products to minors. How does adults allowing children to go into tobacco stores accompanied by adults, how does that provision help to discourage tobacco sales to minors. Well, if you're a minor you can't buy tobacco products and if you go into one of these stores and can't buy something then you are going to be asked to leave. What possibly could this legislation have in it that is going to help discourage the sale of tobacco to minors? For these reasons I would urge you to vote against this piece of legislation because it fails all of the tests. The first test is whether it will stop underage smoking? No, it's not going to. The second question is if it is going to hurt business? Yes it is, it is going to reduce the available pool of people able to sell these products and what is it going to do to general folks out there. Well that sets up another one of those double standards that I never explain to people in my district – these paradoxes that you can be twenty years old and you can buy tobacco products for years, you can be a smoker, but you can't work in a tobacco store and sell these products unattended without somebody over 21 present. It is just another standard for those kids who are 18-21.

There are all kinds of good ways to discourage young people from smoking. There are all kinds of good ways to ban smoking in public places. These are all things that I have supported. Legislation like this I can't support and I urge you to vote against it and Mr. Speaker when the vote is taken I request the yeas and nays.

Representative GLYNN of South Portland **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought to Pass as Amended Report**.

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

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

Representative **PINGREE**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I have the greatest respect for my good colleague from South Portland but I stand to disagree and urge people to accept the Majority Ought to Pass as Amended Report, which was the overwhelming report of the Health and Human Services Committee. We spent a lot of time on this bill, talking through it with those who were in favor and those who were opposed. The good member of the other body from Cumberland brought it to us and has worked hard on a number of different tobacco provisions and I think this is a pretty simple bill. It does really two major things. One, it prohibits minors from entering tobacco specialty stores and the Committee

Amendment says that you can come in if you are accompanied by a parent or a legal guardian.

There is no reason for a minor to be in a tobacco specialty store. Tobacco specialty stores are one of the few places in the State of Maine, in addition to off track betting facilities and a few others, where people can smoke. So, there is often smoking going on in tobacco specialty stores. It is also one of the other places where tobacco is not behind a counter; it is out. So, to let people under the age of which they can buy tobacco to go into a place where people are smoking and tobacco products are out and could be stolen or the fumes could be ingested really doesn't make sense. We obviously thought that the bill that was a little bit onerous in saying that a parent traveling with their child who is running in there to pick something up would have to leave the kid in the parking lot, that obviously didn't make sense so we did amend the bill.

The good member of the other body who brought the bill forward testified that there was a tobacco specialty shop of which he was familiar in the Maine Mall area of South Portland and the owner not only follows the law that we are considering today, but has also places signs saying you must be age 21 to enter. This business owner felt that this law would actually enhance his ability to control people that come into his store. The other section of the law aligns the law to the liquor selling provisions, which say that you must have a manager in a store who is at least 21 years of age to be there because, as we have seen with our tobacco enforcement, young people often have a hard time saying no to other young people.

Really, those are the two main provisions of the bill and the bill also does redirect some revenue from fines paid to youth access law violations so that we can make sure that this law is enforced, primarily by the AG's office. I think this is a good piece of legislation and it received bipartisan support from our committee and I think it is another step forward in reducing youth access and I urge this body to support it.

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

Representative **WALCOTT**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I would simply agree with both the good Representative from South Portland, Representative Glynn and the good Representative from North Haven, Representative Pingree and say that the committee did work very hard and in a very bipartisan way on this bill and I would ask if the clerk could please read the report of the committee.

Representative **WALCOTT** of Lewiston **REQUESTED** that the Clerk **READ** the Committee Report.

The Clerk **READ** the Committee Report in its entirety.

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

Representative **GLYNN**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. As you heard that still does not change the fact that the bill does not, in fact, do anything to discourage the sale of tobacco to minors. We received no testimony at the public hearing that minors who are unable to buy these products were in fact in tobacco shops and because even if they went in they can't buy anything. What are they going to do if they walk in? These are small, very small, establishments. Secondly, again we heard no reasoning why somebody can be over the age to buy cigarettes – they can be 18 years old, 19 years old, 20 years old, however, they can't work as a clerk in a store, but they can work as a clerk in a service store someplace else and they can sell cigarettes they just can't in the specialty tobacco stores. Lastly, this is not going to keep kids out of these establishments. They can still come in the

establishments under this law so on all of those points the legislation fails.

Probably what I found most offensive about this legislation was when I said, what if these specialty stores just decide these regulations are just too difficult? What if are their options? The response that I received from our committee analyst was that they had the ability to change their designation and instead of being known as a tobacco specialty shop they can apply as a variety store and then they don't have to follow any of the rules and regulations that we are talking about and debating today. In fact what it does is target the perception that a tobacco specialty store is a bad thing and that we ought to put up barriers to them doing business. I urge your defeat of this.

The SPEAKER: The Chair recognizes the Representative from Newfield, Representative Campbell.

Representative **CAMPBELL**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. The one thing that Representative Glynn failed to mention when he said that all you have to do is change to a variety store was that if you change to a variety store you couldn't smoke in the variety store. You can smoke in a tobacco store.

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. 152

YEA - Adams, Ash, Babbidge, Beaudette, Blanchard, Blanchette, Brannigan, Brautigam, Bryant, Burns, Cain, Campbell, Canavan, Clark, Craven, Crosby, Cummings, Driscoll, Duchesne, Dudley, Dunn, Duplessie, Eberle, Faircloth, Finch, Fisher, Flood, Gerzofsky, Grose, Hanley S, Harlow, Hogan, Hutton, Jackson, Jennings, Koffman, Lerman, Lewin, Lundeen, Makas, Marley, Marraché, Mazurek, Merrill, Miller, Mills, Moody, Norton, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pineau, Pingree, Piotti, Rines, Rosen, Sampson, Saviello, Schatz, Shields, Smith N, Smith W, Thompson, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - Annis, Austin, Bishop, Bowen, Bowles, Brown R, Browne W, Carr, Cebra, Churchill, Clough, Collins, Cressey, Crosthwaite, Curley, Curtis, Daigle, Davis G, Davis K, Dugay, Duprey, Eder, Edgecomb, Emery, Fitts, Fletcher, Glynn, Hall, Hamper, Hanley B, Hotham, Jacobsen, Jodrey, Joy, Lansley, Lindell, Marean, McCormick, McFadden, McKane, McKenney, McLeod, Moulton, Muse, Nass, Nutting, Ott, Pinkham, Plummer, Rector, Richardson D, Richardson E, Richardson M, Richardson W, Robinson, Seavey, Sherman, Sykes, Tardy, Thomas, Trahan, Vaughan.

ABSENT - Barstow, Berube, Bierman, Bliss, Bryant-Deschenes, Farrington, Fischer, Goldman, Greeley, Kaelin, Millett, Moore G, O'Brien, Stedman, Tuttle, Twomey.

Yes, 73; No, 62; Absent, 16; Excused, 0.

73 having voted in the affirmative and 62 voted in the negative, with 16 being absent, and accordingly the Majority **Ought to Pass as Amended Report was ACCEPTED.**

The Bill was **READ ONCE**. **Committee Amendment "A" (S-172)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Wednesday, May 18, 2005.

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

**REPORTS OF COMMITTEE
Divided Report**

Majority Report of the Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought Not to Pass** on Bill "An Act To Provide Hunters 70 Years of Age or Older with Antlerless Deer Permits"

(H.P. 39) (L.D. 43)

Signed:

Senators:

BRYANT of Oxford
WOODCOCK of Franklin

Representatives:

WATSON of Bath
LUNDEEN of Mars Hill
WHEELER of Kittery
CEBRA of Naples
MOODY of Manchester
TRAHAN of Waldoboro
RICHARDSON of Greenville
RICHARDSON of Carmel
BRYANT of Windham

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

Signed:

Representative:

JACKSON of Fort Kent

READ.

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

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

An Act To Expand the Items That May Be Sold by Malt Liquor and Wine Licensees

(H.P. 728) (L.D. 1075)
(C. "A" H-313)

Which was **TABLED** by Representative PATRICK of Rumford 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:

An Act Regarding the Voting Place

(S.P. 121) (L.D. 374)
(C. "A" S-150)

Which was **TABLED** by Representative CUMMINGS of Portland pending **PASSAGE TO BE ENACTED.**

Representative TARDY of Newport **REQUESTED** a roll call on **PASSAGE TO BE ENACTED.**

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

The SPEAKER: The Chair recognizes the Representative from Appleton, Representative Merrill.

Representative **MERRILL**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I spent quite a bit of time trying to decide whether I was going to oppose this bill. This bill did come out of committee unanimously and I think great respect should be paid to bills that come out of a committee unanimously. Furthermore, I would like to call your attention to the original title of this bill. The original title of this bill was "An Act to Create a Protected Zone Around the Voting Place". That's kind of an amazing title. It is almost as good as bill that we had

earlier this session that passed unanimously, which was "An Act to Protect Motherhood". I would like to respectfully submit that the proper title if this bill should not be, "An Act Regarding the Voting Place" but rather it should be "An Act to Subvert the Citizens Initiative in Referendum Clause of the Maine Constitution" and I would like to explain to you why I feel that way.

I received a number of emails and phone calls on this bill and I know that a number of you have and so I took a few minutes to take a look at it. I actually took more than a few minutes and I did quite a bit of research this afternoon. I talked to members of the committee and I went to speak to the Attorney General who is the individual that advises the Secretary of State.

This bill, if it passes will make a huge change in a tradition that I hold sacred in the State of Maine and I would hope that all of you would hold sacred. The tradition is that citizens who wish to initiate legislation can do so and can do so in the polling place without an opponent to that petition standing right next to them.

I would call your attention to the Committee Amendment. The committee amendment amends section five – strikes out all of section five of the original bill and replaces it with several pages. There are several sections in here that are very problematic. To begin with, it puts into Maine law for the first time ever, the right of an opponent to a petition drive to be in the polling place. The way the law is currently, is that if you want to circulate a petition to initiate legislation in the State of Maine you can be in the polling place, but you can't try to convince people to sign your petition. All you can do is sit in there at a table usually provided to you by the election warden and all you can do is ask people to sign the petition. All you can do is tell them what the question on the petition is. This changes that completely. This bill means that an opponent can stand right next to you and furthermore, allows the opponent to provide literature explaining why they want people to not sign the petition.

I think that we ought to think really, really, really hard before we pass legislation. I think we all appreciate that and I think that is why the Constitution requires legislation to pass each chamber three different times before it becomes law.

Now I understand that members of the Committee of Jurisdiction were told that there was an Attorney General's opinion. That there is a constitutional right for opponents of petition drives to be in the polling place.

Representative MERRILL of Appleton moved that the Bill and all accompanying papers be **INDEFINITELY POSTPONED**.

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

Representative PATRICK: Mr. Speaker, point of order.

The SPEAKER: The Representative may proceed.

Representative PATRICK: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. Is not the bill before us, Indefinite Postponement and not the amendment or the bill context itself?

The SPEAKER: The motion before the house is Indefinite Postponement, which allows any member here to talk about why they wish to indefinitely postpone this particular bill. The Representative may proceed.

Representative MERRILL: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I'll bring this to a close. This would represent a very drastic change in the current law in the State of Maine and I think that we all ought to think long and hard before we make this change. Thank you.

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

Representative TWOMEY: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. This is shooting an

arrow right into the heart of democracy. I don't care what you want to bring to the polls. I don't care what your issue is. I don't care if I disagree with you. You have a right to referendum and to go to the polls and to not be bothered.

What this amendment does is that it allows your opponent, no matter what your issue is, to stand there and try to detract you from getting signatures and that will make it very, very ugly and very messy and that will call for all municipalities to call upon us to take away the referendum process. This is the beginning of taking it away and I have to say with sorrow that in my caucus this afternoon that I heard it was a 13 to 0 Committee Report and that we should honor that, but I totally disagree. I have to speak for the people who put me in this seat and I got here through referendum because I passed many, many referendums. Every time that I knocked on someone's door they would say where do you want me to sign.

This has been a process since the 1900's and now it is being threatened. Some say it is already constitutional law that they can be there. There is nothing in the Constitution that says such a thing. This is a bad bill. Please follow my light.

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

Representative PATRICK: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. What a difference 24 hours makes. Unbelievable. I just remembered 24 hours ago someone from the good side - north side of the building – said, "Why don't we have an up and down vote on the bill itself?" Oh my goodness, could it be not one of those?

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

Representative TWOMEY: Mr. Speaker, point of order.

The SPEAKER: The Representative may proceed.

Representative TWOMEY: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. There is, I think, a rule that says you cannot challenge or question another person's integrity.

The SPEAKER: More precisely the rule is that you cannot challenge someone's motive so to the extent that anyone might challenge anyone's motive in this body now or in the future that would be something that would not be appropriately before the body, but the Representative may proceed.

Representative PATRICK: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. If I offended anyone I apologize deeply, but like I said, 24 hours ago I believe that someone rose to say that we should have a straight up and down vote. If a 13 to 0 Committee Report - where this issue was worked on tirelessly, not just one or two day, but for weeks, it was heard I believe in early April – at least deserves a straight up and down vote. I don't care how anyone votes on this issue, but I do have an issue with indefinitely postponing this bill, especially not knowing what it's all about and not letting the people hear the full context of what this bill actually does. Now all I would ask you is to please consider indefinitely postponing this bill and at least give us a fair shot, especially you who are going to bring your

bills before us, let us all have the opportunity to have a fair shot at an up and down vote on our bill. Thank you Mr. Speaker.

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

Representative **BLANCHETTE**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I promise to be brief on this. I have the pleasure of serving on the Legal and Veteran's Affairs Committee and we did review this bill and we worked it and we worked it and I am going to reiterate what I said at caucus today when we talked about this.

Democracy is best served when both sides of an issue are aired openly and fairly. If in the polling places there are only the signature gathers for a referendum vote only one side of the story is being heard. We put great trust, great authority and take great store in the honesty and the integrity of our wardens and our clerks that work at all of our municipalities in this state to maintain order and fairness to everyone. To every question there are two sides. Two sides need to be heard. Two sides will be heard because it is the law. I urge you, like the good Chairman Patrick said, kill this and let everybody have their vote. Vote this up and down.

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

Representative **PATRICK**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I apologize when I spoke I am asking you to please not support this indefinite postponement and move on to a straight up and down vote so I would really like a red light on this one.

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

Representative **TRAHAN**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I'll tell you right now I will support killing this bill in whatever form that it comes before us and I will tell you why.

I have seen this issue of trying to restrict signature gathering at the polls many times. I would guess probably eight or ten times we have had bills before us that would restrict signature gathering at the polling place and each and every time this legislature has done the right thing and defeated them and the reason that we do that is that the polling places are the people's places. The citizens of this state won't be polling place. That is the place that the act of democracy is completed. That is why people gather signatures there, because people are gathering for a political reason – to vote, to elect people and to vote on issues that are on our ballot as referendums.

What I heard from folks in why they brought this bill forward was that there were problems at the polling place and some people said it was chaotic, that signature gathers were taking over the polling place. I would like to read to you what we already have in current law and that is §662 of Title 21-A and I repeat, "Order at voting place. He shall keep order at all times in and around the voting place. He shall direct that any person who creates a disturbance or otherwise violates the law at the voting place be removed from it." In other words the warden has the authority to control the voting place and it also goes on to deal with the collection of signatures, where the warden has the authority to approve anyone in the voting place it goes on to say, "The warden may select and designate a specific location at the voting place, accessible and observable by the voter." It goes on to say that the collection of signatures may take place and that they "may make arrangements with the clerk prior to election day." It goes on and on. In other words the wardens have the power to control the voting place and that's where I think the problem is. If there have been problems at the voting place it is

because we have weak wardens and that's how we should address this.

I would like to go on a little bit more and get into the issue of collecting signatures. Collecting signatures is a constitutional right that we have given to the Maine people to bring issues before this legislature. It should be protected. It should be honored and it should be left alone. This issue that we have before us right now, what it would do, is that it would set up the ability for folks to obstruct the signature gathering at the poll place. That is what it would do. It would obstruct a person from fulfilling their constitutional right. It would be no different than if a signature gatherer was at the local Shop 'n Save and someone came over and obstructed them from getting signatures. They would be arrested for that. But this law would put into statute that people on the opposing side had a right to be there. Another thing is that we have the wonderful benefit of living in a rural state. We have small community voting places – small community voting places and in some election years we may have four or five signature gatherers within a polling place. If we mandated that there had to be area for both sides you could have a mandate for ten tables in a voting place. I don't know of many rural community-voting places that could hold that many tables. You know what would happen. They would all get kicked out and that is exactly what the folks who are promoting this want to happen. This is one more way of obstructing the signature gathering process. I also think that we need to defeat this or at least refer it back to committee to be reworked. I think that there is some common ground that can be found; some reasonable ways that we can restrict bad behavior in the voting place but it is not through blocking the democratic process. I ask you to defeat this in any form that comes before us. Thank you.

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

Representative **VALENTINO**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise today to speak in opposition to the motion to indefinitely postpone.

As the citizen's initiative process grows in popularity, so to does the activity at the polling places. Not only do the voters encounter petitioners seeking signatures to move particular issues forward but some voters in the last election encountered opponents to the petitions. This is why we are addressing this bill now because we are anticipating future problems.

The Secretary of State has submitted this bill to avoid problems at the polls and not to create additional problems at the polls. The public hearing was held on this on February 14th. This committee has done extensive work on this and I feel that we should have the opportunity to vote on this up and down.

We had a work session on February 23rd where we had voted on it 6 – 2 at the time. There were so many emails and letters and calls from everyone on this that the committee decided to take another look at it. We came back again February 28th and worked on additional amendments to this bill. Still not satisfied with it we had another third work session on this bill back on March 14th and offered additional changes and amendments on it. This came back again with additional amendments and changes on March 30th and it is now May 16th and this bill has been in committee a long time. We have had over four different work sessions on it and it has changed dramatically from when it was first presented to us and I feel that this committee has listened to the people at the public hearing, through their emails and with the constituents we have worked this bill and we need an opportunity to address these problems so that we do not have potential problems at the polls.

As far as opponents being there, they were there this time and we are not trying to shut anybody out of the polls but we

have found that it is under the freedom of speech and they do have a right to be there and I would urge all of you to vote red on this to give us the opportunity to explain the bill fully to you and why it came out of committee as a unanimous report. Thank you.

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

Representative TWOMEY: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I will not be supporting indefinite postponement because I don't think it is the right way. I like what you did to me last night. I want to set an example. I think that we have a right to bring our ideas forward no matter if we agree or disagree. So, I will be voting against indefinite postponement. As much as I hate this bill I will get a chance to vote against it, but I want to set an example here unlike many of my colleagues who did not give me that same request last night. I do believe that when you believe in something you have the right to bring it forward and I am sorry that some of you don't, but tonight when it is something you care about you are begging to have it come forward. I agree with that, but I want the same respect. I think everyone deserves to bring their ideas forward and have an up and down vote. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Appleton, Representative Merrill.

Representative MERRILL: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. We have heard from several people, both on the floor and out in the hall and in caucus that the opponents of petition drives have a constitutional right to be there. That was the question that I spent time researching this afternoon. I am an attorney and I take the first amendment as seriously as anyone else in this body. I went to see the Attorney General who advised the Secretary of State on this question and I wanted to see the written Attorney General's opinion. There is none. There was a verbal opinion given to the Secretary of State at the last election, which resulted in a ruling from the Secretary of State that opponents could be at the polling place. The law is not settled on this. There has not been any case in the country on point on this. The Assistant Attorney General provided to me, as well as the members of the committee, the three different cases that she relied upon in making this determination. I would like to share with you a little bit of information about the three cases that she relied on. The first case is a Colorado case. This was a case where the Supreme Court struck down a Colorado law prohibiting petition circulators from being paid. Good first amendment case, but not on point here. The second case, *Berson v. Freeman* was a Tennessee case. The Supreme Court upheld a law that prohibited political activity closer than 100 yards from the polling places. We have a law of 250 feet. This bill in front of us is actually going to shorten that up to 100 feet. Good first amendment case, but not on point as to whether or not an opponent to a petition drive has the right to be in the polling place right next to the person who is circulating the petition. The third case was *The Police Department of Chicago v. Mosley*. It was a case that involved labor picketing. The court decided it on the fourth amendment. It wasn't a first amendment case.

It may be that I'm wrong. It could probably be that I am wrong, I have no idea, but this needs to be decided by a law court and not by the Maine Legislature. There may be a constitutional right for opponents of petition drives to be in the polling places is a legal question and I submit that we are not the ones that have the expertise or judgment to make that decision. Thank you.

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

Representative BRAUTIGAM: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I appreciate the words of my fellow attorney from Appleton, my colleague. I appreciate the words I just heard and I don't come here armed with constitutional cases but I do know that there is a constitutional doctrine that deals with the forums in which people are allowed to speak and it is my view, having dealt with cases of a similar vein, that once that forum is opened up to people to articulate one position it must be opened up to people who wish to articulate other positions. Discrimination against a voice or form of speech on the basis of what that speech might say is abhorrent to the Constitution. I think we have the right to say anything in this country because of our democratic process and our constitution and I think we should tread very lightly in this regard. I think the constitution does require, and I think a court would uphold a statute that creates a right for others to be present in the polling place as well. I just wanted to address that narrow point. Thank you Mr. Speaker.

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

Representative HOTHAM: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. This has been a difficult bill for Legal and Veteran's Affairs to deal with. We voted it out once, we reconsidered it, we reworked it and that was the direct result of a great deal of input from the public once they realized the content of this piece of legislation. You can't always tell what a bill is about by its title and many people missed that opportunity in public hearing.

We worked the bill, taking into consideration the comments of many and I will tell you that it is the non-written, verbal opinion of the Attorney General's office that created this situation that would allow opposing views to be present in the polling place while petitioners are seeking signatures. The case sighted had to deal with the water tax and that opponents to that could be there to present their opposing views. In some places it got particularly rowdy and distracting and the committee was very concerned about loosing the validity of a very important process called voting and I think that we were very clear that the purpose of the day is to vote. The purpose of the day is not to sign petitions and any distractions that you have in the voting place to that purpose - that keep the wardens and town clerks distracted from overseeing that process - creates that atmosphere of uncertainty about the process.

Taking all of those things into consideration, we put together what you have in front of you today. I can tell you that I have not received emails because those who are concerned have given up on me, but I can almost tell you what some of those emails say. They are particularly venomous about the committee and our decision. I know, I received them when they thought that there was still hope and it was very difficult to rise above that rancor and put forward a piece of legislation that supports the voting process and keeps it legitimate while allowing the petitioners the right, excuse me, the ability - the privilege - to be there capitalizing on a day where they could get signatures for their cause.

I would hope that you would vote against indefinite postponement and that in light of the conversations and discussions and speeches made in this chamber we might consider sending this back to the committee and taking into consideration, and perhaps finally asking, the Attorney General for an opinion and then moving forward. But, something needs to be done Ladies and Gentlemen and Mr. Speaker, because we have disruptions in the polling place. We need to support our town clerks, our city clerks and our wardens who are not brought to the job but once every two years. We need to support them in

statute and I urge your defeat of the indefinite postponement and move on from there.

The SPEAKER: The Chair recognizes the Representative from Appleton, Representative Merrill.

Representative **MERRILL**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. It is fun to be reminded that I am a freshman and I hope the newness of serving in this body doesn't wear off, but I stand corrected and I would like to withdraw my motion for Indefinite Postponement.

Subsequently, Representative **MERRILL** of Appleton **WITHDREW** her motion to **INDEFINITELY POSTPONE** the Bill and all accompanying papers.

Representative **TRAHAN** of Waldoboro **REQUESTED** a roll call on **PASSAGE TO BE ENACTED**.

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

The SPEAKER: The Chair recognizes the Representative from Sanford, Representative Bowles.

Representative **BOWLES**: Mr. Speaker, point of order.

The SPEAKER: The Representative may proceed.

Representative **BOWLES**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I'm just a little confused. A roll call had already been ordered on the motion. Was this Gentleman asking for a roll call on the indefinite postponement withdrawal?

The SPEAKER: Representative, what happened is that we had a motion to Indefinitely Postpone. No roll call had been made on that particular motion. Representative Merrill then withdrew the motion to Indefinitely Postpone and we are back to final enactment, and a roll call has been ordered. The Representative may proceed.

Representative **TRAHAN**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. First I must thank the Representative from Waldoboro for her class act. I have found you to be a wonderful Representative and I really respect what you are doing here.

I would like to speak on this bill just one last time and remind you that we have a whole bank of laws under Title 21-A that address control of the voting place and I read it to you earlier. If there were problems in the voting place then I think it is important that we address them, but the laws are already there to do that. What we will be doing if we adopt this is that we will be putting it into law and mandating that room be supplied for the opposing view. It will have to be done the day before voting and what that will do – I'll guarantee you this will happen – is that people will be calling the voting place the day before and they will be asking, "Are there going to be folks collecting signatures in your voting place?" When the answer is yes those people are going to gather up one of the more popular people in the town to go in and be the opposing view hoping to influence people not to sign a petition. That is the intent here. Whether the committee intended it or not that's what is going to happen. So, in other words, we are going to be passing a bill that obstructs people from getting signatures under a guaranteed constitutional right to do so. I think that we should take more time with this issue. I wouldn't be against recommitting this bill, but another is going to have to make that motion. I believe that this bill required a lot of work for a reason. It should always be difficult to take away rights from people. I ask you to do the right thing today, either give this thing more time or defeat it. Thank you. The SPEAKER: The Chair recognizes the Representative from Calais, Representative Perry.

Representative **PERRY**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. The voting place, if I am correct is a neutral place. The opportunity to get

signatures certainly is there but what about my right as a citizen to know both sides of the story? I have gone to the polling place, especially when I first moved to a new town and got a representation on a signature and only got one side of the story. I didn't understand all the issues that went with it or what I was really signing if I chose to sign. I chose not to because I didn't know what I was signing. It would have been nice to know what all of the issues were and what sides of the story their were.

I have a right to get information. Should I be denied that right because somebody can get a signature and doesn't have to have the opposing view next to it? I want information, not just one side and I would ask that you vote for enactment. Thank you.

The SPEAKER: The Chair recognizes the Representative from Boothbay, Representative Bishop.

Representative **BISHOP**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. First of all I would like to give my greatest appreciation to the work that has been done by the committee to address a problem and I think that we all recognize that there was a problem. Unfortunately, this particular piece of legislation has a sort of one-size-fits-all approach. It doesn't really take into account the size or configuration of the different voting places. It would be very difficult to do so, so maybe there is another approach.

Ladies and Gentleman of the House I would like to pose one question for thought. Since this bill was primarily designed to solve a specific problem that in the long history of petitions has occurred exactly once. Possibly, by codifying this behavior are we not ensuring that this behavior will become ongoing? I pose that for all of us in consideration and wish to say also that I think that this bill might be one that we would like to reconsider. Thank you very much Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Crystal, Representative Joy.

Representative **JOY**: Mr. Speaker, may I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative **JOY**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. After reviewing this bill carefully it looks to me like this bill opens up the voting place for a campaign place – true or false?

The SPEAKER: The Representative from Crystal, Representative Joy has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Waldoboro, Representative Trahan.

Representative **TRAHAN**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I believe that this is exactly what this would do. Both sides of an issue would be trying to promote their own agenda and I think that is really what we call politicking and I would like to address one of the previous speakers who talked about letting voices be heard and I think I need to readdress the legislature.

When people bring petitions it is because they feel like their voice hasn't been heard. They feel like they need to go out and gather signatures and put it on the ballot so that all the citizens can vote on the issue. It might be because the legislature didn't do what they wanted with that issue or it might be that they are trying to solve a problem that the legislature couldn't, but it is because they want their voice to be heard. So, for those that say that they would like to have both sides at the voting place having their voices heard. They will have their opportunity to have their voices heard after the signatures are gathered and the campaign begins. By doing this we are not talking about an issue. We are talking about gathering signatures for a petition to go on the ballot. That is different than debating an issue. This blocks the right of citizens to bring issues before all the people of the state

and that is the core issue here. It is not about both sides being heard. IT is about silencing a voice.

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

Representative DUDLEY: Mr. Speaker, may I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative DUDLEY: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I imagine there has been some debate on this already, but I have been having a heated conversation with my seatmate about this and trying to read the committee's work on this bill, but what is unclear to me is the existing right of individuals to stand at the polling place next to a petition gatherer offering their opinion to anybody who might care to listen. I don't know if there is someone who can answer that question for me?

The SPEAKER: The Representative from Portland, Representative Dudley has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Appleton, Representative Merrill.

Representative MERRILL: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. As I understand it the current law is that in the polling place the only thing that a petition circulator can do is sit there, stand there with a petition and, if asked questions, they can only respond with what the ballot question is. They cannot try and influence people to sign it. They can't influence people that the particular question out to be passed. It is very, very limited. Section 8 of the committee amendment changes that drastically. It allows not only the petition circulator to continue to sit there, but it allows the petition circulator as well as the opponent to distribute literature related to the particular petition. That is brand new and will be allowed to take place in the voting place.

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

Representative DAIGLE: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I am sorry that I am getting up to speak on this, but, as many of you know by now, I am a compulsive talker yet I want you to know that I do belong to a support group and it is called On and On Anonymous and on and on and on we try to tell each other to really get to the point here and I think that point is we know what we have now. We know this bill will change it and I think we are ready to vote.

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

Representative DUDLEY: Mr. Speaker, may I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative DUDLEY: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Notwithstanding the remarks of the Representative from Arundel and with respect to colleague from Appleton, I don't feel that my question was answered and let me rephrase it. I am not talking about the people collecting signatures on a petition. My question is that if somebody who is not currently a petition signature gatherer, and that has an opposing point of view to a signature gatherer, decides to stand at the polling place outside the guardrail and not interfere with voters who are going into vote and only talks to voters on their way out, while speaking in opposition to the question that the petition signature gather is proposing, what limitations are there currently on that sort of behavior?

The SPEAKER: The Representative from Portland, Representative Dudley has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Falmouth, Representative Davis.

Representative DAVIS: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. There are no restrictions. None whatsoever.

The SPEAKER: The Chair recognizes the Representative from Rumford, Representative Patrick. Having spoken twice now requests unanimous consent to address the House a third time. Is there objection? Chair hears no objection. The Representative may proceed.

Representative PATRICK: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. The answer is yes, like the good Representative from Falmouth, Representative Davis said. That is why we are dealing with this legislation. The Secretary of State put this legislation forward for more than one reason that they addressed. We changed in the law the 250 foot barrier down to 100 feet not because we were sued, but because other states were sued and we didn't want to get sued ourselves. So we are bringing it into compliance and we don't fall under that category.

I do not really believe that technically this is campaigning because it is beyond the point of where the vote has already been taken. Is this new? Yes it is. One of the things that I can honestly say that I have heard – probably the only thing I have heard with petitioners otherwise than that sometimes they are unruly and they try to coerce you into signing – is that most people I have talked to have said, "My goodness I wish I hadn't signed that petition now because I did not know what it was really about." There have been many cases of this, beyond that. If this was not the case chanced are that every citizens initiative would pass because it is not easy getting 50,000 signatures.

I have heard a thousand times from the petitioners themselves that they have the constitutional right to be in the polling place. Well, I could have read it in the Constitution that they have the right to petition, but we gave them the right to be in the polling places.

MMA testified on the bill, neither for nor against, but there was only one reason why they were there and it was kind of a selfish reason. If they are going to have to check the signatures on the ballot, where is a better place to get gravy signatures? They are all going to be good. The people are all registered to vote.

When I got elected if I would have stood by the fire station from April 5th to November 2nd I would have never got elected, but guess what. I hit 5500 doors. If I took a petition that I believed in I bet you that I could have gotten probably 10,000 signatures the old fashioned way. I earned them.

We allowed them to be in there and we also allowed the blockers in there, but what is a blocker. A blocker is an opponent of an issue that may be pending before the state. We have had bills in our committee to try to limit the amount of money petitioners can inflict onto the State of Maine by what sometimes is their ill will. As a matter of fact, I think it happened to be a good minority chair and we liked the bill because citizens don't always have the best ideas but a lot of times they do. I have supported petitioners ever since I have been in here and in my support of this bill I am supporting petitioners because we are not going to allow them to be manhandled like they were last time.

In asking the Secretary of State how many millions of people were brow beaten by these employees of a company trying to protect their job, it was only a couple. There weren't hundreds of them if there were a couple. In most instances the wardens handled everything correctly and they allowed people to have free talk back and forth, but we are actually going to limit that.

A petition circulator or opponent may not obstruct, disrupt or otherwise interfere with the other's ability to communicate with voters concerning the petition. If we have an opportunity to

educate people we are going to get more citizens initiatives passed that are quality initiatives because they are going to be 100% valid people who believe in the issue.

I hate to admit it, but there is one petition signature gatherer and she happens to be a famous lady. Her initials are CP and she happens to be a felon. Not all –petitioner gathers do things the legal way. It is America you do things the way you have. Sometimes you can pay someone five dollar's per signature. If I was getting five dollars per signature I'll tell you I can get 50,000 signatures in a hurry because this kid is an American and I am going to fight to do the best I can.

This is about whether you want to allow the opposing side of an issue to not browbeat you, but to give you the information to what they believe, whether they hand it to you or whether they softly say I don't believe in it. I would love to have in a polling place a 4x4 thing with a petition on it and saying I don't support this and having a voter at least know what the petitioners name is, whether he is an ex con or not because some of them look pretty seedy to me. I would like to have that information up on the board. This is about something that we believe in.

In Maine we are lucky, not every state has the right to petition. Not every state allows their petitioners to stay in the polling place. That is a fact. Tennessee just passed their ruling of 100ft away from the polling place. I think I would rather vote to kick everyone out of the voting place. We have got a bill before us that has the possibility of kicking the politicians and everyone out of the polling place. So, lets bring the sanctity of the voting place back to the way it was and nevermind all of this foolishness, but I don't think that is the right thing to do. A lot of them good people work their heart out. The Mary Adams' of the world are really, truly wonderful people who believe in their issues. A couple of the other ones might be crackpots, but there are some that I really believe in and they are really good people.

This is an issue of whether you want to be able to allow the other side in a civil controlled manner. Given the chaos theory, do you want total chaos or do you want controlled chaos? This is giving direction to the warden on what to go by.

The other thing I want to say before I sit down is that I am very fortunate to have been here as a Representative and I don't care how many thousand dollar suit lobbyists brow beat me. I make my own decision on what I want and I am not scared to death of lobbyists. I have seen a lot of people – maybe not this year because we haven't had the lobby – but I have seen a lot of strong 250lb men get weak at the knees when the lobby comes down upon you, but this isn't an issue. Let's vote the right way and let's vote to enact this law.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Twomey. Having spoken twice now requests unanimous consent to address the House a third time. Is there objection? Chair hears no objection the Representative may proceed.

Representative **TWOMEY**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I was just told it was a different motion so I just want to say that I think the bigoted comments and the comments that we are hearing about cleaning out the whole place in the voting polls speaks highly for why we should vote against this. Thank you.

The SPEAKER: The Chair recognizes the Representative from Kennebunk, Representative Babbidge.

Representative **BABBIDGE**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I will try to be brief. I think that we should keep an eye on the ball here. I have a town clerk in Kennebunk that doesn't need any assistance from us as to how to run a clean election, but that is not the case throughout the state. The good committee that had to deal with this bill had

to deal with the cards that it was dealt and we had a situation last year which had to be cleaned up and the committee did their best to ensure access to people who are petitioners and to those who would oppose them. They put together a bill in which the process could be done civilly and openly.

I have concerns. I also have confidence in thirteen good democrats and republicans who spent a good deal of time with this bill and came up with this conclusion. I am willing to give them the support that they deserve in order to have this implemented next November and if we have to remedy any situations based on that experience then I think that we have the freedom to do so second session. So I would urge that you not recommit or at this time I would like someone on the committee to tell me what might be accomplished by a motion to recommit in order for us to get through this issue. Thank you.

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

ROLL CALL NO. 153

YEA - Babbidge, Beaudette, Blanchard, Blanchette, Bliss, Bowles, Brannigan, Brautigam, Brown R, Bryant, Burns, Cain, Canavan, Clark, Craven, Crosby, Daigle, Davis K, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Eberle, Faircloth, Finch, Fischer, Fisher, Gerzofsky, Grose, Hanley S, Harlow, Hogan, Hotham, Hutton, Jackson, Koffman, Marley, Marraché, Miller, Mills, Moody, Norton, Ott, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pingree, Pinkham, Rines, Sampson, Saviello, Smith N, Smith W, Thompson, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - Adams, Annis, Ash, Austin, Bishop, Bowen, Browne W, Campbell, Carr, Cebra, Churchill, Clough, Collins, Cressey, Crosthwaite, Cummings, Curley, Curtis, Davis G, Duprey, Eder, Edgecomb, Emery, Fitts, Fletcher, Flood, Glynn, Hall, Hamper, Hanley B, Jacobsen, Jennings, Jodrey, Joy, Lansley, Lewin, Lindell, Lundeen, Makas, Marean, Mazurek, McCormick, McFadden, McKane, McKenney, McLeod, Merrill, Moulton, Muse, Nass, Nutting, Plummer, Rector, Richardson D, Richardson E, Richardson M, Richardson W, Robinson, Rosen, Schatz, Seavey, Sherman, Shields, Sykes, Tardy, Thomas, Trahan, Twomey, Vaughan.

ABSENT - Barstow, Berube, Bierman, Bryant-Deschenes, Farrington, Goldman, Greeley, Kaelin, Lerman, Millett, Moore G, O'Brien, Pineau, Piotti, Stedman, Tuttle.

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

66 having voted in the affirmative and 69 voted in the negative, with 16 being absent, and accordingly the Bill **FAILED PASSAGE TO BE ENACTED**.

Representative CUMMINGS of Portland moved that the House **RECONSIDER** its action whereby the Bill **FAILED PASSAGE TO BE ENACTED**.

On further motion of the same Representative, **TABLED** pending his motion to **RECONSIDER** whereby the Bill **FAILED PASSAGE TO BE ENACTED** and later today assigned.

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

HOUSE DIVIDED REPORT - Majority (11) Ought Not to Pass - Minority (2) Ought to Pass as Amended by Committee Amendment "A" (H-350) - Committee on STATE AND LOCAL GOVERNMENT on RESOLUTION, Proposing an Amendment to the Constitution of Maine To Reduce the Size of the Legislature (H.P. 339) (L.D. 461)

Which was **TABLED** by Representative CUMMINGS of Portland, pending the motion of Representative BLANCHARD of Old Town to **ACCEPT** the Majority **Ought Not to Pass** Report. (Roll Call Ordered)

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

Representative **RICHARDSON**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This is a bill - I guess you folks already know it - to reduce the size of the Legislature to save the State of Maine some money. It is a bill that is perennial. If you have been here for more than two terms you have probably seen it at least twice and if you are here for another two terms you will see it twice more I am sure.

This is a very easy bill for you to vote for simply because it doesn't cost you anything and it does save - you can figure any amount you want - \$1,500,000 per year. You didn't think that you earned that much money did you? If you want to put it together with the salary and per diem that is paid to the legislators, the insurances that you get and this type of thing it would cost somewhere in the vicinity of \$26,000-\$28,000/year to keep each of us down here.

Believe me, and I think if you ever asked that if you put this resolve out to a referendum, this would pass in a heart beat by an astounding amount of votes. The people of the State of Maine think that we spend too much money and they look at us and they say well why don't you cut down the size of the legislature. This would be a very good thing to do.

We are sitting here trying to make decisions on how to save hundreds of millions of dollars and we cut other people's salaries and we try to eliminate positions and we try to eliminate programs but we don't have the courage to do something that would be very simple, which is to cut the size of the legislature and to save a \$1,500,000. That \$1,500,000 is really only direct cost. The cost of maintaining every legislator has a great deal of money attached to it.

I have heard all of the reasons why people don't like to do this. They think that we got a nice little district. We serve 8,300 people and I don't want to change my district size because I can't be as close to my constituents. If you were to change this vote or if you were to change the size of the Legislature you would only be serving 13,000 people instead of 8,300 people.

Everybody likes to look at the other body and think of how much better we are than they are, but I got to tell you that they serve 39,000 people. Now, the motion up here is Ought Not to Pass. I would like to see you defeat this motion. This business of having 186 people down here to do the business of the State of Maine means that there are probably at least 50 or more people here than need be. First of all, we could all have better parking places if it didn't do anything else, but - now think about this - your constituents want to say to you save money and you would have an opportunity to go back to them and this is a win, win situation for you. If you voted to reduce the size of the legislature and you loose the vote you can say I tried, but if you win the vote you can say I saved you say some money. No way you can lose on this vote.

Don't worry about your own districts and don't worry about it changing the balance. It won't. There will be just as many

people voting republican and democrat in the districts as there are now. That will not change if the thing passed and you got the redistricting done. The way the bill is set up, if it does pass, is that the redistricting will be done by the law clerks. It won't be done the way that I remember reading the bill.

This is a bill that you can't lose on, as I said before and if you really want to make an impression and you really want to tell your constituents that you are doing something for them defeat this motion and let's get on to the minority report. Thank you.

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

Representative **DAVIS**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I am a man of few words and I agree with my friend from Skowhegan. I ran on this when I ran for Falmouth and had very, very good response so I agree with everything he said. Thank you.

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

Representative **BLANCHARD**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I have to admit that my fellow Representative from across the aisle, Representative Richards came up with some great ideas. However the committee spent quite a bit of time discussing the issue and one of the major points that was brought up was not the size of the districts but instead the loss to the people that we represent in rural areas that won't have what we are supposed to be doing when we come down here and that is represent them.

I think our main goals when we are elected are to represent our districts and to also represent the State of Maine. It is what we are sent here to do and with that I would like to say that as a freshman, I have had comments about making it smaller, but I have also had comments about how we are going to represent everyone in the State of Maine when we are 150 - 200 miles away from our districts. Thank you Mr. Speaker.

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

Representative **RICHARDSON**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. The argument that the good Representative puts forth really leaves me a little mystified because when you are representing the people I don't see where representing 4,000 more people is anymore difficult than the ones that you are already doing. I don't know what new issues might come up that might increase or decrease your ability to represent them and I don't think that most people get down to where they are talking individually with all 8,300 people that are in their districts. I understand his concern and I hear his concern that the people are asking how we are going to represent them and I think your reactions should be "I will do the very best I can and if I am not as good as your state senator then I will try to get better the next time." So, I don't think that you are going to represent your constituents with any less ability just because you have a few more of them. Thank you.

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

ROLL CALL NO. 154

YEA - Adams, Annis, Ash, Babbidge, Beaudette, Bishop, Blanchard, Blanchette, Bliss, Bowen, Bowles, Brannigan, Brown R, Bryant, Burns, Cain, Campbell, Carr, Churchill, Clark, Craven, Crosby, Cummings, Driscoll, Dudley, Dugay, Dunn, Duplessie, Duprey, Eberle, Eder, Fischer, Fisher, Gerzofsky, Grose, Hanley S, Harlow, Hogan, Hotham, Hutton, Jackson, Jennings, Jodrey, Koffman, Lerman, Lundeen, Makas, Marley, Marraché, Mazurek, Merrill, Miller, Mills, Moody, Moulton, Muse,

Nass, Norton, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pingree, Pinkham, Rector, Richardson D, Richardson E, Richardson W, Rines, Sampson, Saviello, Schatz, Smith N, Smith W, Tardy, Thompson, Twomey, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - Austin, Brautigam, Browne W, Canavan, Cebra, Clough, Collins, Cressey, Crosthwaite, Curley, Curtis, Daigle, Davis G, Davis K, Duchesne, Edgcomb, Emery, Faircloth, Finch, Fitts, Fletcher, Flood, Glynn, Hall, Hamper, Hanley B, Jacobsen, Joy, Lansley, Lewin, Lindell, Marean, McCormick, McFadden, McKane, McKenney, McLeod, Nutting, Ott, Plummer, Richardson M, Robinson, Rosen, Seavey, Sherman, Shields, Sykes, Thomas, Trahan, Valentino, Vaughan.

ABSENT - Barstow, Berube, Bierman, Bryant-Deschenes, Farrington, Goldman, Greeley, Kaelin, Millett, Moore G, O'Brien, Pineau, Piotti, Stedman, Tuttle.

Yes, 85; No, 51; Absent, 15; Excused, 0.

85 having voted in the affirmative and 51 voted in the negative, with 15 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

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

REPORTS OF COMMITTEE
Divided Report

Majority Report of the Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought Not to Pass** on Bill "An Act To Require the Disclosure by Hospitals and Ambulatory Surgical Centers of Charges to Certain Payors"

(H.P. 162) (L.D. 211)

Signed:

Senators:

MAYO of Sagadahoc
MARTIN of Aroostook
ROSEN of Hancock

Representatives:

PINGREE of North Haven
GROSE of Woolwich
MILLER of Somerville
BURNS of Berwick
SHIELDS of Auburn
CAMPBELL of Newfield
LEWIN of Eliot
GLYNN of South Portland

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-382)** on same Bill.

Signed:

Representatives:

WALCOTT of Lewiston
WEBSTER of Freeport

Representative SOCKALEXIS of the Penobscot Nation - of the House - supports the Majority **Ought Not to Pass** Report.

READ.

On motion of Representative PINGREE of North Haven, the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

Majority Report of the Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought Not to Pass** on Bill "An Act To Require That Certain Health Care Staff Be Certified in CPR and

To Require That Nursing Homes Be Equipped with Automated External Defibrillators"

(H.P. 338) (L.D. 460)

Signed:

Senators:

MAYO of Sagadahoc
MARTIN of Aroostook
ROSEN of Hancock

Representatives:

PINGREE of North Haven
GROSE of Woolwich
WEBSTER of Freeport
MILLER of Somerville
BURNS of Berwick
SHIELDS of Auburn
LEWIN of Eliot
GLYNN of South Portland

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-380)** on same Bill.

Signed:

Representatives:

WALCOTT of Lewiston
CAMPBELL of Newfield

Representative SOCKALEXIS of the Penobscot Nation - of the House - supports the Majority **Ought Not to Pass** Report.

READ.

Representative PINGREE of North Haven moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

The SPEAKER: The Chair recognizes the Representative from Newfield, Representative Campbell.

Representative **CAMPBELL**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This bill here was a bill that I believe was Representative Barstow's bill about having defibrillators in the nursing homes and I really got upset when the lobbyists got up there and were telling us how fast they respond and they ended it by saying that if they are in a nursing home then just let them die. Well, when you go to a nursing home you are not there just to die and that infuriated me and that is why I voted to have the defibrillators put in.

Another reason is that you get the lobbyists from the nursing homes and the hospitals and that and they all think you are supporting them. Well, I am supporting the people that are in the hospital and the nursing home, not the owners and not the lobbyists and that is why I am supporting this bill and requesting a roll call.

Representative **CAMPBELL** of Newfield **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

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

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

Representative **WALCOTT**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. You know that it is an interesting day when the only two people on the same side of the issue on a committee are the good Representative from Newfield and myself, but I guarantee you that if that is the case then it is a senior citizen issue and I just stood today to remind everybody that if you walk down to the cafeteria in the State House and look to the left of the entrance door you will see one of these defibrillators. We have them for ourselves, which in my case might be a good idea.

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

Representative PINGREE: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. Recognizing it is well past the dinner hour I will attempt to be very brief. With the utmost respect for the two Representatives before me who have spoken and who feel very passionate about this I think that all those in the committee are supportive of senior citizens and want to do whatever we can to take care of them.

The committee heard some very compelling evidence that often CPR is not the best medical treatment and often can be very damaging to elderly and frail people. In terms of the defibrillators, which I had a very hard time pronouncing and I was dreading this bill coming up and will now will refer to them as AEDs, we heard a lot of compelling evidence that this was not necessarily the number one piece of medical equipment that was needed in nursing homes. In some nursing homes 80% - 90% of patients have do not resuscitate orders and I think that, with all due respect, we need to figure out how to bet take care of these people. We have asked the Department of Health and Human Services and the nursing homes to look at this issue and come back to us. The \$5,000,000 or close to \$5,000,000 - \$6,000,000 fiscal note on this bill was not something that we felt we could pass now, especially with some medically efficacy in question, but I do think that we sent the parties out and said get back to us on this. Come back to us with a plan. Tell us what equipment would be necessary and helpful in the case of nursing homes. With that I ask you to support the Majority Ought Not to Pass Report and give the parties more time to consider this issue. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Newfield, Representative Campbell.

Representative CAMPBELL: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I have to disagree with the good Representative. The thing is all about money. The nursing homes asked and they were told that it was going to cost us too much money. But, as I said before when I stood up to speak it is not about money it is about saving lives. It is not about a fiscal note. If it saves one persons life...

Senator Collins turned around with another Senator and put a bill in and sent these defibrillators to the rural towns and to their fire departments so they can not only have them in the ambulance, but they can have them in the fire trucks to. I see no reason whatsoever that they shouldn't be in a nursing home. If they only save one life I don't care how much they cost.

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

ROLL CALL NO. 155

YEA - Adams, Annis, Ash, Babbidge, Blanchard, Blanchette, Bowles, Brannigan, Brautigam, Bryant, Burns, Cain, Carr, Clark, Crosby, Cummings, Curtis, Daigle, Davis G, Driscoll, Duchesne, Dudley, Dunn, Duplessie, Duprey, Eberle, Eder, Edgecomb, Faircloth, Fischer, Fisher, Fitts, Fletcher, Gerzofsky, Glynn, Grose, Hall, Hanley B, Hanley S, Harlow, Hutton, Jackson, Jennings, Jodrey, Koffman, Lerman, Lewin, Lindell, Lundeen, Marean, Marley, Mazurek, McCormick, McFadden, McKane, McKenney, McLeod, Miller, Mills, Moody, Moulton, Muse, Nass, Norton, Nutting, Ott, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pingree, Plummer, Rector, Richardson D, Richardson E, Richardson W, Robinson, Rosen, Sampson, Saviello, Schatz, Seavey, Shields, Smith N, Smith W, Sykes, Tardy, Thomas, Thompson, Trahan, Valentino, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - Austin, Beaudette, Bishop, Bowen, Brown R, Browne W, Campbell, Canavan, Cebra, Churchill, Clough, Collins, Craven, Cressey, Crosthwaite, Curley, Davis K, Dugay, Emery, Finch, Flood, Hamper, Hogan, Hotham, Jacobsen, Joy, Lansley, Makas, Marraché, Merrill, Pinkham, Richardson M, Rines, Sherman, Twomey, Vaughan, Walcott.

ABSENT - Barstow, Berube, Bierman, Bliss, Bryant-Deschenes, Farrington, Goldman, Greeley, Kaelin, Millett, Moore G, O'Brien, Pineau, Piotti, Stedman, Tuttle.

Yes, 98; No, 37; Absent, 16; Excused, 0.

98 having voted in the affirmative and 37 voted in the negative, with 16 being absent, and accordingly the Majority Ought Not to Pass Report was ACCEPTED and sent for concurrence.

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

The SPEAKER: The Chair recognizes the Representative from Topsham, Representative Crosby who wishes to address the House on the record.

Representative CROSBY: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. Had I been present in the chamber on roll call 147 I would have voted yea, 148 yea, 149 yea and 150 yea. Thank you Mr. Speaker.

On motion of Representative MCLEOD of Lee, the House adjourned at 7:57 p.m., until 9:00 a.m., Wednesday, May 18, 2005 in honor and lasting tribute to Lyman E. Albert, of Mattawamkeag.