

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

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

Volume III

First Special Session

April 1, 2008 - April 18, 2008

Appendix
House Legislative Sentiments
Index

Pages 1358-2163

ONE HUNDRED AND TWENTY-THIRD LEGISLATURE
FIRST SPECIAL SESSION
3rd Legislative Day
Friday, April 4, 2008

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

Prayer by Pastor Scott Taylor, Enfield Baptist Church.
National Anthem by Suzuki Violin Students, Falmouth.
Pledge of Allegiance.
Doctor of the day, Key Stage, M.D., Camden.

The Journal of Wednesday, April 2, 2008 was read and approved.

SENATE PAPERS

Non-Concurrent Matter

An Act To Amend the Laws Regarding School Funding (EMERGENCY)

(S.P. 741) (L.D. 1932)
(CC. "A" S-467)

FAILED OF PASSAGE TO BE ENACTED in the House on April 2, 2008.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY CONFERENCE COMMITTEE AMENDMENT "A" (S-467) AND SENATE AMENDMENT "D" (S-554) in NON-CONCURRENCE.**

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

Non-Concurrent Matter

Bill "An Act To Require the State To Divest Itself of Funds from Companies Doing Business with Iran"

(S.P. 745) (L.D. 1934)

Unanimous **OUGHT TO PASS AS AMENDED** Report of the Committee on **LABOR READ** and **REJECTED** and the Bill and accompanying papers **INDEFINITELY POSTPONED** in the House on March 25, 2008.

Came from the Senate with the Unanimous **OUGHT TO PASS AS AMENDED** Report of the Committee on **LABOR READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-458) AS AMENDED BY SENATE AMENDMENT "A" (S-530)** thereto in **NON-CONCURRENCE.**

Representative TUTTLE of Sanford moved that the House **RECEDE AND CONCUR.**

On further motion of the same Representative, **TABLED** pending his motion to **RECEDE AND CONCUR** and later today assigned.

Non-Concurrent Matter

Resolve, Regarding Legislative Review of Portions of Chapter 1, Open Water and Ice Fishing Regulations, a Major Substantive Rule of the Department of Inland Fisheries and Wildlife (EMERGENCY)

(H.P. 1602) (L.D. 2241)

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-762) AS AMENDED BY HOUSE AMENDMENT "A" (H-849) thereto in the House on April 2, 2008.

Came from the Senate with that Body having **ADHERED** to its former action whereby the Resolve was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-762) in NON-CONCURRENCE.**

On motion of Representative PINGREE of North Haven, **TABLED** pending **FURTHER CONSIDERATION** and later today assigned.

Non-Concurrent Matter

Bill "An Act To Protect Inland Water Access"

(H.P. 1294) (L.D. 1858)

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-689) in the House on February 28, 2008.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-689) AS AMENDED BY SENATE AMENDMENT "A" (S-463)** thereto in **NON-CONCURRENCE.**

On motion of Representative PIEH of Bremen, **TABLED** pending **FURTHER CONSIDERATION** and later today assigned.

COMMUNICATIONS

The Following Communication: (H.C. 504)

STATE OF MAINE

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

April 2, 2008

Honorable Beth Edmonds, President of the Senate
Honorable Glenn Cummings, Speaker of the House
123rd Maine Legislature
State House

Augusta, Maine 04333

Dear President Edmonds and Speaker Cummings:

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 bills out "Ought Not to Pass":

L.D. 2256 An Act To Modify the City of Portland's Leasing Authority for the Maine State Pier

L.D. 2262 An Act Pertaining to the Definition of "Milk"

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

Sincerely,
S/Sen. John M. Nutting
Senate Chair
S/Rep. Wendy Pieh
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 505)

STATE OF MAINE

**ONE HUNDRED AND TWENTY-THIRD LEGISLATURE
COMMITTEE ON TAXATION**

April 2, 2008

Honorable Beth Edmonds, President of the Senate
Honorable Glenn Cummings, Speaker of the House
123rd Maine Legislature
State House

Augusta, Maine 04333

Dear President Edmonds and Speaker Cummings:

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

L.D. 2229 An Act To Expand the Economic Development Benefit of Tax Increment Financing in Counties

That Include Unorganized Territories
We have also notified the sponsor and cosponsors of the
Committee's action.

Sincerely,
S/Sen. Joseph C. Perry
Senate Chair
S/Rep. John F. Piotti
House Chair

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 503)

STATE OF MAINE

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

March 31, 2008

The Honorable Beth Edmonds
President of the Senate
The Honorable Glenn Cummings
Speaker of the House of Representatives
123rd Legislature
State House
Augusta, ME 04333

Dear Madam President and Mr. Speaker,
Pursuant to Title 3 Maine Revised Statutes, chapter 35, we are
pleased to submit the findings of the Joint Standing Committee
on Education and Cultural Affairs from the review and evaluation
of the Maine Cultural Affairs Council, the Maine Arts Commission,
the Maine Historic Preservation Commission, the Maine Historical
Society, the Maine Library Commission, the Maine State Library,
the Maine State Museum, the Maine State Museum Commission,
and the Office of the State Historian under the State Government
Evaluation Act. In its review, the Committee found that the
Council and the individual cultural agencies are operating within
their statutory authority.

Sincerely,
S/Senator Peter B. Bowman
Senate Chair
S/Representative Jacqueline R. Norton
House Chair

**READ and with accompanying papers ORDERED PLACED
ON FILE.**

The Following Communication: (S.C. 736)

**MAINE SENATE
123RD MAINE LEGISLATURE
OFFICE OF THE SECRETARY**

April 2, 2008

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

Dear Clerk MacFarland:

Please be advised the Senate today insisted to its previous
action whereby it Indefinitely Postponed Bill "An Act To Ensure
Adequate Funding for the Oversight of Spent Nuclear Fuel
Storage in Maine" (EMERGENCY) (H.P. 1351) (L.D. 1918) and
all accompanying papers.

Sincerely,
S/Joy J. O'Brien
Secretary of the Senate

READ and ORDERED PLACED ON FILE.

**PETITIONS, BILLS AND RESOLVES REQUIRING
REFERENCE**

Bill "An Act To Remove Impediments to Changing County
Government Fiscal Years"

(H.P. 1660) (L.D. 2302)

Sponsored by Representative MILLETT of Waterford.

Cosponsored by Representatives: HAYES of Buckfield,
PATRICK of Rumford, SYKES of Harrison.

Approved for introduction by a majority of the Legislative Council
pursuant to Joint Rule 205.

Committee on **APPROPRIATIONS AND FINANCIAL
AFFAIRS** suggested and ordered printed.

On motion of Representative CAIN of Orono, the Bill was
REFERRED to the Committee on **STATE AND LOCAL
GOVERNMENT**, ordered printed and sent for concurrence.

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

ORDERS

On motion of Representative WHEELER of Kittery, the
following House Order: (H.O. 45)

ORDERED, that Representative Harold Ian Emery of Cutler
be excused March 25, 26 and April 1 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative
Jacqueline A. Lundeen of Mars Hill be excused March 28 for
personal reasons.

AND BE IT FURTHER ORDERED, that Representative Anne
C. Perry of Calais be excused March 17 and 31 for personal
reasons.

AND BE IT FURTHER ORDERED, that Representative
James M. Schatz of Blue Hill be excused March 19 for legislative
business.

AND BE IT FURTHER ORDERED, that Representative
Douglas A. Thomas of Ripley be excused March 27 and 28 for
health reasons.

READ and PASSED.

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

UNFINISHED BUSINESS

The following matter, in the consideration of which the House
was engaged at the time of adjournment Wednesday, April 2,
2008, had preference in the Orders of the Day and continued with
such preference until disposed of as provided by House Rule
502.

Expression of Legislative Sentiment Recognizing the
Winthrop High School Boys Basketball Team, winners of the
Class C Boys Basketball State Championship

(SLS 550)

- In Senate, **READ and PASSED.**

TABLED - March 14, 2008 (Till Later Today) by Representative
FLOOD of Winthrop.

PENDING - PASSAGE.

The **SPEAKER**: The Chair recognizes the Representative
from Winthrop, Representative Flood.

Representative **FLOOD**: Thank you Mr. Speaker. Mr.
Speaker, Ladies and Gentlemen of the House. I want to say
welcome to the Winthrop High Boys Basketball Team, their
coaches and parents and their managers, as our guests today.
Congratulations to Coach Dacus, Coach Ozment, Coach Tucker,

and Coach Declaire, and their managers Jack Barter and Kevin Mullen, and special congratulations to the championship team members: Skylar Whaley, Tom Conley, Larry Foster, Tim Gingras, Sam Mullin, Billy Gordon, Dave Ketchen, Jake Steele, Sam Leclerc, Ezra Damm, Andrew Smithgall, Zack Farrington, Jordan Conant, Andy Emery, Easton Morang.

I believe I may be the only Representative, this year, to be fortunate enough to have two state basketball champions being honored in this House, and despite the belief of many of you in this chamber that I am somehow responsible and to take full credit for that outcome, I do not think it really has anything to do with me. I am sure that it has everything to do with their coaches and their good strategies and their planning, and the helpfulness of their managers and the many parents, hard practices, weightlifting, aerobic training, and the teamwork developed over the last several years.

Great teams also overcome adversity and you have done that; that is what champions do. We all marveled at the pace with which the coaches had the team play this year, on both offense and defense. Playing at that pace is exhausting to most players after just a few minutes, yet some of these very fit players would play nearly the entirety of many games at a terrific pace. Congratulations, Ramblers, for your preparedness, your teamwork and your championship mindset, and congratulations on your state championship. I hope, Ramblers, that you enjoy this rewarding time, but remember, even as much fun as this has been, as young people, your best years are still ahead on you. Best wishes to you all. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Newport, Representative Tardy.

Representative **TARDY**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I, too, would like to rise to congratulate Coach Dacus and the Winthrop team on a job well done. I would also just like to pass along a hello and special acknowledgement to a player that I am particularly proud of, Sam Leclerc. Sam is somebody that I have had in an AAU program for a couple of years. He helped lead a team that I was part of to an 11th place finish in the national championships at AAU last year. He has done particularly well in his high school. He has just been named the Kennebec Journal Co-Player of the Year. He was a Mr. Basketball finalist, and I am very proud of the fact that he has made a decision; he is going to head off to Bryant College next year on a full scholarship and help that program, take it to the Division I level, play for a good friend of mine and that is good. Sam, continue up with the good work. Congratulations, Winthrop, you should all be proud.

The SPEAKER: The Chair recognizes the Representative from Livermore Falls, Representative Knight.

Representative **KNIGHT**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I, too, want to congratulate the Ramblers of Winthrop. They played my team, the Andies of Livermore Falls, and rolled over them decisively this year. Part of that, I think, is due to one of their assistant coaches, or player, one of my former neighbors. I want to congratulate Mr. Leclerc and his entire team in terrific success. Good job, all of you.

Subsequently, the Legislative was **PASSED** in concurrence.

REPORTS OF COMMITTEE

Ought to Pass Pursuant to Public Law

Report of the **Joint Standing Committee on Health and Human Services** on Bill "An Act To Modernize the Local Health Officer Statutes"

(S.P. 915) (L.D. 2294)

Reporting **Ought to Pass** pursuant to Public Law 2007, chapter 462, section 7.

Came from the Senate with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.

Report was **READ** and **ACCEPTED**.

The Bill was **READ ONCE**.

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

Under further suspension of the rules, the Bill was **PASSED TO BE ENGROSSED** in concurrence.

Representative NORTON for the **Joint Standing Committee on Education and Cultural Affairs** on Bill "An Act To Make Technical Corrections in the Laws Regarding Funding Adult Education Programs and the Closure of an Elementary School in a School District" (EMERGENCY)

(H.P. 1658) (L.D. 2299)

Reporting **Ought to Pass** pursuant to Public Law 2007, chapter 240, Part XXXX, section 47.

Report was **READ** and **ACCEPTED**.

The Bill was **READ ONCE**.

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

Under further suspension of the rules, the Bill was **PASSED TO BE ENGROSSED** and sent for concurrence.

Ought to Pass Pursuant to Resolve

Representative PERRY for the **Joint Standing Committee on Health and Human Services** on Bill "An Act To Amend the Maine Certificate of Need Act of 2002" (EMERGENCY)

(H.P. 1659) (L.D. 2301)

Reporting **Ought to Pass** pursuant to Resolve 2007, chapter 110.

Report was **READ** and **ACCEPTED**.

On motion of Representative PERRY of Calais, the House **RECONSIDER** its action whereby the **Ought to Pass** Report was **ACCEPTED**.

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

Representative NORTON for the **Joint Standing Committee on Education and Cultural Affairs** on Bill "An Act To Implement the Recommendations of the Alternative Education Programs Committee"

(H.P. 1661) (L.D. 2303)

Reporting **Ought to Pass** pursuant to Resolve 2007, chapter 124, section 8.

Report was **READ** and **ACCEPTED**.

The Bill was **READ ONCE**.

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

Under further suspension of the rules, the Bill was **PASSED TO BE ENGROSSED** and sent for concurrence.

Ought to Pass Pursuant to Joint Order

Representative BARSTOW for the **Joint Standing Committee on State and Local Government** on Bill "An Act To Improve the Reporting Requirements of Boards and Commissions"

(H.P. 1657) (L.D. 2298)

Reporting **Ought to Pass** pursuant to Joint Order, H.P. 1635.

Report was **READ** and **ACCEPTED**.

The Bill was **READ ONCE**.

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

Under further suspension of the rules, the Bill was **PASSED TO BE ENGROSSED** and sent for concurrence.

Refer to the Committee on Transportation Pursuant to Resolve

Representative MARLEY for the **Joint Standing Committee on Transportation** on Bill "An Act To Require That a Person Be a Maine Resident in Order To Be Issued a Maine Driver's License" (EMERGENCY)

(H.P. 1662) (L.D. 2304)

Reporting that it be **REFERRED** to the Committee on **TRANSPORTATION** pursuant to Resolve 2007, chapter 24.

Report was **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **TRANSPORTATION**.

Sent for concurrence.

Divided Reports

Majority Report of the Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass** on Bill "An Act To Join the Interstate Compact on the National Popular Vote"

(S.P. 611) (L.D. 1744)

Signed:

Senators:

MARRACHÉ of Kennebec

BRYANT of Oxford

Representatives:

PATRICK of Rumford

TRINWARD of Waterville

TUTTLE of Sanford

CAREY of Lewiston

BRYANT of Windham

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

Signed:

Senator:

PLOWMAN of Penobscot

Representatives:

NASS of Acton

PINKHAM of Lexington Township

Came from the Senate with the Majority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.

READ.

Representative PATRICK of Rumford moved that the House **ACCEPT** the Majority **Ought to Pass** Report.

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

Majority Report of the Committee on **UTILITIES AND ENERGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-545)** on Resolve, Regarding ISO New England (EMERGENCY)

(S.P. 884) (L.D. 2254)

Signed:

Senators:

BARTLETT of Cumberland

HOBBS of York

SMITH of Piscataquis

Representatives:

BLANCHARD of Old Town

RINES of Wiscasset

BLISS of South Portland

FLETCHER of Winslow

ADAMS of Portland

FITTS of Pittsfield

BERRY of Bowdoinham

HINCK of Portland

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

Signed:

Representatives:

THIBODEAU of Winterport

CURTIS of Madison

Came from the Senate with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-545)**.

READ.

On motion of Representative BLISS of South Portland, the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Resolve was **READ ONCE**. **Committee Amendment "A" (S-545)** was **READ** by the Clerk and **ADOPTED**. The Resolve was assigned for **SECOND READING** Monday, April 7, 2008.

CONSENT CALENDAR

First Day

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

(S.P. 362) (L.D. 1110) Bill "An Act To Create the Maine Council on Poverty and Economic Security" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-548)**

(S.P. 761) (L.D. 1967) Bill "An Act To Establish a Consumer Council System of Maine Consistent with the AMHI Consent Decree and the State's Comprehensive Mental Health Plan" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-547)**

(S.P. 794) (L.D. 2000) Bill "An Act To Authorize the Department of Health and Human Services To Investigate Suspicious Deaths of Children" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-552)**

(S.P. 849) (L.D. 2206) Bill "An Act To Improve the Operation of 'Texas Hold 'Em' Tournaments" Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-546)**

(S.P. 862) (L.D. 2230) Bill "An Act To Amend the Laws Governing Reports Related to Natural Resources" Committee on **NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-544)**

(H.P. 1251) (L.D. 1797) Bill "An Act To Fund Maine's HealthInfoNet Program" Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-900)**

(H.P. 1361) (L.D. 1923) Bill "An Act To Implement the Recommendations of the Right To Know Advisory Committee Creating the Public Access Ombudsman" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-904)**

(H.P. 1430) (L.D. 2046) Bill "An Act Concerning Certain Excavations" Committee on **NATURAL RESOURCES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-897)**

(H.P. 1479) (L.D. 2093) Bill "An Act To Help Prevent Identity Theft" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-905)**

(H.P. 1562) (L.D. 2192) Bill "An Act To Increase Access to Dental Care" Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-902)**

(H.P. 1571) (L.D. 2202) Bill "An Act To Allow the Town of Kittery To Implement a Program To Abate Taxes for Senior Citizens in Exchange for Public Service" Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-903)**

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

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

CONSENT CALENDAR
Second Day

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

(S.P. 528) (L.D. 1505) Bill "An Act To Adopt the Revised Uniform Anatomical Gift Act" (C. "A" S-527)

(S.P. 784) (L.D. 1990) Resolve, To Prevent Domestic Violence and Protect Our Citizens (C. "A" S-525)

(H.P. 1383) (L.D. 1947) Bill "An Act To Clarify the Waste Motor Oil Disposal Site Remediation Program" (C. "A" H-894)

(H.P. 1559) (L.D. 2189) Bill "An Act To Protect Homeowners from Equity Stripping during Foreclosure" (C. "A" H-892)

(H.P. 1632) (L.D. 2269) Bill "An Act To Strengthen Maine's Consumer Protections against 'Slamming'" (C. "A" H-893)

No objections having been noted at the end of the Second Legislative Day, the Senate Papers were **PASSED TO BE ENGROSSED as Amended** in concurrence and the House 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**.

At this point, the Speaker recognized the Representative from Scarborough, Representative PENDLETON, and she was added to the quorum call of the First Special Session of the 123rd Legislature.

BILLS IN THE SECOND READING
Senate

Resolve, Implementing the Recommendations of the Commission To Study Primary Care Medical Practice
(S.P. 910) (L.D. 2286)

Senate as Amended

Bill "An Act To Enhance Economic Development in Maine's Aviation Industry"

(S.P. 770) (L.D. 1976)
(C. "A" S-485)

House

Bill "An Act To Implement the Recommendations of the Working Group To Study the Effectiveness and Timeliness of Early Identification and Intervention for Children with Hearing Loss in Maine"

(H.P. 1655) (L.D. 2295)

House as Amended

Bill "An Act To Protect the Health of Infants"

(H.P. 507) (L.D. 658)
(C. "B" H-891)

Bill "An Act To Amend the Municipal Boundary between the Town of Old Orchard Beach and the City of Saco"

(H.P. 1558) (L.D. 2188)
(C. "A" H-896)

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

Bill "An Act To Eliminate the Property Tax on Business Equipment Owned by Small Retailers"

(S.P. 318) (L.D. 1001)
(C. "B" S-459)

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

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

Senate Amendment "A" (S-543) was **READ** by the Clerk and **ADOPTED**.

Subsequently, the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "B" (S-459)** and **Senate Amendment "A" (S-543)** in concurrence.

Bill "An Act To Raise the Per Diem Rate for Members of the Board of Environmental Protection and the Maine Land Use Regulation Commission"

(S.P. 763) (L.D. 1969)
(C. "B" S-489)

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

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

Subsequently, the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "B" (S-489)** in **NON-CONCURRENCE** and sent for concurrence.

(H.P. 1422) (L.D. 2038)
(C. "A" H-741)

Bill "An Act To Amend the Laws Governing Lobbyist Disclosure"

(H.P. 1452) (L.D. 2068)

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

On motion of Representative TARDY of Newport, was **SET ASIDE**.

Subsequently, the Bill was **PASSED TO BE ENGROSSED** and sent for concurrence.

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

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

ENACTORS

Emergency Measure

An Act To Restore Diadromous Fish in the St. Croix River

(S.P. 751) (L.D. 1957)

(C. "A" S-505)

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

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

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

ROLL CALL NO. 318

YEA - Adams, Austin, Barstow, Beaudette, Beaudoin, Beaulieu, Berube, Blanchard, Bliss, Boland, Brautigam, Briggs, Browne W, Bryant, Cain, Campbell, Canavan, Carey, Carter, Casavant, Cebra, Chase, Clark, Cleary, Connor, Conover, Craven, Cray, Crosthwaite, Driscoll, Duchesne, Dunn, Duprey, Eaton, Edgecomb, Faircloth, Farrington, Finch, Fisher, Fitts, Fletcher, Flood, Gerzofsky, Giles, Gould, Greeley, Grose, Hamper, Hanley S, Harlow, Haskell, Hayes, Hill, Hinck, Hogan, Jones, Kaenrath, Knight, Koffman, Lundeen, MacDonald, Makas, Marean, Marley, Mazurek, McDonough, McKane, Miller, Millett, Mills, Miramant, Moore, Nass, Norton, Patrick, Pendleton, Peoples, Percy, Perry, Pieh, Pilon, Pineau, Pingree, Piotti, Plummer, Pratt, Prescott, Priest, Rector, Richardson D, Richardson W, Rines, Robinson, Rosen, Samson, Sarty, Savage, Saviello, Schatz, Silsby, Simpson, Sirois, Smith N, Strang Burgess, Sykes, Tardy, Theriault, Thibodeau, Treat, Trinward, Tuttle, Valentino, Wagner, Walker, Watson, Weaver, Webster, Woodbury, Mr. Speaker.

NAY - Ayotte, Cotta, Curtis, Finley, Gifford, Jacobsen, Johnson, Joy, Lansley, Lewin, McFadden, McLeod, Pinkham, Thomas, Tibbetts, Vaughan, Wheeler.

ABSENT - Annis, Babbidge, Berry, Blanchette, Burns, Crockett, Dill, Eberle, Emery, Fischer, Jackson, Muse, Rand, Sutherland, Weddell.

Yes, 119; No, 17; Absent, 15; Excused, 0.

119 having voted in the affirmative and 17 voted in the negative, with 15 being absent, and accordingly Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act Regarding Clinical Review of Certain Requests for Involuntary Mental Health Treatment

(S.P. 844) (L.D. 2193)

(C. "A" S-445; H. "A" H-886)

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. 136 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 Promote the Agricultural Economy

(H.P. 1606) (L.D. 2245)

(C. "A" H-862)

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. 135 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, Regarding Legislative Review of Portions of Chapter 101: Maine Unified Special Education Regulation, a Major Substantive Rule of the Department of Education

(H.P. 1516) (L.D. 2136)

(H. "A" H-808 to C. "A" H-763)

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

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

Representative **MAKAS**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I do support the passage of this message; however, I want to make a statement about it for the record. We have considered these sections in the Department of Education's proposed Chapter 101 Regulations twice regarding the adverse affect and "needs special education" and related services language", a language very similar to what is contained in these sections. Both times, we, as a legislative body, have rejected the Department's proposed language. Our actions in this regard, this year and last year, should make it clear that we, the Legislature, do not find this language acceptable for interpretation of clarification of the Federal law and regulation regarding determination of a student's eligibility for Special Education services. For this reason, I want to emphasize on the record that this language is not what we expect to be provided as guidance to school administrative units in accordance with Section 2 of this Resolve, LD 2136. Instead, we expect the Department Education to provide guidance that will emphasize the responsibility of IEP teams to focus on each individual student's needs and limitations in determining eligibility for Special Education services. Thank you and when the vote is

Emergency Measure

An Act To Establish the Shellfish Advisory Council and To Improve the Process of Reopening Clam Flats

taken, I request a roll call.

Representative MAKAS of Lewiston **REQUESTED** a roll call on **FINAL PASSAGE**.

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

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

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

ROLL CALL NO. 319

YEA - Adams, Austin, Babbidge, Barstow, Beaudette, Beaudoin, Beaulieu, Berry, Berube, Blanchard, Bliss, Boland, Brautigam, Briggs, Bryant, Burns, Cain, Campbell, Canavan, Carey, Carter, Clark, Cleary, Connor, Conover, Craven, Cray, Dill, Driscoll, Duchesne, Dunn, Duprey, Eaton, Eberle, Faircloth, Farrington, Finley, Fisher, Fitts, Fletcher, Flood, Gerzofsky, Giles, Greeley, Grose, Hamper, Hanley S, Harlow, Haskell, Hayes, Hill, Hogan, Jones, Kaenrath, Knight, Koffman, Lundeen, MacDonald, Makas, Marley, Mazurek, McDonough, Miller, Millett, Miramant, Moore, Norton, Patrick, Pendleton, Peoples, Percy, Perry, Pieh, Pilon, Pineau, Pingree, Piotti, Plummer, Pratt, Prescott, Priest, Rector, Richardson W, Rines, Robinson, Rosen, Samson, Savage, Saviello, Schatz, Silsby, Simpson, Sirois, Smith N, Strang Burgess, Theriault, Thibodeau, Treat, Trinward, Tuttle, Wagner, Watson, Weaver, Webster, Weddell, Wheeler, Woodbury, Mr. Speaker.

NAY - Annis, Ayotte, Browne W, Casavant, Cebra, Chase, Cotta, Crosthwaite, Curtis, Edgecomb, Finch, Gifford, Gould, Jacobsen, Johnson, Joy, Lansley, Lewin, Marean, McFadden, McKane, McLeod, Nass, Pinkham, Richardson D, Sarty, Sykes, Thomas, Tibbetts, Vaughan, Walker.

ABSENT - Blanchette, Crockett, Emery, Fischer, Hinck, Jackson, Mills, Muse, Rand, Sutherland, Tardy, Valentino.

Yes, 108; No, 31; Absent, 12; Excused, 0.

108 having voted in the affirmative and 31 voted in the negative, with 12 being absent, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

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

Emergency Measure

Resolve, Regarding Legislative Review of Portions of Chapter 120: Release of Data to the Public, a Major Substantive Rule of the Maine Health Data Organization

(H.P. 1542) (L.D. 2167)
(C. "A" H-860)

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. 135 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 Regarding MaineCare Pharmacy Professional Fees
(H.P. 321) (L.D. 405)
(C. "A" H-859)

An Act To Protect Electricity Consumers of Maine

(S.P. 796) (L.D. 2002)
(C. "A" S-521)

An Act To Allow Road Associations To Determine Assessments According to Majority Vote Cast at a Duly Held Meeting

(H.P. 1488) (L.D. 2102)
(S. "A" S-531 to C. "A" H-818)

An Act To Make Clam Flat Status Notification More Efficient, Cost-effective and Economically Beneficial to the Shellfish Industry

(H.P. 1508) (L.D. 2129)
(H. "A" H-789 and S. "A" S-535 to C. "B" H-728)

An Act To Amend the Requirements for Approval of the Use of Physical Restraints

(H.P. 1518) (L.D. 2138)

An Act To Increase the Number of Mandated Reporters of Abuse, Neglect or Exploitation and To Clarify the Probation Laws Relating to Violation of Protection Orders

(H.P. 1604) (L.D. 2243)
(C. "A" H-870)

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 Achieve Universal Blood Lead Level Screening of Maine Children

(H.P. 1546) (L.D. 2172)
(C. "A" H-861)

Resolve, To Create a Deer Predation Working Group

(H.P. 1650) (L.D. 2288)
(H. "A" H-884)

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 Provide Property Tax Relief to Maine Veterans

(H.P. 1485) (L.D. 2099)
(C. "A" H-856)

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

On motion of Representative **CROSTHWAITE** of Ellsworth, was **SET ASIDE**.

The same Representative **REQUESTED** a roll call on **PASSED 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 Passage to be Enacted. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 320

YEA - Adams, Annis, Austin, Ayotte, Babbidge, Barstow, Beaudette, Beaudoin, Beaulieu, Berry, Berube, Blanchard, Bliss, Boland, Brautigam, Briggs, Browne W, Bryant, Burns, Cain, Campbell, Canavan, Carey, Carter, Casavant, Cebra, Chase, Clark, Cleary, Connor, Conover, Cotta, Cray, Crosthwaite, Curtis, Dill, Driscoll, Duchesne, Dunn, Duprey, Eaton, Eberle, Edgecomb, Faircloth, Farrington, Finch, Finley, Fisher, Fitts, Fletcher, Flood, Gerzofsky, Gifford, Giles, Gould, Greeley, Grose, Hamper, Hanley S, Harlow, Haskell, Hayes, Hill, Hinck, Hogan, Jacobsen, Johnson, Jones, Joy, Kaenrath, Knight, Koffman, Lansley, Lewin, Lundeen, MacDonald, Makas, Marean, Marley, Mazurek, McDonough, McFadden, McKane, McLeod,

Miller, Millett, Mills, Moore, Nass, Norton, Patrick, Pendleton, Peoples, Percy, Perry, Pieh, Pilon, Pineau, Pingree, Pinkham, Piotti, Plummer, Pratt, Prescott, Priest, Rector, Richardson D, Richardson W, Rines, Robinson, Rosen, Samson, Sarty, Savage, Saviello, Schatz, Silsby, Simpson, Sirois, Strang Burgess, Sykes, Theriault, Thibodeau, Thomas, Tibbetts, Treat, Trinward, Tuttle, Valentino, Vaughan, Wagner, Walker, Watson, Weaver, Webster, Weddell, Wheeler, Woodbury, Mr. Speaker.

NAY - NONE.

ABSENT - Blanchette, Craven, Crockett, Emery, Fischer, Jackson, Miramant, Muse, Rand, Smith N, Sutherland, Tardy.

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 Protect Lake Water Quality

(H.P. 1610) (L.D. 2249)
(C. "A" H-864)

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

On motion of Representative FAIRCLOTH of Bangor, 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 Passage to be Enacted. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 321

YEA - Adams, Austin, Ayotte, Babbidge, Barstow, Beaudette, Berry, Berube, Blanchard, Bliss, Boland, Brautigam, Briggs, Browne W, Bryant, Cain, Campbell, Canavan, Carey, Carter, Cebra, Chase, Clark, Cleary, Connor, Conover, Cotta, Crosthwaite, Curtis, Driscoll, Duchesne, Dunn, Duprey, Eaton, Eberle, Edgecomb, Faircloth, Farrington, Finch, Finley, Fisher, Fitts, Fletcher, Flood, Gerzofsky, Gifford, Giles, Gould, Greeley, Grose, Hamper, Hanley S, Harlow, Haskell, Hill, Hinck, Hogan, Jacobsen, Johnson, Jones, Kaenrath, Knight, Koffman, Lansley, Lewin, Lundeen, MacDonald, Makas, Marean, Marley, Mazurek, McDonough, McFadden, McKane, McLeod, Millett, Mills, Miramant, Moore, Nass, Norton, Patrick, Pendleton, Peoples, Percy, Perry, Pieh, Pilon, Pineau, Pingree, Pinkham, Piotti, Plummer, Pratt, Prescott, Priest, Rector, Richardson D, Richardson W, Rines, Robinson, Rosen, Samson, Sarty, Savage, Saviello, Schatz, Silsby, Simpson, Sirois, Strang Burgess, Sykes, Thibodeau, Thomas, Tibbetts, Treat, Trinward, Tuttle, Valentino, Vaughan, Wagner, Walker, Watson, Weaver, Webster, Weddell, Wheeler, Woodbury, Mr. Speaker.

NAY - Cray, Theriault.

ABSENT - Annis, Beaudoin, Beaulieu, Blanchette, Burns, Casavant, Craven, Crockett, Dill, Emery, Fischer, Hayes, Jackson, Joy, Miller, Muse, Rand, Smith N, Sutherland, Tardy.

Yes, 129; No, 2; Absent, 20; Excused, 0.

129 having voted in the affirmative and 2 voted in the negative, with 20 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Resolve, To Direct a Review of Issues Concerning the Maine Tree Growth Tax Law

(H.P. 421) (L.D. 543)
(S. "A" S-526 to C. "A" H-656)

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

On motion of Representative PIOTTI of Unity, was **SET ASIDE**.

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

Resolve, Directing the Commissioner of Agriculture, Food and Rural Resources To Evaluate and Recommend Revisions to the Animal Welfare Laws and Department Rules Regarding Breeding Kennels

(H.P. 1394) (L.D. 2010)
(C. "A" H-803)

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

On motion of Representative PRATT of Eddington, was **SET ASIDE**.

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

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

UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment Wednesday, April 2, 2008, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

Resolve, Regarding Legislative Review of Chapter 61: State Board of Education Rules for Major Capital School Construction Projects, a Major Substantive Rule of the Department of Education and the State Board of Education (EMERGENCY)

(H.P. 1503) (L.D. 2123)
(C. "B" H-869)

TABLED - April 2, 2008 (Till Later Today) by Representative PINGREE of North Haven.

PENDING - **PASSAGE TO BE ENGROSSED**. (Roll Call Ordered)

The **SPEAKER**: The Chair recognizes the Representative from Caribou, Representative Edgecomb.

Representative **EDGECOMB**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise to make a correction in what was said yesterday. The Minority Report does have a 10-point penalty for school construction if you do not choose to regionalize; and the Majority Report, I am sorry to report to you, there is no cull pile involved in the Majority Report, as I reported yesterday. There is no penalty in the Majority Report if you choose not to regionalize, you will not be penalized for school construction so, hopefully, the money will be spent where it is needed. So if you support the Majority Report, we need to vote down the Minority Report. Thank you.

Representative SILSBY of Augusta **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 Bangor, Representative Norton.

Representative **NORTON**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I will try to give you a quick little primer of points on the construction list: We were shown the construction list; we were told that the top 20 to 24 items were in line to be funded and nothing would happen to

those particular projects. In looking at the school construction list, since we are looking at 20 to 24 generally being funded in a group, the difference in points in that first group, I believe, ranged approximately 20 points: the top school being 136.7 points; the bottom one in that group being somewhere in the vicinity of 115 to 166. The next 20 projects on the list had a range, a span of points of about 16 points; the next 20, about 18 points; and the last group, which contained only 4 schools, had a range of 20 points, so it did not appear that 10 points was a make and break deal for very many schools. Now, I am not trying to minimize that because obviously if you are at the bottom of the first list, very closely dropping into the second group of schools being funded here from year to year, it could make a difference in you being delayed that period of time. However, in today's world, schools costing in the vicinity of \$35 to \$62 million and, as we know, the reason people get on these lists is to get their schools funded. Unless a community decides to fund its school completely on its own, which is almost totally unheard of, because when you are on the construction list and you get to that point where you are getting a new school, the state picks up the entire tab. Now that is how we all feel, but again, that is that lump of money called state money and we all know where state money comes from, we all pay for it.

I think there is a real need for schools to look to be, first of all, effective. We have to have new school buildings that are effective, we want our children educated well and in the proper environment, and a safe healthy environment, so schools have to be effective. But we also hope that when people access that money, it is going to totally pay for their new school if they are conforming and all, that they are also looking for efficiencies. So the Minority Report which was read, I noticed again that both reports were bipartisan; the Minority Report had three Senators on it. But if you look at the summaries of the reports, there is a 10 point difference between: the Majority has no penalty, the Minority retained the 10 point penalty that was in the bill, and it also asked that the applicant's school administrative unit, or school, demonstrate that the proposed solution is equivalent to or better than options after taking into consideration all resources and facilities within the region, including those that are reasonably available from other school administrative units. Of course, the bad thing and I even saw this within communities, that a community would have several schools on the list, so we are looking at everyone to look for efficiencies. If a town that had six schools on the construction list could be convinced that, if it was best, that one school could be built instead of six, it certainly does not cost us much to build a school that can accommodate in six of those schools, six times as much as it would to build one school. So we were hopefully that each community and each district that needed schools would definitely look for the efficiencies. When we are talking about regions, it would be very bad if two communities very close to each other but just hadn't decided who they were going to go with, each built a new school that was perhaps two miles from each other and then a year from now decide to go together themselves and, in fact, maybe even only decide to use one school. So there was real concern about, first of all, effectiveness, and efficiency. I hope I have answered some of the questions about school consolidations.

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

Representative **FARRINGTON**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I do want to speak briefly in opposition to the pending motion on the Minority Report so that we can move on the Majority Report. I will try not to repeat things that have already been said, but this is a rule that was done in response to the consolidation law that we passed,

asking the State Board to include a penalty on school construction for districts whose citizens vote against proposed consolidation.

In looking at the proposed 10-point penalty that the State Board has brought us, and trying to analyze a little bit the current school construction lists, there were 66 proposals made. It is a 200-point scale; the maximum you could receive is 200 points. The number one rated project on the list got 136.7 points, so 136 out of 200; this is not a rating scale that is overly generous to begin with, it is difficult to get the level of points that you would need to get your project funded. Twenty of the 66 proposals are in line to be funded. Basically, they are ranked and then depending on how much money is available for construction, the money is allocated based on the ratings scale. The difference between the 20th and the 21st on the list—in other words, the cutoff point, the project proposal that made the cut and the next one in line that did not—the difference between those two is 7/100ths of a point. That is .07 points. To include a 10-point penalty based on a consolidation vote would be devastating to many of the proposals. The notion of including a penalty on school construction is something that we approved, but to do it with such a severe penalty, a 10-point penalty, if that were in place for the projects currently on the list, the top six on the list could absorb that 10-point penalty and still make the cut. From 7 though 20 that currently are in line for funding, if they were in a position to have to take this penalty, they would drop below the funding level. So 10 points is a very significant penalty and, in the judgment of the majority on committee, was too severe, so I would urge you to vote against the pending motion and move on to the Majority Report. Thank you, Mr. Speaker.

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

Representative **MAKAS**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I am on the Majority Report on this measure; however, I will confess that when I voted in favor of that motion, I believe that we were voting for a 5-point penalty rather than a 10-point penalty, or zero penalties. Therefore, I will be voting in favor of the current motion, feeling that no penalty is also not correct. Thank you.

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

Representative **WATSON**: Thank you Mr. Speaker. I appreciate this conversation, I particularly appreciate the good Representative clearing up the confusion over potato culls, and I appreciate the Chair of the Committee and her compatriot explaining those two. I would like to pose a question through the Chair, however.

The SPEAKER: The Representative may pose his question.

Representative **WATSON**: Thank you, Mr. Speaker. Can someone please tell us which version is currently posted to be voted upon?

The Chair reminded the members to confine their debate to the question before the House.

The SPEAKER: Let me just help clarify from the Chair's perspective: The body has already voted for what was once the Minority Report. The pending motion before the House now is Passage to be Engrossed of that Report. It really is not appropriate to be debating the Minority or Majority Reports. It is the Engrossment of the already passed Minority Report.

The Chair recognizes the Representative from Greenville, Representative Johnson.

Representative **JOHNSON**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This is another indication of consolidation law that is designed with one-size fits all, in a diverse and rural state where one size does not fit all, so

we are talking about penalties to force compliance with the law. I recommend that you vote against the Minority Report. Thank you.

The SPEAKER: The Chair recognizes the Representative from Dennysville, Representative McFadden.

Representative **McFADDEN**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I hate to disagree with my good Chair from Bangor, Representative Norton, but I have a school, not in my district by near my district, that is 10th on the list. If they impose this 10-point penalty that puts them down below so they are dropped out of the order for school construction. The problem is, is that they are a proposed RSU between two more, and they cannot come up with 1,200 kids no matter how hard they try, so I urge you to vote no on this pending motion.

The SPEAKER: A roll call having previously been ordered. The pending question before the House is Passage to be Engrossed. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 322

YEA - Adams, Babbidge, Barstow, Beaudette, Blanchard, Bliss, Boland, Brautigam, Briggs, Bryant, Cain, Campbell, Carey, Casavant, Craven, Dill, Driscoll, Dunn, Duprey, Faircloth, Fisher, Flood, Gerzofsky, Giles, Grose, Harlow, Haskell, Hinck, Jones, Kaenrath, Knight, Koffman, Makas, Marley, McDonough, Millett, Mills, Miramant, Norton, Patrick, Peoples, Percy, Perry, Pilon, Pingree, Plummer, Priest, Rines, Robinson, Samson, Simpson, Strang Burgess, Tuttle, Valentino, Wagner, Walker, Watson, Webster, Wheeler, Mr. Speaker.

NAY - Annis, Austin, Ayotte, Beaudoin, Beaulieu, Berry, Berube, Browne W, Burns, Canavan, Carter, Cebra, Chase, Clark, Connor, Conover, Cotta, Cray, Crosthwaite, Curtis, Duchesne, Eaton, Eberle, Edgecomb, Farrington, Finch, Finley, Fitts, Fletcher, Gifford, Gould, Greeley, Hamper, Hanley S, Hayes, Hill, Hogan, Jacobsen, Johnson, Joy, Lansley, Lewin, Lundeen, MacDonald, Marean, Mazurek, McFadden, McKane, McLeod, Miller, Moore, Nass, Pendleton, Pieh, Pinkham, Piotti, Pratt, Prescott, Rector, Richardson D, Richardson W, Rosen, Sarty, Savage, Saviello, Schatz, Silsby, Sirois, Smith N, Sykes, Theriault, Thibodeau, Thomas, Tibbetts, Treat, Trinward, Weaver, Weddell, Woodbury.

ABSENT - Blanchette, Cleary, Crockett, Emery, Fischer, Jackson, Muse, Pineau, Rand, Sutherland, Tardy, Vaughan.

Yes, 60; No, 79; Absent, 12; Excused, 0.

60 having voted in the affirmative and 79 voted in the negative, with 12 being absent, and accordingly the Resolve **FAILED PASSAGE TO BE ENGROSSED**. Sent for concurrence.

Bill "An Act To Amend the Axle Weight Laws for Trucks Transporting Unprocessed Agricultural Products and Forest Products" (EMERGENCY)

(H.P. 1576) (L.D. 2209)

(H. "A" H-888 to C. "B" H-872)

TABLED - April 2, 2008 (Till Later Today) by Representative THOMAS of Ripley.

PENDING - Motion of Representative MAZUREK of Rockland to **RECONSIDER ADOPTION OF COMMITTEE AMENDMENT "B" (H-872)**.

Representative THOMAS of Ripley **REQUESTED** a roll call on the motion to **RECONSIDER ADOPTION of Committee Amendment "B" (H-872)**.

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 Ripley, Representative Thomas.

Representative **THOMAS**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. We got it right the other day, and if we can reconsider what we did earlier this week, we are going to put in jeopardy \$30 million worth of federal highway funds. I would ask you, please don't do that, let's not reconsider. Thank you.

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. I am going to support this reconsideration. I think the issue here is, currently, what we voted for is a more limited axle weight bill, which does have an amendment currently on it that protects those federal dollars. If you were to go to the Reconsideration and go to a larger law on axle weights covering all vehicles, and I think it is a fairness issue here, you have people along the coast that have concerns. You know where I stand on this issue: my heart is one place and my brain is in the other, you voted with my heart, but I think you would be able to amend it to try to protect those federal dollars.

I am going to support the Reconsideration. I think it is fair to have that debate. We should have a thorough debate on, if we do this, if it should consider all trucks. I hope you will, as a courtesy, support the Reconsideration so we can have a larger debate over which of these amendments, which direction we should go as real good, state policy. Thank you.

The SPEAKER: The Chair recognizes the Representative from Ripley, Representative Thomas.

Representative **THOMAS**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Yes, if we were to consider other options, they would open it up to everyone. But the way this bill was designed, this bill wasn't designed to give trucks more weight to haul.

The Chair reminded Representative THOMAS of Ripley to confine his debate to the question before the House.

The SPEAKER: The Chair would ask the Representative to defer. At this point, we are debating whether we should Reconsider at all, Adoption of Amendment" B", and then we will have time for a substantive debate of the policy. At this point, what is in front of the House is whether we should Reconsider our actions. The Representative may proceed.

The SPEAKER: The Chair recognizes the Representative from Ripley, Representative Thomas.

Representative **THOMAS**: Thank you, Mr. Speaker. The reason that we shouldn't reconsider: This bill was designed and we amended it so that people were trying to obey the law do not get punished for honest mistakes. By opening it up to everyone and you are allowing people to know the product that they are loading, what it weighs, and, no, you are allowing them to knowingly break the law and say it is okay. We are trying to give people a break, we have it right. We are trying to give people a break for an honest mistake. We got it right; I think we leave well enough alone. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is to Reconsider Adoption of Committee Amendment "B" (H-872). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 323

YEA - Adams, Babbidge, Barstow, Beaudette, Beaudoin, Berry, Blanchard, Bliss, Boland, Brautigam, Briggs, Bryant, Burns, Cain, Canavan, Carey, Carter, Connor, Conover, Craven, Dill, Duchesne, Dunn, Eaton, Eberle, Faircloth, Farrington, Finch, Gerzofsky, Gould, Grose, Hanley S, Harlow, Haskell, Hill, Hinck,

Hogan, Jones, Kaenrath, Koffman, Lundeen, MacDonald, Makas, Marley, Mazurek, Miller, Mills, Nass, Norton, Patrick, Pendleton, Percy, Perry, Pieh, Pilon, Pingree, Piotti, Pratt, Priest, Rector, Samson, Schatz, Silsby, Simpson, Sirois, Smith N, Theriault, Treat, Trinward, Tuttle, Valentino, Wagner, Webster, Weddell, Wheeler, Woodbury, Mr. Speaker.

NAY - Annis, Austin, Ayotte, Beaulieu, Berube, Browne W, Campbell, Cebra, Chase, Clark, Cotta, Cray, Crosthwaite, Driscoll, Edgcomb, Finley, Fisher, Fitts, Fletcher, Flood, Gifford, Giles, Greeley, Hamper, Jacobsen, Johnson, Joy, Knight, Lansley, Lewin, Marean, McDonough, McFadden, McKane, McLeod, Millett, Miramant, Moore, Peoples, Pinkham, Plummer, Prescott, Richardson D, Richardson W, Robinson, Rosen, Sarty, Savage, Saviello, Strang Burgess, Sykes, Thibodeau, Thomas, Tibbetts, Vaughan, Walker, Watson, Weaver.

ABSENT - Blanchette, Casavant, Cleary, Crockett, Curtis, Duprey, Emery, Fischer, Hayes, Jackson, Muse, Pineau, Rand, Rines, Sutherland, Tardy.

Yes, 77; No, 58; Absent, 16; Excused, 0.

77 having voted in the affirmative and 58 voted in the negative, with 16 being absent, and accordingly the House **RECONSIDERED ADOPTION of Committee Amendment "B" (H-872).**

On motion of Representative MAZUREK of Rockland, the rules were **SUSPENDED** for the purpose of **RECONSIDERATION.**

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **House Amendment "A" (H-888) to Committee Amendment "B" (H-872) was ADOPTED.**

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

On further motion of the same Representative, the House **RECONSIDERED** its action whereby Report "C" **Ought to Pass as Amended** was **ACCEPTED.**

The same Representative moved to **ACCEPT** Report "B" **Ought to Pass as Amended by Committee Amendment "A" (H-871).**

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

Representative **MAZUREK:** Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This is an issue of fairness. We have truckers all throughout the state who are facing the same situation, whether they are from Aroostook County, or they are from the western part of the state, the southern part of the state, or along the eastern part of the state. They are all facing high prices; many of them are facing financial ruin. What this does, it gives the opportunity for all truckers to take advantage of it, not just a select few. What we are asking here is that the gross weight be adhered to, and if a trucker goes over that gross weight, he pays the price, he pays the penalty. But if he is under that gross weight, we do not make him pay the price because of his axle weight.

We have heard before that the problem with judging axle weight is many times the load is loaded on an uneven surface; many times the weight can change, the load can shift in traveling; if it rains, the load can increase in weight, and we find these truckers facing huge fines that are beyond their control. What I am asking is that, when I was elected to the House of Representatives, I was elected to represent all of the people of Maine, and I want all of the truckers of Maine to be represented on this LD. I think it is vitally important that we do this. I do not know how many phone calls I got from various truckers on the coast who said, "What about us? We pay high taxes, we pay

high price in fuel? How about helping us out as well?" This is what this LD does: it helps out all of these hardworking Maine citizens, men and women both. I wish you would please take that into consideration when you vote on this. Thank you very much.

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

Representative **SIMPSON:** Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I did support the previous amendment because it referred to agricultural loads in the trucks, and there was a good explanation given as to why, perhaps, people might be overweight on axle because of loading things in a field and not having the ability to weigh. But I have heard nothing here so far to say why we should exempt all truckers from the law, so I will not be supporting this. Thank you.

Representative CROSTHWAITE of Ellsworth **REQUESTED** a roll call on the motion to **ACCEPT** Report "B" **Ought to Pass as Amended by Committee Amendment "A" (H-871).**

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

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

Representative **MAZUREK:** Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. One last point regarding the load shift, one of the groups that I would like to see this is with the bait haulers. I do not know if you people have ever followed a truckload of fish. Unless that truck is packed very tightly, that load is very likely to do a lot of shifting. If you know what fish are like, it is not a very pleasant load to follow because, first of all, it smells; but, secondly, you can watch the truck actually shift as the load shifts, as it goes around a curve or if it is riding on the side of the road, so that is one of the things.

The other thing is that not all dirt carriers load on at level ground. Go to some of the quarries where they have to load their loads and you will see that many times they are on a slant, they may be facing downhill, uphill, so that is one of the problems. They face the same situation as the trucks in the woods: they do not all load their loads on nice, level ground. They wish they could, but they do not. Thank you.

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. The voice of experience is important, as you know, at giving insight. I, as a former member of the International Longshoremen's Association, can answer the question from the good Representative from Auburn. I have loaded trucks, the sort of trucks I believe she is asking the question about, and everything that we load into those trailers is weighed and placed in position so that there is a distribution of weight that provides for the public health and safety, which is certainly one of my concerns as a legislator. So, there is a big difference between all other trucks and the type of trucks that this piece of legislation seeks to speak to, and it is important that we keep that in mind.

Again, those other trucks, the distributions, the weight loads, everything is calculated with concern for public health and safety. In the case of these trucks, those calculations are difficult to make and I believe that this change in the statute still permits for public health and safety, so I urge you to support Representative Mazurek in his mission. Thank you.

The SPEAKER: The Chair recognizes the Representative from Ripley, Representative Thomas.

Representative **THOMAS:** Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I agree with Representative Mazurek: there are other trucks who need some help, too; fuel prices are high for all. But do we want to change

the law so that people who intentionally load their trucks too heavy, who do it on purpose, who know full well that they are loading more than they can carry on those axles get by without a fine? The reason I put this legislation in is because there are people who have no way of knowing, they are doing the best they can to obey the law and then they get whacked thousands of dollars in fines. But by doing that, I did not intend to provide cover for people who do it on purpose, for people who damage our roads on purpose. Thank you.

The SPEAKER: The Chair recognizes the Representative from Thomaston, Representative Rector.

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

The SPEAKER: The Representative may pose his question.

Representative **RECTOR**: Thank you, Mr. Speaker. Would the enactment of this bill, as it stand right now with Committee Amendment "B," result in the loss of federal highway funds?

The SPEAKER: The Representative from Thomaston, Representative Rector has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Ripley, Representative Thomas.

Representative **THOMAS**: Mr. Speaker, Representative Rector, unless we amend it again, because this motion repeals the House Amendment we put on the other day that protected the federal funds, so without some further amendment to protect those fund, I believe you are right: We would be in danger of losing between \$29 and \$30 million worth of federal funds.

The SPEAKER: The Chair recognizes the Representative from Lincoln, Representative Gifford.

Representative **GIFFORD**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I just want to clarify one thing about this bill: It is no intention to leave anybody out, but at the time we did this, I believe and if I am wrong please correct me, we were in jeopardy because the wood product guys were at the verge of when their roads break up, and we needed to do something right off quick to help them. I believe, as the good Representative from Ripley said, we did not intend to leave anybody out, it is just the fact that we need to help these guys haul forest products to our mills, and it was an emergency when we did that. Thank you, Mr. Speaker.

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. You could always fall back to my motion, Ought Not to Pass, but that is another issue to be discussed to solve all this problem. The good Representative from Ripley is right, this could endanger the money, but it is just like the other amendment. You could amend this very easily, I think, to get to the point—that is really an argument for a later motion or a later discussion. This is going to end up on the Highway Table one way or the other, either a full loss of federal dollars or a loss of state dollars at improvements, loss of revenues. So, I think your issue really needs to be the policy of do you pick it for one industry only, or do you open it up to a larger, because the good gentleman who spoke about when they put it in as emergency, the woods industry was in crisis. I do think you will see—we have all seen it—gas prices going up, up, up, diesel prices. That is pulling all truckers now and I think that is why the good Representative from Rockland, Representative Mazurek, has really advocated for a broader reach. Once again, I am opposed to both motions, to both reports; however, I think the fiscal issue is a separate one from the pending motion. 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. I want to give credit to Representative Mazurek for attempting to do what he is trying to do. I also want to go on record and make sure that everybody knows that I have a lot of sympathy for the truckers, but this bill, in my opinion, does little to nothing to help them, and I say that because, number one, we cannot do anything about gas, the gas problem exists for everybody. Number two is, I am in possession of an email from the state troopers who collect the fines, and it was less than \$20,000 in fines last year, and that is why I will be opposing this. Thank you.

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

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

The SPEAKER: The Representative may pose his question.

Representative **SAVAGE**: Thank you, Mr. Speaker. Was any consideration given on this bill to allowing a deviation, let's say of 10 percent, one way or another on axle weight rather than just giving a carte blanche certificate? I will wait for an answer. Thank you.

The SPEAKER: The Representative from Falmouth, Representative Savage 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. We went through any number of ideas: There is already the 5 percent tolerance on the gross vehicle weight. I do not believe there was a discussion on a deviation or exemption for the axle weight, as I recall, I might be misspeaking. You know, some of my seatmates in the back row here have had the idea of we need to find another way as far as revenues, from the tears, up the road and there is actually a bill pending, I believe, from the Taxation Committee about looking at the diesel gas tax and giving a break there. That way you are still spending money but you are not also just throwing good money after bad on the repairs of the roads, which these axle weights will damage. So, I think this is a very good idea, I think it is something that we need to try to do to help an industry, but I do not think that this is the right way to go. I am sure someone will get up and correct me if I am wrong, but I do not believe we have talked about an exemption or increase on the axle weight, you know, 5, 10 percent.

The SPEAKER: The Chair recognizes the Representative from Ripley, Representative Thomas.

Representative **THOMAS**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. No, to answer the question, we did not consider all kinds of other alternatives, and one of the reasons is we have a truck weight law that is so complicated, unless you are a Philadelphia lawyer, you probably do not understand it. We give different exemptions for different products, and we give tolerances and then if you exceed those tolerances, we take them away so we can pick your pocket even more. We play all kinds of games with trucks, and this was an attempt to try to simplify things, make it easier for both the people who enforce the law and the people who are using the law to try to understand it. We really should sit down and take a look at some of our funds, because I can remember a case not too long ago when just a few pounds would get you overweight on an axle and would get you a \$4,000 or \$5,000 fine. It is just unbelievable the way we give tolerances on one hand and take them away with another so that we can fine people higher. So, no, we did not try to complicate the law more, we tried to simplify the law. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is Acceptance of Report "B" Ought to Pass as Amended by Committee Amendment "A" (H-871). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 324

YEA - Adams, Austin, Blanchard, Browne W, Bryant, Burns, Cleary, Conover, Dill, Eaton, Gerzofsky, Grose, Hanley S, Harlow, Hayes, Hinck, Jones, Lundeen, Mazurek, Mills, Patrick, Percy, Perry, Pieh, Pingree, Pratt, Rector, Rines, Schatz, Sirois, Smith N, Theriault, Tuttle, Wagner, Wheeler, Mr. Speaker.

NAY - Annis, Ayotte, Babbidge, Barstow, Beaudette, Beaudoin, Beaulieu, Berry, Berube, Bliss, Boland, Brautigam, Briggs, Cain, Campbell, Canavan, Carey, Casavant, Cebra, Chase, Clark, Connor, Cotta, Craven, Cray, Crosthwaite, Driscoll, Duchesne, Dunn, Duprey, Eberle, Edgcomb, Faircloth, Farrington, Finch, Finley, Fisher, Fitts, Fletcher, Flood, Gifford, Giles, Gould, Greeley, Hamper, Haskell, Hill, Hogan, Jacobsen, Johnson, Joy, Kaenrath, Knight, Koffman, Lansley, Lewin, MacDonald, Makas, Marean, Marley, McDonough, McFadden, McKane, McLeod, Miller, Millett, Miramant, Moore, Nass, Pendleton, Peoples, Pilon, Pinkham, Piotti, Plummer, Prescott, Priest, Richardson D, Richardson W, Robinson, Rosen, Samson, Sarty, Savage, Saviello, Silsby, Simpson, Strang Burgess, Sykes, Thibodeau, Thomas, Tibbetts, Treat, Trinward, Valentino, Vaughan, Walker, Watson, Weaver, Webster, Weddell, Woodbury.

ABSENT - Blanchette, Carter, Crockett, Curtis, Emery, Fischer, Jackson, Muse, Norton, Pineau, Rand, Sutherland, Tardy.

Yes, 36; No, 102; Absent, 13; Excused, 0.

36 having voted in the affirmative and 102 voted in the negative, with 13 being absent, and accordingly Report "B" Ought to Pass as Amended by Committee Amendment "A" (H-871) was **NOT ACCEPTED**.

Subsequently, Report "C" Ought to Pass as Amended by Committee Amendment "B" (H-872) was **ACCEPTED**.

Subsequently, House Amendment "A" (H-888) to Committee Amendment "B" (H-872) was **ADOPTED**.

Representative BABBIDGE of Kennebunk **REQUESTED** a roll call on **ADOPTION** of Committee Amendment "B" (H-872) as Amended by House Amendment "A" (H-888) thereto.

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

The SPEAKER: A roll call has been ordered. The pending question before the House is Adoption of Committee Amendment "B" (H-872) as Amended by House Amendment "A" (H-888) thereto. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 325

YEA - Annis, Austin, Ayotte, Babbidge, Barstow, Beaudette, Beaudoin, Beaulieu, Berry, Berube, Bliss, Boland, Brautigam, Briggs, Browne W, Bryant, Burns, Cain, Campbell, Canavan, Carter, Cebra, Chase, Clark, Cleary, Conover, Cotta, Craven, Cray, Crosthwaite, Driscoll, Duchesne, Dunn, Duprey, Eaton, Edgcomb, Faircloth, Farrington, Finch, Finley, Fisher, Fitts, Fletcher, Gerzofsky, Gifford, Giles, Gould, Greeley, Grose, Hamper, Jacobsen, Johnson, Joy, Knight, Lansley, Lewin, MacDonald, Marean, McDonough, McFadden, McKane, McLeod, Miller, Millett, Mills, Moore, Nass, Norton, Patrick, Pendleton, Peoples, Perry, Pieh, Pingree, Pinkham, Piotti, Plummer, Pratt, Prescott, Rector, Richardson D, Richardson W, Rines, Robinson, Rosen, Samson, Sarty, Savage, Saviello, Schatz, Simpson, Sirois, Smith N, Strang Burgess, Sykes, Thibodeau, Thomas, Tibbetts, Treat, Trinward, Tuttle, Vaughan, Walker, Weaver, Weddell, Wheeler, Woodbury, Mr. Speaker.

NAY - Adams, Blanchard, Carey, Casavant, Connor, Dill, Eberle, Flood, Hanley S, Harlow, Haskell, Hayes, Hill, Hinck, Hogan, Jones, Kaenrath, Koffman, Lundeen, Makas, Marley, Mazurek, Miramant, Percy, Priest, Silsby, Theriault, Valentino, Wagner, Watson, Webster.

ABSENT - Blanchette, Crockett, Curtis, Emery, Fischer, Jackson, Muse, Pilon, Pineau, Rand, Sutherland, Tardy.

Yes, 108; No, 31; Absent, 12; Excused, 0.

108 having voted in the affirmative and 31 voted in the negative, with 12 being absent, and accordingly **Committee Amendment "B" (H-872) as Amended by House Amendment "A" (H-888)** thereto was **ADOPTED**.

Subsequently, the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "B" (H-872) as Amended by House Amendment "A" (H-888)** thereto and sent for concurrence.

Resolve, To Temporarily Suspend the Rate-setting Procedures for the Forest Products Industry (EMERGENCY)

(S.P. 896) (L.D. 2273)

(S. "A" S-492)

TABLED - April 2, 2008 (Till Later Today) by Representative JACKSON of Allagash.

PENDING - **FINAL PASSAGE**.

Subsequently, this being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 132 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.

On motion of Representative EDGECOMB of Caribou, the House **RECONSIDERED** its action whereby Resolve, Regarding Legislative Review of Chapter 61: State Board of Education Rules for Major Capital School Construction Projects, a Major Substantive Rule of the Department of Education and the State Board of Education (EMERGENCY)

(H.P. 1503) (L.D.

2123)

(C. "B" H-869)

FAILED PASSAGE TO BE ENGROSSED as Amended by Committee Amendment "B" (H-869).

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

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **Committee Amendment "B" (H-869)** was **ADOPTED**.

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

On further motion of the same Representative, the House **RECONSIDERED** its action whereby the Minority **Ought to Pass as Amended by Committee Amendment "B" (H-869)** Report was **ACCEPTED**.

The same Representative moved that the House **ACCEPT** the Majority **Ought to Pass as Amended by Committee Amendment "A" (H-868)** Report.

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

Representative **NORTON**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I think there is some further information that I need to give people that I probably failed to give you before. Once people are placed on the

construction list, then everyone is made equal as to the exception that is written, the language that was written on the Minority Report; this is what I like. Everybody became equal and had to look for the efficiencies in their schools. For example, there are schools, as I said before, there are communities that have several schools on the list, and if we funded each one of those schools for that community, it could be an extremely costly project. It would be far better for them to look at ways to come to efficiencies, and instead of building six new schools or seven new schools for a community, we made sure we looked at whether or not it was more efficient for some of those schools to come together. Now if it has shown that it is not more efficient and more effective, then it is out anyway. But this at least allows the state board to help communities help the schools that are applying for construction funds look for those kinds of efficiencies, and no one is being forced to do anything, but they are asking you to look at those items. Mr. Speaker, when the vote is taken, I ask that it be a roll call.

Representative NORTON of Bangor **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought to Pass as Amended by Committee Amendment "A" (H-868)** Report.

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

Representative MILLS of Farmington **REQUESTED** that the Clerk **READ** the Committee Report.

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

The SPEAKER: A roll call has been ordered. The pending question before the House is Acceptance of the Majority Ought to Pass as Amended by Committee Amendment "A" (H-868) Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 326

YEA - Annis, Austin, Ayotte, Beaulieu, Berry, Berube, Boland, Browne W, Canavan, Carter, Cebra, Chase, Clark, Cleary, Connor, Conover, Cotta, Cray, Crosthwaite, Curtis, Duchesne, Duprey, Eaton, Edgcomb, Farrington, Finch, Finley, Fitts, Fletcher, Gifford, Gould, Greeley, Hamper, Hanley S, Hill, Hogan, Jacobsen, Johnson, Joy, Lansley, Lewin, Lundeen, Marean, McDonough, McFadden, McKane, McLeod, Miller, Moore, Pendleton, Perry, Pieh, Pinkham, Piotti, Pratt, Prescott, Richardson D, Richardson W, Rosen, Sarty, Saviello, Schatz, Silsby, Sirois, Theriault, Thibodeau, Thomas, Tibbetts, Treat, Trinward, Vaughan, Walker, Weaver, Weddell, Wheeler.

NAY - Adams, Babbidge, Barstow, Beaudoin, Blanchard, Bliss, Brautigam, Briggs, Bryant, Cain, Campbell, Carey, Casavant, Craven, Dill, Driscoll, Dunn, Eberle, Faircloth, Fisher, Flood, Gerzofsky, Giles, Grose, Harlow, Haskell, Hayes, Hinck, Jones, Kaenrath, Knight, Koffman, MacDonald, Makas, Marley, Mazurek, Millett, Mills, Miramant, Norton, Patrick, Peoples, Percy, Pingree, Plummer, Priest, Rector, Robinson, Samson, Savage, Simpson, Smith N, Strang Burgess, Tuttle, Valentino, Wagner, Watson, Webster, Woodbury, Mr. Speaker.

ABSENT - Beaudette, Blanchette, Burns, Crockett, Emery, Fischer, Jackson, Muse, Nass, Pilon, Pineau, Rand, Rines, Sutherland, Sykes, Tardy.

Yes, 75; No, 60; Absent, 16; Excused, 0.

75 having voted in the affirmative and 60 voted in the negative, with 16 being absent, and accordingly the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

Committee Amendment "A" (H-868) was **READ** by the Clerk and **ADOPTED**.

The Resolve was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-868)** and sent for concurrence.

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 Wednesday, April 2, 2008, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

Resolve, To Ensure Support for a Model of Consolidated and Integrated Secondary and Postsecondary Education

(H.P. 1549) (L.D. 2175)

(C. "A" H-825)

TABLED - April 2, 2008 (Till Later Today) by Representative NORTON of Bangor.

PENDING - **FINAL PASSAGE**.

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

Representative **BERRY**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise in very cautious support of this measure and I do so because I, like many of you, represent a district that has in it a school that is in very serious need of replacement and/or repair. The good Representative from Caribou, Representative Edgcomb, mentioned the school yesterday. It is a high school in which students can sit in one classroom and can see from that classroom four other classrooms at the same time and hear the instruction going on in those rooms. A school in which, to go to the bathroom, a student sometimes has to pass through two other rooms to get there. A school in which there are students in trailers outside or portable classrooms. A school in which ventilation and mold issues are of serious concern, in which is then, unfortunately, not quite there on the needs lists in each of the last school construction cycles.

The measure pertains to schools with needs in that it addresses a method to allow an innovative model to go forward, and to do so without impacting the school construction for those schools that do have needs, that are not necessary innovative, but that are just on the list because they have played by the same rules that we have always established. This bill would allow some new rules to be created, in fact, require that on an emergency basis, and it would prioritize models that include a kind of pro location of secondary and post secondary institutions. It is an exciting idea, and it avoids challenging the needs of these other schools by raising the debt ceiling in 2011-2012, raising the debt ceiling on borrowing for school construction.

I think and I imagine that others will agree with me that Maine can afford to take on a little more debt. Right now, our tax-supported debt is \$606 per capita; by comparison, the Federal Government tax supported debt per capita is well over \$30,000 and that is a pretty substantial difference. Even by comparisons with other states that have to balance their budget every year, we are fairly low. So, I hope when you join with me in voting green on this, that you do so with the full intention that we are going to take on this additional debt, and that we are going to stick by our promise that is in this bill that we will honor the commitments that we have made and that we will need to make in the future to schools that really do have a significant need, a need that is related to health, a need that is related to the instructional environment, and that plays by the same rules that the Board of Ed has established for school construction for many years before today and hopefully many years hence.

I put this on the record because I want to be very clear with those who will make the decisions in the future, that we want to protect those schools and those children as well. So, again, I support the pending measure; and, Mr. Speaker, when the vote is

taken, I ask that it be by the yeas and nays.

Representative BERRY of Bowdoinham **REQUESTED** a roll call on **FINAL PASSAGE**.

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

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

Representative **NORTON**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I remind you that this Report came out of committee with a unanimous report that, again, I just learned on the previous bill how paranoid people are about protecting the construction list, and I agree with you, we all are too, but this does not affect anybody's positioning on the school construction list. So, again, this came out of committee with a unanimous report, and I hope all parties are happy and convinced now that it is not going to hurt their project on the school construction list. Thank you.

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

ROLL CALL NO. 327

YEA - Adams, Annis, Austin, Ayotte, Babbidge, Barstow, Beaudoin, Beaulieu, Berry, Berube, Blanchard, Bliss, Boland, Brautigam, Briggs, Browne W, Bryant, Burns, Cain, Campbell, Canavan, Carey, Carter, Casavant, Cebra, Chase, Clark, Cleary, Connor, Conover, Cotta, Craven, Cray, Crosthwaite, Curtis, Dill, Driscoll, Duchesne, Dunn, Duprey, Eaton, Eberle, Edgecomb, Faircloth, Farrington, Finch, Finley, Fisher, Fitts, Fletcher, Flood, Gerzofsky, Gifford, Giles, Gould, Greeley, Grose, Hamper, Hanley S, Harlow, Haskell, Hayes, Hill, Hinck, Hogan, Jacobsen, Johnson, Jones, Joy, Kaenrath, Knight, Koffman, Lansley, Lewin, Lundeen, MacDonald, Makas, Marean, Marley, Mazurek, McDonough, McFadden, McKane, McLeod, Miller, Millett, Mills, Miramant, Moore, Nass, Norton, Patrick, Pendleton, Peoples, Percy, Perry, Pingree, Pinkham, Piotti, Plummer, Pratt, Prescott, Priest, Rector, Richardson D, Richardson W, Rines, Robinson, Rosen, Samson, Sarty, Savage, Saviello, Schatz, Silsby, Simpson, Sirois, Smith N, Strang Burgess, Theriault, Thibodeau, Thomas, Tibbetts, Treat, Trinward, Tuttle, Valentino, Vaughan, Wagner, Walker, Watson, Weaver, Webster, Weddell, Wheeler, Woodbury, Mr. Speaker.

NAY - NONE.

ABSENT - Beaudette, Blanchette, Crockett, Emery, Fischer, Jackson, Muse, Pieh, Pilon, Pineau, Rand, Sutherland, Sykes, Tardy.

Yes, 137; No, 0; Absent, 14; Excused, 0.

137 having voted in the affirmative and 0 voted in the negative, with 14 being absent, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

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

REPORTS OF COMMITTEE

Divided Reports

Majority Report of the Committee on **TRANSPORTATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-906)** on Bill "An Act To Implement the Recommendations of the Governor's Task Force on Passenger Rail Funding"

(H.P. 1403) (L.D. 2019)

Signed:

Senators:

DAMON of Hancock
SAVAGE of Knox

Representatives:

MARLEY of Portland
MAZUREK of Rockland
HOGAN of Old Orchard Beach
CEBRA of Naples
THERIAULT of Madawaska
PEOPLES of Westbrook

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

Signed:

Representatives:

BROWNE of Vassalboro
FISHER of Brewer
ROSEN of Bucksport

READ.

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

Representative **MARLEY**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I will give some of the same testimony that I gave before the committee. On the Supplement, if you see, it is a bill that looks at passenger rail. That has been completely changed, as well has the entire body of the text for the bill. Basically, the new title is "An Act for Capital Rail Improvements for Economic Development Purposes." As you know, the rail lines north of Portland going to, I believe they connect to five different rail lines in the state and throughout the state—the St. Lawrence & Atlantic is one of the rail lines that goes up to Lewiston-Auburn, eventually up to Bethel and Canada; you have State of Maine lines that go to Lisbon Falls, up to Augusta, and then onward to connect in Aroostook County.

We just talked very extensively about truck weights and axle weights, and we have talked a lot about the road conditions. What this bill basically does is it helps freight and passenger rail. It would improve the line between Portland and Brunswick; it would open up access because that is one of those places that you really see a tightening of rail service. By expanding that you are going to have economic opportunities, both for freight and passenger rail, and how we do that is we take existing car rental tax dollars to pay the construction costs, about \$2.7 million to fund that construction. I truly believe that we need to expand and balance our transportation network, both for passengers and for freight. I backed away from my point on the passenger rail thing, but I truly believe that this is something that will be good for the state and will economically expand on horizons. If you look at the costs, it is about one third less expensive in fuel efficiency to move more items on freight-rail, rather than on trucks, and I believe the good Representative from Ripley even has said we need to expand our freight-rail infrastructure. They do not need to pit against each other; they just need to be companions, so I hope you will support the motion before you. Thank you, Mr. Speaker.

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

Representative **BROWNE**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Again, with the change emphasizing freight as well as passenger, again, I will switch my support for the Majority Report. Thank you.

The SPEAKER: The Chair recognizes the Representative from Ripley, Representative Thomas.

Representative **THOMAS**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. We have cut spending on items for disabled people, for elderly people, for children. We cannot afford to maintain our roads and bridges as it is now, and we are going to put money into railroads, and they should be able to pay for those improvements themselves. Look at the advantage a railroad has over their competition: look at the fuel costs that are lower, look at the labor costs that are lower. Why should we be taking money from poor people in Maine to put it into railroads, when the railroads ought to be funding their own improvements? Thank you.

The SPEAKER: The Chair recognizes the Representative from Bethel, Representative Carter.

Representative **CARTER**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I had this thing from the Bethel system passed out; I thought you needed some more paper. No, in reality, if you will look down and if you do not have it, I will read it: "The good word came Tuesday, in a joint, bipartisan/bilateral announcement by the Congressional delegations of Maine and New Hampshire, and Canadian MPs from Quebec and Maritimes. In simultaneous English and French statements, the delegation announced funding had been secured from Washington and Ottawa for a new 300-mile rail line connecting Montreal directly to the Atlantic Ocean port of Rockland, Maine."

I think that everybody is looking at increasing our rails as a way of reducing our costs of our roads and other things like that, to run in conjunction with them, and I think the item before the floor is very appropriate and this is very germane to it in that, by us funding it, I am sure we can do better with the money we can get from Washington and Ottawa. Thank you.

The SPEAKER: The Chair recognizes the Representative from Brewer, Representative Fisher.

Representative **FISHER**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. First of all, a bit of a disclaimer: I am rail fan, my wife would say maybe too much of one. I have a house full of railroad stuff. Before I moved to Maine, I worked for the railroad. Having said that, I am afraid I am on the Minority Report on this issue for a variety of reasons.

Number one, when we heard testimony in front the committee about the need to deal with our rail lines in the State of Maine, not one mention was made of any rail lines in the eastern part, the northern part, or the western mountain areas of the State of Maine. It was all on a little sliver of land, down along the coast in the New Hampshire border, as far east as Rockland, and up to the Lewiston-Auburn area; nothing to the east, nothing to the north. One of our major lines in the northern and eastern area is the old Bangor & Aroostook line, and when people came here and expressed an interest in buying it, the State of Maine offered to give them some support. We did a little of what we promised, we have failed to meet the commitment of this railroad, and not one mention of continuing to meet our obligation to these folks.

Improving rail lines; stretching out our rail service. All well and good, I do not have any problem with that. But before you deal with that, deal with the one very successful line we have going now, the Downeaster, one of the nation's very best passenger services. The previous gentleman just mentioned the fact that our congressional delegation is getting us some money to expand up to Montreal. Where is the money that we are going to be needing, somewhere in the neighborhood of \$7 million, to keep the Downeaster going? Take care of the problems you have today before you expand out.

Finally, what we are doing here is talking about putting \$31

million into rail lines, most of which are privately owned by a corporation that has not always been the best friend of the people in the State of Maine, or the best friend to the customers that they are supposed to be serving. Thank you, Mr. Speaker.

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

Representative **HARLOW**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. The Downeaster to Portland, one of the big things they said that could make it even more successful is if we could extend it further north and get more people involved in it. At the time, I was the mayor of Portland at the time, and I guaranteed the trains would run on time; I asked them not to call me Mussolini.

The SPEAKER: The Chair recognizes the Representative from Standish, Representative Moore.

Representative **MOORE**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Throughout these conversations we have had the past year with the Transportation Committee and the Legal and Veterans Affairs and so forth about rail travel, I have developed many of the same sentiments that Representative Fisher has elucidated here on the moment, but I have also seen the Legislature and these various committees expand the vision of what it means to talk about transportation in our state. The Mountain Division line that runs from the Downeaster terminal in Portland, it goes out through Westbrook, up through Gorham, Standish, Windham, I believe Denmark, Baldwin; at any rate, it goes all the way to the Fryeburg Fair and beyond, if you were to connect to the New Hampshire line, and then on to Montreal. The conversation has broadened over the past year, so I am going to be supporting this and I hope that all of us can push the train out of the station, so to speak, a little further and get us back on track. Thank you.

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

Representative **THOMAS** of Ripley **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 Portland, Representative Marley.

Representative **MARLEY**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Hopefully you have the Southern MidCoast Maine Chamber's letter on your desk that is talking about support for this. It is difficult; especially when we change bills so significantly. This bill was changed because, I am pleased to hear people talk about the success of the Downeaster, but it really is looking towards the future. I agree that we all have roads and bridges needs and other needs, but until we start trying to put some of that heavy weight onto rails, we are going to constantly put money, after money, after money into our potholes. I think this is one step, and you really have to get that southern part, because you look at any road network, any train network, if you are missing pieces of that link, you cannot get from point a to point z, whatever, you cannot get there from here unless you get these pieces in place.

This will help passenger, but it will also help freight. But the point I was mentioning about the MidCoast Chamber, they are talking about the Brunswick Naval Air Station, as far as being the heart of that region. This is a Chamber of Commerce that represents more than 700 members in 16 communities, and it covers several counties. They are very enthusiastic for this because they are trying to get manufacturing there when the base closes, and it is closing in the very near future. I also have to say this, I should not, but I love how just a few minutes ago we

really pushed hard to help the trucking industry through market forces, but in this case we cannot help the rail industry. Regardless of how you feel about some of the railroad lines in the state, we are really talking about infrastructure. That is really what we are premised on: building the infrastructure, and then you are going to have the manufacturing and the passengers, or whatever they will go over, but if you do not have the infrastructure you never see the economic benefits. Roads, aviation or rail, please support the motion. Thank you, Mr. Speaker.

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

Representative **BLISS**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I will not take a lot of your time. I rise to congratulate the good Representative from Portland on his fine words in favor of the rails between Portland and Brunswick, and I look forward to his equally enthusiastic support when the Utilities and Energy Committee brings forward our bill next week to rectify the problems with the freight rails in northern Maine.

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

Representative **BARSTOW**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I feel the urge to rise in support of this motion, considering that I represent a community that has dealt with many transportation issues over the last several decades, let alone the last several years, and the point has come up with regards to the need to invest in the current infrastructure of our roads and our bridges. I think of a leadership characteristic that was brought to my attention—and I have looked a lot into leadership as I have taken on this role as a public servant—the idea of having to deal with issues that are media, such as investing in roads and bridges of our current time, and also having a future vision to help to stem off other problems that may be approaching us, and I think that the investment in rail that we have before us in this Ought to Pass as Amended Report that we are considering, it is looking at that future vision and may help to reduce some of the costs that will be going into our roads and bridges in the future. Do we need to repair the infrastructure that we have right now? Certainly, but this could be a way of diversifying our transportation infrastructure for the future.

I have a challenge in Gorham of trying to get bus service, which does exist, expanded to my community just from one town to the other, extending from Portland and Westbrook out to my community of Gorham, and finding the funding for that has been challenging because of the fact that we have a unified approach in putting the majority of our dollars into road and bridge infrastructure. That is important, but we do need to look with a diversified mind. With that in mind and with the words that the good Representative from Standish mentioned about rail service possibly coming westward from the greater Portland area, I will be voting in support of this motion and hope that you do as well. Thank you, Mr. Speaker.

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

Representative **BERRY**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I also rise in support of the pending motion. Just a moment ago, I congratulated the Unanimous Report of the Education Committee; I want to congratulate the majority of the Transportation committee in supporting this excellent measure. I just want to share a few statistics, which you know if anyone can correct me on I would be pleased to hear, but I am fairly confident in these.

The cost of this infrastructure would be roughly one-tenth of the cost of the highway construction, the 22 miles of highway

construction that will be conducted this summer between Gardiner and Topsham, a very short stretch of highway on one side, southbound only, one-tenth of the cost of that infrastructure repair, and about the same of the school construction that we typically involve ourselves in for one school. It is an upgrading of existing track, there is not a heck of a lot of work that is necessary. Trains have run over this track recently already.

Less than one percent of the current DOT budget goes to any kind of alternative transportation. I think that is significant when you consider the purchasing power of one gallon of diesel. We have talked a lot about the cost of diesel recently in relation to truckers. A gallon of diesel with a freight train, carrying one ton of freight, that one gallon of diesel will get that one ton of freight roughly 450 miles. That is a heck of a lot farther than you can get with a truck and without damage to the roads, which costs us a heck of a lot more later on in public subsidy.

The corridor that we are talking about repairing is relatively short. It will take you on up the coast to Rockland from Brunswick, it will take you up the Kennebec to Augusta, and on up the Androscoggin to Lewiston. It is a very significant portion in that regard, it really is a gateway to other regions and so, while I understand the good Representative from Brewer's concerns, I think this is part of what is needed to get us further on up the coast. Anyone going in and out of Maine knows you need to go past Brunswick or mighty near this rail line in one form or another to get there, so I congratulate the majority of the committee again, and thank everyone for your attention.

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

Representative **HARLOW**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. The development of the railroad going out to Bethel is almost inconsequential, it has already been done. Trains ran there less than 10 years ago, all the way to Sunday River, so that is not going to be a great expense. The biggest expense will be getting it from Portland across the bay on that bridge that is broken. Thank you very much, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Winthrop, Representative Flood.

Representative **FLOOD**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I do want to offer a contrarian opinion here just for your consideration: This will remove \$6 million from the General Fund revenues in the upcoming biennium, and if you can sit back and think about last week and the final deliberations on our budget, we were basically at great stress dealing with the \$20 million difference of opinion, and \$6 million taken away from that would make it even that much more stressful. I am not sure that I agree with the concept of taking potentially \$6 million from elderly and mentally ill and handicapped people and all those sources we were having such a difficult time working with, and providing it to a railroad which I totally agree with the concept of economic development and freight and helping the economy and the railroad industry and so forth, but I am looking at this at making a nearly impossible job, \$6 million more impossible, in the next biennium. Thank you, M. Speaker.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Marley. 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 **MARLEY**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I think that is an excellent point. We pushed out of the next biennium because they are looking for the Capital Improvement Funds; there is our

Rural Rail Improvement Fund that can be utilized. If we do not do it now, just like any other capital project, the inflationary pressures of any construction project is tremendous, it is double digits, so if you wait a year it goes up millions of dollars. You wait two or three years, you could be talking another \$10 million, so if you do not do it now you are not going to get the economic benefit, which I think will hopefully give it a free market approach, develop jobs, economy and move commerce, will put more tax dollars and sales dollars into our General Fund, which will help to close some of those shortfalls.

As far as the Appropriations Committee, I understand that you have heartache and I have had other members come to me on that issue. I think it deserves to get to the Appropriations' table and then we can have that discussion at that time, but I think this is good policy for transportation for economic development. Thank you.

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

Representative **SAVAGE**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. We talk a lot about economic development and trying to bring business to Maine, and trying to get Maine more on track with the rest of the nation. I believe that extending this rail service would be a step in that direction, it certainly would help Freeport and Brunswick and towns beyond that, so I will be voting for this. 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. I am one of the Representatives from beautiful Brunswick, and it would be very self-serving of me to stand up here and say how terribly important rail service will be for Brunswick and, of course, it will be very important. We have a naval air station closing down in a couple of years that this would certainly help us redevelop the area. It would help not only Brunswick, Freeport; it would help the whole State of Maine. This is economic development for the whole State of Maine, not just for Brunswick or Freeport, Harpswell, that Senate district. This is for the whole state. So not that this is a self-serving bill in any way shape or form, this is really for the state and we should all get behind it and do as much as we can for the State of Maine and for some economic development. Thank you very much, Ladies and Gentlemen.

The SPEAKER: The Chair recognizes the Representative from Mount Vernon, Representative Jones.

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

The SPEAKER: The Representative may pose her question.

Representative **JONES**: Thank you, Mr. Speaker. I have a question regarding this bill, and I need clarification on the funding of it. I thought I heard that taxes would be raised on car rentals, and then I heard there is \$6 million coming out of the General Fund. Could someone respond to that?

The SPEAKER: The Representative from Mount Vernon, Representative Jones 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. To address the good Representative's question, it is existing dollars. There is no raise, no new tax on this. It is taking half of the existing car rental tax, which I believe is \$5.4 million annually, it is taking half of that in the next biennium, not during this budget, to fund the construction piece so there is not existing dollars. The previous Representative who spoke mentioned as far as in the next biennium when you are putting together budget, it would have an

impact to the General Fund. I do truly believe that it would positively impact the General Fund, ultimately.

The SPEAKER: The Chair recognizes the Representative from Brewer, Representative Fisher.

Representative **FISHER**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Loathe as I am to speak twice on anything, I rise a second time today and I apologize for that. I guess I probably ought to preface my comments by saying that I have not been known down here for the last 14 years as a provincial legislator, somebody who is just interested in his district and I want to keep being known for that, but today I am going to hammer on northern and eastern Maine. My good friend from Brunswick just talked about how this is going to be great for the whole state, the rising tide. The tide has not risen in eastern or northern Maine in the 30 some years that I have lived here. Help us down in southern Maine and the tide will rise for all—it does not work that way. As you are voting on this, the expansion of rail service which is going to be great for the State of Maine, remember that just a few short months ago you voted to rip up tracks in Washington County.

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

Representative **JOY**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise a little reluctantly because I am not sure my voice is going to hold out today, but I would like to support Representative Fisher from Brewer.

A few years ago, some people approached me about the possibility of building that rail down to Calais; they wanted to tie into the line with Halifax. A few years ago, we had a nice east-west highway, it was called a railroad. That has gone by the wayside and use on that rail is very limited now. We keep hearing all sorts of things about this, and whenever we had a chance to do it with private money, it was turned down. Now, all of the sudden we want to do this with public dollars, and I would like to see things happen to help Brunswick out and so forth, but I guess probably I would like to see things in Downeast Maine, western and something for northern Maine. Thank you very much.

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

Representative **EATON**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Many, many years ago, I remember hearing about trickled down, and what I found then was that the trickle was maybe not even so much. So as we talk about development in the southern part of the state, helping all of us, it is very difficult for me when we also, I looked at the horrible cuts that we made just a few weeks ago to so many people suffering in this state, I find it a little bit difficult to not want to agree with an investment in this state that could build our revenues and could possibly help us from the horrible situation we are in economically now. But like I say I was really concerned about trickled down. I am desperately concerned about trickle up to our friends in Aroostook County, our friends in Washington County, and those of us in Hancock and Washington County as well, so I am really torn over this and I can't tell you how to vote because I am not even sure how I am going to vote, but I really wish that, also, we would recognize that there is an industrial and an economic engine that could work in Aroostook County and in Washington County if we are willing to make half the effort there that we seem to be for the southern part of the state. Thank you.

The SPEAKER: The Chair recognizes the Representative from Belfast, Representative Giles.

Representative **GILES**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise to speak

echoing my colleague on Appropriations, Representative Flood, and his concern for what we have dealt with down in Room 228, the other side of this building, for the last month, month and a half, in trying to bring together a budget that is balanced and has as minimal impact and hurtful impact to many who need our support in the State of Maine. While I am very supportive of rail, I like the concept of it, I like the idea of it, I like to ride the train, I really do not think this is a good time for us to be taking on a measure which will, in the next two cycles anyway, take money from the General Fund, until we know that we have really stabilized our revenues in this state.

To respond a little bit to Representative Jones' question that, yes, the way that this is proposed, it would take some tax revenues that are there. It does not raise the tax, but it takes some tax revenues from the renting of cars that right now is used and very much needed in the General Fund. So, I am very supportive of the work that the Transportation Committee has done with this, but I just do not see this as the right measure at the right time based on what our financial situation is. Thank you.

The SPEAKER: The Chair recognizes the Representative from Westbrook, Representative Peoples.

Representative **PEOPLES**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I guess I sympathize certainly with my fellow members from the east and the northern part of the state, but I also realize that unless we spur economic development and make the interconnection that the economic value of freight rail will not get as far as the northern part of the state. One of the great things that we had and it was alluded to briefly by Representative Joy, was the east-west rail corridor in the northern part of the state. Because rail has not been viable economically for the last 50 years, those connections have seen less and less use. If we start to show that we are going to make investment in rail, and let's face it: Putting down a mile of rail is way less expensive than putting down a mile of road. It is cheaper to move cargo, it is environmentally smarter. What we are asking for here is just one little piece of starting to rebuild the infrastructure that Maine had until the end of World War II. So, it is not an enormous amount of money, but it is seed money that we need to get the process started, so I would hope that you would support this bill and support the beginning of the redevelopment of what is a wonderful resource in the state. Thank you.

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

Representative **BERRY**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I just want to suggest that this question is certainly not about two Maines, it is about working up a corridor and infrastructure that we need all over the state. I think this is a question about whether we want to move forward with rail, both freight and passenger, and the merits to that approach to transportation, as opposed to our current system of relying almost exclusively on the roads which do take a beating, especially when it comes to freight movement. The roads are a bit frail, and we save money down the road where we can take those incredibly weight bearing vehicles off the roads. I think we will find that our Appropriations Committee is able to make some less difficult decisions down the road if we can make this investment now in our most viable areas where rail can make a difference, where it will support itself, and I think that is a piece of this question as well. Where is the investment going to leverage some real improvement in our road conditions, in our economy, and where we can, in fact, share that with the whole state. In that spirit and thinking about whether rail makes sense for me and as a strategy to move forward, I want to first offer my strong support for additional rail projects that take place further to

the east and to the north of here, provided that they can be demonstrated to be economically viable, and I think there may be areas where trucking does make more sense; I am not an expert. I would also like to pose a question through the Chair, if I may, relating to this economic viability issue.

The SPEAKER: The Representative may pose his question.

Representative **BERRY**: Thank you, Mr. Speaker. The question, to anyone wishing to answer, is help me understand where these rail lines end; I know the intermodal facilities are very important in all of this. Could someone help me to understand whether some of these southern projects, in ports or have connections that might in fact help the north help to join our two Maines together and really ensure that this is a project that moves all of the state forward?

The SPEAKER: The Representative from Bowdoinham, Representative Berry has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Standish, Representative Moore.

Representative **MOORE**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. It may be helpful that the Mountain Division line, over in the western part of the state, does end at the Downeaster terminal at the moment; however, there is an existing line that does go down on to the waterfront of Portland to the cargo area, the cargo loading area is down there. On the other end of the Mountain Division line, which is not specifically mentioned here but it is in the mix, the New Hampshire line at the New Hampshire border is, except for a few hundred yards, that is all brushed over now and all that; it is totally operational so it connects in that sense.

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

Representative **SAVAGE**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I just want to echo what has been said here by several people that I do believe there would be quite an offset to the highway and bridge costs over the years if we take some of this off the roads and utilize this new railroad.

As far as the economy is concerned, yes it would help Freeport and Brunswick; I also think it would help places way beyond on that. If we can stimulate that economy, people will eventually go further. We are about as far behind on railroads as we are on health insurance, and I think it is time that we step up and start looking forward and get this done. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Brewer, Representative Fisher. 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 **FISHER**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. The Representative from Bowdoinham, to respond to your question if I may, there is a nice port facility in Eastport that could very easily deal with intermodal activities had we not torn up the tracks between Calais and Eastport, there is a nice port. In Searsport, I believe you can haul double stacked intermodal all the way to Montreal and across Canada, across the United States using that line, if that line was in good enough shape to use. It did not get the money that was needed for the capital improvement. They already have a northern Maine junction, the Bangor area, some are intermodal capabilities, but they just have not been able to make them work because of the condition of the tracks. But thank you for the question, I appreciate it.

The SPEAKER: The Chair recognizes the Representative from Mount Vernon, Representative Jones.

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

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

Representative **JONES**: Thank you, Mr. Speaker. I am torn about what to do about this bill and I have additional questions. That is, we currently are discussing the fact that the Downeast railway is having difficulties sustaining itself, and we also know that recently the Belfast railway closed. What assurances do we have, that if we invest in this new expansion, that this won't also happen with this effort? Thank you.

The **SPEAKER**: The Representative from Camden, Representative Miramant has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Miramant, Representative Miramant.

Representative **MIRAMANT**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. The only thing I would say about the Belfast railroad is it was a scenic route that went nowhere; this is not in that vain. This would attempt to connect a major city to our routes that would provide the passenger rail that could enhance freight rail, some of the things that we need in this time. As leaders, it is hard right now with the money situation to look at spending on this, but with what is happening it seems inevitable that we will have to get some better forms of mass transportation and this one has already proven to work in the past, so I think that those speak to that question.

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. 328

YEA - Adams, Babbidge, Barstow, Beaudoin, Beaulieu, Berry, Berube, Blanchard, Bliss, Boland, Brautigam, Briggs, Browne W, Bryant, Burns, Cain, Canavan, Carey, Carter, Casavant, Cebra, Cleary, Connor, Conover, Craven, Dill, Driscoll, Duchesne, Dunn, Eaton, Eberle, Faircloth, Farrington, Gerzofsky, Grose, Hanley S, Harlow, Haskell, Hayes, Hill, Hinck, Hogan, Jones, Kaenrath, Koffman, MacDonald, Makas, Marley, Mazurek, Miller, Miramant, Moore, Nass, Norton, Patrick, Pendleton, Peoples, Percy, Perry, Pieh, Pingree, Piotti, Plummer, Pratt, Prescott, Priest, Rector, Rines, Robinson, Samson, Savage, Schatz, Silsby, Simpson, Sirois, Smith N, Strang Burgess, Treat, Trinward, Tuttle, Wagner, Walker, Watson, Weaver, Webster, Weddell, Wheeler, Woodbury, Mr. Speaker.

NAY - Annis, Austin, Ayotte, Campbell, Chase, Clark, Cotta, Cray, Crosthwaite, Curtis, Duprey, Edgcomb, Finch, Finley, Fischer, Fisher, Fitts, Fletcher, Flood, Gifford, Giles, Gould, Greeley, Hamper, Jacobsen, Johnson, Joy, Knight, Lansley, Lewin, Lundeen, Marean, McDonough, McFadden, McKane, McLeod, Millett, Pinkham, Richardson D, Richardson W, Rosen, Sarty, Saviello, Sykes, Theriault, Thibodeau, Thomas, Tibbetts, Valentino, Vaughan.

ABSENT - Beaudette, Blanchette, Crockett, Emery, Jackson, Mills, Muse, Pilon, Pineau, Rand, Sutherland, Tardy.

Yes, 89; No, 50; Absent, 12; Excused, 0.

89 having voted in the affirmative and 50 voted in the negative, with 12 being absent, and accordingly the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-906)** was **READ** by the Clerk and **ADOPTED**.

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

Under further suspension of the rules, the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment**

"A" (H-906) and sent for concurrence. **ORDERED SENT FORTHWITH**.

Majority Report of the Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-912)** on Bill "An Act To Equalize the Tax Burden for Education across Municipalities of the Lower Kennebec River Region Authorized To Form a Regional School Unit Pursuant to Private and Special Law 2007, Chapter 25" (H.P. 1412) (L.D. 2028)

Signed:

Senators:

BOWMAN of York
MITCHELL of Kennebec
MILLS of Somerset

Representatives:

NORTON of Bangor
MAKAS of Lewiston
FARRINGTON of Gorham
HARLOW of Portland
SUTHERLAND of Chapman
EDGEComb of Caribou
McFADDEN of Dennysville
MUSE of Fryeburg
STRANG BURGESS of Cumberland

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

Signed:

Representative:

FINCH of Fairfield

READ.

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

The Bill was **READ ONCE**. **Committee Amendment "A" (H-912)** was **READ** by the Clerk and **ADOPTED**.

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

Under further suspension of the rules, the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-912)** and sent for concurrence. **ORDERED SENT FORTHWITH**.

SENATE PAPERS

Bill "An Act To Facilitate the Provision of Educational Loans for Maine Students and Families" (EMERGENCY)

(S.P. 918) (L.D. 2300)

Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** suggested and ordered printed.

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

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

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

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

Representative CARTER: Thank you, Mr. Speaker. If I had been present for Roll Call No. 324, I would have voted yea. Thank you.

ENACTORS
Acts

An Act To Amend the Laws Regarding School Funding
(S.P. 741) (L.D. 1932)
(CC. "A" S-467; S. "D" S-554)

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

On motion of Representative NORTON of Bangor, 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 Passage to be Enacted. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 329

YEA - Adams, Annis, Austin, Ayotte, Babbidge, Beaudoin, Berry, Berube, Bliss, Boland, Brautigam, Briggs, Browne W, Bryant, Burns, Canavan, Carter, Chase, Clark, Cleary, Connor, Conover, Crockett, Dill, Duchesne, Duprey, Eaton, Eberle, Edgecomb, Faircloth, Farrington, Finch, Finley, Fletcher, Gerzofsky, Giles, Greeley, Hanley S, Hayes, Hill, Hinck, Hogan, Jones, Joy, Kaenrath, Koffman, Lundeen, MacDonald, Makas, Marean, Mazurek, McKane, Miller, Miramant, Moore, Patrick, Pendleton, Peoples, Perry, Pieh, Pingree, Piotti, Pratt, Richardson D, Rines, Rosen, Saviello, Schatz, Silsby, Sirois, Tardy, Theriault, Thibodeau, Treat, Trinward, Tuttle, Valentino, Walker, Weaver, Weddell, Wheeler, Woodbury, Mr. Speaker.

NAY - Beaulieu, Blanchard, Cain, Campbell, Carey, Casavant, Cebra, Cotta, Craven, Cray, Crosthwaite, Curtis, Driscoll, Dunn, Fischer, Fisher, Fitts, Flood, Gifford, Gould, Hamper, Harlow, Haskell, Jacobsen, Knight, Lewin, McDonough, McLeod, Millett, Mills, Nass, Norton, Percy, Prescott, Priest, Richardson W, Robinson, Samson, Sarty, Savage, Simpson, Strang Burgess, Sykes, Vaughan, Wagner, Watson, Webster.

ABSENT - Barstow, Beaudette, Blanchette, Emery, Grose, Jackson, Johnson, Lansley, Marley, McFadden, Muse, Pilon, Pineau, Pinkham, Plummer, Rand, Rector, Smith N, Sutherland, Thomas, Tibbetts.

Yes, 83; No, 47; Absent, 21; Excused, 0.

83 having voted in the affirmative and 47 voted in the negative, with 21 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment Wednesday, April 2, 2008, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

. Bill "An Act To Authorize the Operation of Slot Machines on Indian Island in Old Town"

(H.P. 532) (L.D. 701)
(H. "A" H-845 to C. "B" H-788)

TABLED - April 2, 2008 (Till Later Today) by Representative PATRICK of Rumford.

PENDING - **PASSAGE TO BE ENGROSSED**.

On motion of Representative PATRICK of Rumford, the rules were **SUSPENDED** for the purpose of **RECONSIDERATION**.

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **Committee Amendment "B" (H-788)** was **ADOPTED**.

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

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **House Amendment "A" (H-845)** to **Committee Amendment "B" (H-788)** was **ADOPTED**.

On further motion of the same Representative, **House Amendment "A" (H-845)** to **Committee Amendment "B" (H-788)** was **INDEFINITELY POSTPONED**.

The same Representative **PRESENTED House Amendment "B" (H-923)** to **Committee Amendment "B" (H-788)** which was **READ** by the Clerk.

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

Representative PATRICK: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. What this amendment is, is it is the identical same amendment to the good Representative from Old Town, Rep. Blanchard's, with a technical change. What we have done in Legal and Veterans Affairs Committee in the past anytime we have any differentiation between raising or lowering the amount of slot machines, we have always prorated the licensing fees and the licensing fees had been \$55,000 for the 400 slot machines and it will now be \$13,750. There was a \$20,000 fee and it will now be \$5,000, and that is the only change to the bill, it is identical to the last one, 100 slot machines, and everything remains the same. Thank you.

House Amendment "B" (H-923) to **Committee Amendment "B" (H-788)** was **ADOPTED**.

Committee Amendment "B" (H-788) as Amended by **House Amendment "B" (H-923)** thereto was **ADOPTED**.

Representative VALENTINO of Saco **REQUESTED** a roll call on **PASSAGE TO BE ENGROSSED** as Amended **Committee Amendment "B" (H-788)** as Amended by **House Amendment "B" (H-923)** thereto.

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 Saco, Representative Valentino.

Representative VALENTINO: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Less than six months ago, the voters had turned down the citizens' initiative on the ballot to allow a racino to be run by the Passamaquoddy Tribe in Washington County. This was a vote against expanding gambling. In 2003, the voters turned down at the ballot box a proposal for an Indian run casino in southern Maine. In 2000, the voters turned down at the ballot box a proposal to allow racetrack video gambling. This November, another citizen initiative will be on the ballot to allow gambling expansion for a casino in Oxford County. Three times now, we have seen the citizens of Maine vote against the expansion of gambling. Again, in November, we will have another test of what the citizens feel.

Many people in Maine are suffering economic hardship. We have seen many people at the State House, including the truckers, the clambers, the lobsterers, and many ordinary citizens. Gambling is not the answer; it will only contribute to the

economic plight of many people.

The next point I want to bring up is on the Fiscal Note, where we have had three different amendments on this bill. Anyone who has looked at the Fiscal Note, it is very confusing on it, but I do want to call your attention to a few things on the Fiscal Note where it has changed three different times. What we are talking about for General Fund revenue to the State of Maine, with all of the changes and the expenses that come in, but rather before the expenses is a \$136,000 this year and \$120,000 in the years thereafter. But what you might not have noticed under the Fiscal Note, under the General Fund Expenditures, that we are also authorizing a new person. We are hiring a new person, a public safety inspector, at \$102,000 per year, so taking out the total as far as what the General Fund is going to be receiving from the expenditure of hiring a new person, what the General Fund will actually be receiving after the first year of initial licensing is about \$18,000 a year. So this is not a potential moneymaker for the State of Maine if you are looking at it in that way.

The other thing is they have the cascade, which is what we call going to other special revenue. Underneath the cascade, they will be getting, with all of these three fiscal notes combined, which I admit is so confusing that it took myself a long time with the Fiscal Office to go through this, of \$138,000, which means the people, the eight entities under the cascade, are really only receiving about \$17,000 each under the cascade. So for the General Fund to be receiving about \$18,000 and then all the eight entities about \$17,000, it makes me question actually why we are really doing it in this fashion.

My biggest question, I guess, would be the cascade itself, that it has changed but they still keep the same eight people. I realize that sometimes when you throw more people in you are thinking of good things, but I know from my experiences on the Appropriations Committee, all of these other special revenue funds are very difficult to go into. My feeling is, even if this did go through, it should all go to the General Fund, not to all of these entities, and I know everybody looks at it and says USM is going to get some scholarship money, Maine Community Colleges, Maine Veterans' Services, Maine Technology Institute. I have no idea where they got these cascades, why one person was included in this cascade and not somebody else. Why aren't we sending some to the fishermen, why aren't we sending some to the farmers, why aren't we sending some to the clambers? Who picks these particular people that we were going to be sending to them?

The other question I have is that there is a 2.5 percent to be divided among other nonprofits in the area, within a 75-mile radius, who operate high stakes bingo. This is really what is getting, I think, at the crux of this matter. We are looking to be fair; we are looking to be equitable. When we passed the referendum to allow the facility in Bangor, it had an impact into the high stakes beano that was being conducted by the Penobscots. Well, what happen is that obviously their revenue has gone down and they want to be fair and equitable to do this, to get a little bit of money in. My question would be how many people are really going to drive by a brand new 1,000-slot facility in Bangor to go to the 100 slot machine on Indian Island? Who will be playing those? Will they only be adding the economic hardship of the people on that area playing the slot machines? But this is cascading out to the others so, in other words, if we want to be fair and equitable because Hollywood Slots came in and now the Penobscot Nation is down on their revenue, we are putting this in, but we are also adding another thing to the cascade. Well, now that we are giving it to the Penobscot Nation, we are going to add all the nonprofits under the cascade, so what is to say that a year from now all the nonprofits don't come

backing and say, now I want high stakes bingo, I want slot machines. Why not just put them into everybody? So, I guess it comes into a question, the suggestion of how it is actually being done. I think a fairer, more equitable situation, if we are truly trying to make up for the lost revenue from the high stakes beano game, because of the slot machines, the way to do it is the exact same way we did it when the original proposal was passed, when we said that putting slot machines in at racetracks will have a negative impact on the OTBs and, therefore, we set up a fund to stabilize the OTBs. When we were in the Appropriations Committee this year, we actually looked at this line. The original line was to stabilize five OTBs. We no longer have five OTBs, so just mathematically speaking, if there was \$1 million to be divided among the five, everybody got \$200,000. Now, because there are four, there are \$250,000. I would think that a fairer and more equitable way would be to, instead of changing this entire language to add one line in to add federally licensed tribes into the line with the OTBs to take the place of that fifth OTB that dropped out and, if this happens in that fashion, then we are not expanding gambling, we are not setting up another cascade for anybody else to look at, we are staying in line with the wishes of the voters, we are being fair and equitable, and that would give the Penobscot Nation, this year, \$243,000 for absolutely doing nothing, for not putting in slot machines, for not having to do anything if this is what we are talking, with \$180,000 next year and 136. If we wanted to stabilize the OTBs, let's stabilize the high stakes bingo but let's not expand the gambling in the State of Maine. That would be the fair and equitable situation on this. As Jim Brunelle said in his column the other day and I passed it out to you in the *Kennebec Journal*, the Legislature should bring itself back to the point where it honors and respects the clear wishes of the people of this state. We have repeatedly voted against the expansion of gambling. We should vote against the expansion of gambling and, if we want to be fair and equitable, add them in to the existing cascade that we have to stabilize the OTBs because we have gone from five to four. Thank you very much.

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

Representative **EATON**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I apologize for getting up a second time today, but I have to respond to some of the comments from the good Representative from Saco. We are looking to be fair and equitable? By the way, I want to point out that the good folks of Washington County did not say no to the Passamaquoddis, people from other parts of the state did. Fair and equitable? When have we been fair and equitable to our good friends of the Indian Nation or anywhere else in the United States of America? When? This is a sovereign nation. They looked for their opportunity to have slot machines on Indian Island, and we constantly dictate, we choralle them and tell them where they are going to live. They want some slot machines; I wish they could get their 400. I absolutely stand strongly in the support of the measly 100 that we are going give them. Thank you, Mr. Speaker.

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 would like to stand in favor of this Passage to be Engrossed. The good Representative from Saco brings up many good points and some of them that I thought of myself, but the basic premise of why I decided to support this at this time basically was fairness. There are only two people left in this body, myself, and the Representative from Standish, Representative Moore, we are the last two people to

have dealt with the racino referendum and what transpired from that referendum. I do stand here and apologize to my friends from the Indian Nation that they were left out and maybe they should have been considered because I did make sure that Scarborough Downs, myself, was taken care of; the good Senator from Waterville at that time made sure the OTBs were taken care of; and others made sure that the other three entities that dealt with harness racing, sire stakes, the fair funds were taken care of, and we did not pay enough attention to who was going to be affected. I am proud of the Tribe to say to them, when they say, Representative Patrick, can you think of anyone who might be adversely affected if we get it that haven't been. I will tell you and what I said to them was that some of the nonprofits are going to take it on the chin, so they had the foresight to say is anyone going to be negatively impacted on this. We forget years ago that the tribes actually had slot machines on their reservation, they had them. We took them away. We took them away from everywhere at one point and now we have taken them away because of a citizen's initiative, we feathered the initiative to make it into a manner that it had adversely affected really only one entity that I can see, and maybe some minor, minor nonprofits in the areas, but the biggest one who was adversely affected was the tribes.

Also, when the article that the good Representative wrote said that the Legal and Veterans Affairs Committee has never seen a gambling bill they didn't like; well, I disagree with that also because there are a couple of them, I even killed my own Oxford County bill last year so I guess it does mean there are some bills I don't like. But this is a fairness issue in how the Tribe decided to come to the cascade that they had, I am in full agreement: they are the ones that are going to be able to say where their money goes, they are not going to have anyone on the board like the referendum that is coming before us this year. I think that everything that they have done has been straightforward for the board and that this will do some good things without majorly expanding gaming. This is a gambling state, the State of Maine, whether we like it or not, whether it is nonprofit gaming; whether it is lottery, that is gaming; whether it is bingo, that is gaming; games of chance, that is gaming. We have slot machines in the State of Maine, people want to have casinos, a certain percentage do, a certain percentage do not, but this is a gambling state whether we like it or not. I had a nice lady that testified before the Legal and Veterans Affairs Committee and she brought about the immorality of gambling. I can't totally disagree with her 110 percent, but I do also know that there are many adult people who have discretionary spending that go to Las Vegas or go to Atlantic City, that go to Biloxi, Mississippi, that go to Foxwoods, Mohegan Sun. It must be amazing to me to think that people from Maine flock in droves, in buses and planes, and probably even on ships to go and gamble. I think this money will do some good for the social programs of the tribes; it will do good for the area. You say, why would anyone drive by Hollywood Slots? Well, I will tell you why they will drive by Hollywood Slots, it is because the tribes, right now, truck people in, bus them in to go to their high stakes bingo, they play the first night and because of the hours of the bingos are being held, they have extra time, well, they end up down at Hollywood Slots. The tribes are subsidizing a for-profit racino, and we are looking to do is give them a fair shake. One hundred slots won't even probably help them get to the revenue that the good Representative talked about, but this is a start, it is a start for them to get on their own feet. They want to do this, and I believe that we ought to respect their wishes, do the fair thing, pass this bill, and give them an opportunity to have what will inevitably do good for the tribes. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Penobscot Nation, Representative Loring.

Representative **LORING**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I will have been in this body as the Penobscot Nation Representative for 10 years at the end of this session. People ask me lately, how is it going? I tell them, it is going the same as ever. I can pull out a speech I used a decade ago and it would be just the same on target now as it was then. Things have not changed much for us in 10 years. This year, there is something that has changed and changed drastically: it is the state of the economy. The economy is taking a hit on the national level and, more to the point, right here at home. This Legislature has spent the last week making painful choices about which programs are going to be cut, and what programs and services are going to be eliminated. We are talking about real families and real people. My people are Maine citizens. We have families that are being affected and will be affected by these decisions and this failing economy. We have hopes and dreams, just as you and your children do. Whatever happens to the State of Maine happens to us. This is our home. Today, it is more important than ever that we be given the economic tools to not only compete, but to survive.

The Penobscot Nation has agreed to this amendment to lower the number of slots to 100, and to use them only on bingo weekends. We have agreed, even though our profits will be a lot less than if we had 100 machines and our payout to other hurting organizations will be a lot less. Some legislators said to me that the amendment is just enough to keep you where you were before Hollywood Slots entered the picture. With this number of slots, you should be able to keep your customers at the bingo hall without getting a windfall in profits. We certainly do not want to get a windfall in profits. A scenario that comes to mind is that of a sinking ship and everyone is in a lifeboat except us Indians; we are floating around and struggling to keep afloat and no one will pull us into the boat. We are treading water and all that we can hope for now is a possible lifejacket to keep our heads above water. We are not asking for a windfall, we are just asking for a lifejacket and, then, maybe, just maybe, we can stop treading water and build our own boat. I can guarantee you on thing and that is, if the Indians were in the boat, we would pull every single one of you in. In fact, we did: our ancestors helped your ancestors to survive. We are not a selfish people, never have been. We are totally willing to share, we were willing to share in 2004 and perhaps we would not be in this predicament if our proposal, made in good faith and friendship, had been accepted. That did not happen, so here we are now reduced for asking for 100 slot machines.

It is time to let Indian people have the economic tools to help themselves and, in so doing, help surrounding communities. Penobscot Nation's high stakes bingo contributed approximately \$1 million a year to the surrounding communities of Old Town, Orono, and Bangor. These contributions are the accumulation of what players spend on such things as food, lodging and shopping, as well as what the Penobscots pay, they have 70 part time employees who work and spend their money in the local area; it also pays for printing and advertising. We would like to be able to continue to make this contribution to our surrounding communities. It is time to be fair and to work with us for the good of the entire state. We are willing to share; we have always been willing to share, that is what good neighbors do. Let's recognize that these are hard times, and these hard times may even get worse. The basic colonial paradigm of keeping total control of the Indians and keeping them poor that set state policy practices in 1820 must change. Many of you, in fact most of you, do not reason that way any longer, but those policies and practices still

exist today. Those old-world views will not work any longer in this global economy; we must change that paradigm and those policies and partner and live together in order to compete in the ever-expanding global market. One hundred slot machines is a mustard seed, but it is a beginning. I ask you to vote for the amendment and start working towards fairness, and a change in this state's paradigm and treatment of Indian people. 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. I stand up in support of this legislation for a number of reasons. First of all, we, as a state, said there could be so many slots and that it would go with racing. When we talk about the fact that we are expanding the slots; no, those slots are already in place somewhere sitting in terms of the legislation that has plausibility in some place. Are we expanding gambling? It is going into a high stakes bingo, is that not gambling? Are we going to look at this and support a monopoly, because that is what are doing: we are saying you can only have it in one place, and there is only one place that can have it and, heaven forbid, we should support competition. I think it is time we looked at what we are doing, and we do allow this to happen. 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. Not to prolong this issue, you dealt with it two days ago, but I have to relate just a couple of points about the 100 slots versus the 400 slots.

When the first bill came out over a year ago, I was approached by the Tribe to see if I would cosponsor the bill and I said, yes I would cosponsor it, you are my constituents, and I am down there to help serve you. However, after a lot of thought, I met with the Tribe and some of their officials, I met with the Chief, and I ask him, I don't know if your bill is going to go through this year, however, I would like to submit to you amendment that probably my fellow Representatives would take a look at to see if you, the proud people of the Penobscot Tribe, can get back some of the moneys that you have lost and bring your people back to where they want to be and where they were. They are very proud people. They want to serve themselves; they want to develop their youth. They want to keep their heritage going. I ask you, again today, to follow my light and support this amendment.

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

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

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

Representative **VALENTINO**: Thank you, Mr. Speaker. I can see that my anti-expansion of slots may be falling on deaf ears, so I have a few questions as far as the bill itself goes and a few comments on it, and maybe the good Chair from Rumford maybe to listen on and to do that.

Looking strictly on the bill itself and how it is read, we know that we have run into difficulties previously when we had thought that slots were going into two existing tracks, and then there was a five-mile limit, and I just need to clarify a few technical things in here for my own mind. It says in section 2 that the board may accept applications for a license to offer eight slot machines from a federally recognized Indian tribe in state license to conduct high stakes bingos. Maine has four federally recognized Indian tribes: the Passamaquoddy, the Penobscot, the Houlton Band of Maliseets, and the Aroostook Band of Micmacs. Therefore, one of the questions would be is that how many were licensed as of

January 1, and are we really allowing only one tribe to do it or are these four other tribes also going to be allowed to have that?

So the second question is that, certainly, why did we have a time limit of only 2007? If we are allowing it for one tribe, why wouldn't we allow it for the other three tribes? I need to know how many were licensed. Are we talking really about one tribe or the others?

The other thing, which was a very controversial provision on the five-mile radius for the existing tracks, I know my own town of Saco, we didn't realize that it might have been in Saco, Scarborough or Westbrook when this went in, so I guess the title of the bill indicates that the slots will be on Indian Island in Old Town. But I have gone through every line of the bill, and there is no language in the bill that says that this will be on Indian Island. It just says that the permit will be going to any federally recognized tribe that had high stakes beano. I guess my question is, is once the Tribe receives the license from the state, are they bound by law to have the slots on Indian Island, or can they take the license and use it on any land that they own? The Penobscot Nation has several very large acreage parcels in Maine, including acres on Route 26 in Carrabasset near Sugarloaf Mountain, a large parcel in Brownville and Brownville Junction, a large parcel right of Route 95 in Alton, in Argyle. If they are not bound to have it on the Island, because our statute does not say that, it just says they have a permit, can they move it to any one of these other locations, could they put their slot machines at Sugarloaf or Brownville or any place else, because this language has nothing to do with the location. The title does not go into statute.

The second one I have for a technical thing is the current statute for slot machine operators when renewing a slot machine operator license states that the application for renewal of a slot license must be approved by the municipal officers of the municipality where the slots are located. Where they would be on sovereign land, then there is no review for this so, even though they are giving a percentage of their money to the largest municipality, my questions is why don't any surrounding municipalities have any say in the license renewal, as they do now, and why does it prohibit any public hearings from happening for renewal for an adjoining municipality? What if the towns feel that there is a problem with the slots, then there is nothing the towns can do for that. So a few technical questions on actually where it can be located, how many tribes qualify for this since we have four, and I also want to address at this time, because I do take exception with some of the comments because I am against gambling, I am not against the Tribe. So I really have to take exception for the good Representative from Rumford that we, the State of Maine, did not take away the slots, and also from the good Representative of Sullivan who said we did nothing at all, the State of Maine, for the Tribes. I just really want to point out that in 1980 we had landmark legislation that we passed, the first in the country, which gave \$81.5 million, the largest settlement of its kind and the first to include provisions for the reacquisition of land, and this was given to the Passamaquoddy, the Penobscots, and the Houlton Band, and it took four years of negotiations to do this and that is when they lost the slots and that is when a lot of other things happened, but I do not want anyone here to think that we are doing something unjustly or that we pulled some deal and pulled out their slots. This was negotiated and the State of Maine was the first in the nation that stood up and said, we recognize some of the atrocities that have been done to these tribes and we are going to pay them, to have money in the bank, to help themselves and, also, to apply 3,000 of additional acres and I just wanted to clarify that. Thank you.

The SPEAKER: The Representative from Saco, Representative Valentino has posed questions through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Passamaquoddy Tribe, Representative Sotomah.

Representative **SOCTOMAH**: Thank you Mr. Speaker. Mr. Speaker, Colleagues of the House. I do not think I can answer all of those questions because there were so many, but I would like to make a statement. Maine has created this monopoly in Bangor, and this monopoly has had a negative impact on the Tribe, a local business. If we remember, this monopoly in Bangor is owned by an out of state organization. The Tribe is a local business. I think it is time to be fair and rectify this problem that this monopoly has created. I think that was part of the agreement for Hollywood Slots to be in there was if there was any negative impact that that would be rectified either by Hollywood Slots or by this Legislature and I believe that is the only fair thing to do because the Tribe is losing money. Thank you.

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

Representative **HARLOW**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I will be voting positive for this because I do think it is a fairness issue. If the Tribe in Bangor can have slots machines, why can't the Tribe in old Town?

The SPEAKER: A roll call has been ordered. The pending question before the House is Passage to be Engrossed as Amended Committee Amendment "B" (H-788) as Amended by House Amendment "B" (H-923) thereto. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 330

YEA - Annis, Austin, Ayotte, Barstow, Beaulieu, Berry, Berube, Blanchard, Bliss, Brautigam, Briggs, Browne W, Bryant, Burns, Cain, Campbell, Canavan, Carey, Carter, Casavant, Cebra, Cleary, Connor, Conover, Cotta, Craven, Cray, Crockett, Crosthwaite, Dill, Duchesne, Eaton, Eberle, Edgecomb, Faircloth, Farrington, Finley, Fitts, Fletcher, Gerzofsky, Gifford, Giles, Gould, Greeley, Hamper, Harlow, Haskell, Hill, Hinck, Jacobsen, Johnson, Jones, Joy, Koffman, Lansley, Lewin, Makas, Marean, Marley, Mazurek, McDonough, McLeod, Miller, Millett, Moore, Nass, Patrick, Pendleton, Peoples, Perry, Pieh, Pingree, Piotti, Pratt, Prescott, Priest, Richardson D, Richardson W, Rines, Robinson, Rosen, Samson, Sarty, Saviello, Schatz, Simpson, Sirois, Sykes, Tardy, Thomas, Treat, Trinward, Tuttle, Vaughan, Walker, Watson, Weddell, Mr. Speaker.

NAY - Adams, Babbidge, Beaudoin, Boland, Chase, Curtis, Driscoll, Dunn, Duprey, Finch, Fischer, Fisher, Flood, Hanley S, Hayes, Hogan, Kaenrath, Knight, McKane, Mills, Miramant, Norton, Percy, Savage, Smith N, Strang Burgess, Thibodeau, Valentino, Weaver, Webster, Wheeler, Woodbury.

ABSENT - Beaudette, Blanchette, Clark, Emery, Grose, Jackson, Lundeen, MacDonald, McFadden, Muse, Pilon, Pineau, Pinkham, Plummer, Rand, Rector, Silsby, Sutherland, Theriault, Tibbetts, Wagner.

Yes, 98; No, 32; Absent, 21; Excused, 0.

98 having voted in the affirmative and 32 voted in the negative, with 21 being absent, and accordingly the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "B" (H-788) as Amended by House Amendment "B" (H-923) thereto and sent for concurrence.**

HOUSE DIVIDED REPORT - Report "A" (7) **Ought Not to Pass** - Report "B" (4) **Ought to Pass as Amended by Committee Amendment "A" (H-876)** - Report "C" (2) **Ought to**

Pass as Amended by Committee Amendment "B" (H-877) - Committee on **JUDICIARY** on Bill "An Act To Guarantee Free Speech in Privately Owned Public Gathering Places"

(H.P. 1065) (L.D. 1540)

TABLED - April 2, 2008 (Till Later Today) by Representative SIMPSON of Auburn.

PENDING - **ACCEPTANCE OF ANY REPORT.**

Representative SIMPSON of Auburn moved that the House **ACCEPT** Report "A" **Ought Not to Pass.**

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

Representative **HINCK**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I would like to broaden the discussions a little from where we have been earlier and the last few days. I think that the matters that we have taken up with the budget are very pressing over the long term; however, how we treat our infrastructure, how we treat the environment is perhaps more important, and also how we treat the institutions of our government. This bill, LD 1540, goes to a subset of those institutions, an important subset and in a small way would have an important impact on that. I specifically refer to rights of speech and the right to gather signatures and petitions; I will concentrate specifically on the latter.

The right of petitioning is just about 100 years old in the State of Maine. It was passed here after a strenuous campaign more than 100 years ago. The work was originally done by the editor of the *Skowhegan Somerset Reporter*, Roland Patten, and soon had quite a lot of support in the state. The Legislature was moved to allow petitions to influence our government and it was adopted as an amendment to our Constitution. There is actually two parts to it, one part is legislating. The citizens have reserved the right to legislate in this state. The citizens have also reserved the right to veto our legislation. I think, over the years, it has been demonstrated that this right is not, neither of these are that easy, they do not come up successfully that often but they nonetheless remain very important, these rights. In order for it to become a constitutional amendment, it requires passage first in the Legislature, and it was unanimous here in this House, it was unanimous in the Senate and it was signed by the Chief Executive, it went to the people for a vote and they passed this right by two thirds. Why am I going through this history? It is because since these rights were adopted here in the State of Maine, the landscape has changed a bit. I think many of you would agree that expressive liberty and these direct democracy rights are not meaningful if you have them on paper, but you have difficulty actually exercising them. If we do not protect the opportunity, not only to speak but be heard, we have lost something. If we do not protect the opportunity, not only to petition but to petition where people assemble, we have lost something and we have lost something important, and that is pretty much where we stand today.

The reason is change in demographics, nothing that we have done or haven't done in some regard, but one of the major trends has been that increasingly the public gathering places are located in private malls and shopping centers. Obviously, private property brings private property rights; however, we balance those rights in many ways. We currently balance them and I never hear any dispute over this, on certain questions of safety. We tell malls and shopping centers what kind of fire lane they have to have in order to have emergency vehicles be able to get in there. I do not think it is impossible for some of them to decide that they would rather have parking spaces so they can get customers closer than they would like to have fire lanes. It is the government that says we need certain fire lanes, it is the government that says you need certain exits, you need sprinkler

systems; these aren't really controversial. It is interesting to me and I ask you to think about it: Should we sometimes think that, besides safety, there are other things that also are important to the public and are important to the government, specifically, in this instance, the direct democracy rights I spoke about?

These rights have been recognized for a long time in the State of Maine. Some 40 years after they were passed, the Supreme Judicial Court in Maine addressed what the public had done by taking on this right of petitioning. The Supreme Judicial Court said insured, the sovereign, which is the people, have taken back subject to the terms and limitations of the amendment, a power which the people vested in the Legislature when Maine became a state. The significance of this change must not be overlooked. It is the duty of the government that the power of the people to enact their laws shall be given the scope, which their action in adopting this amendment intended them to have. We obviously cannot abridge the right, but the question is whether we can sit by and watch it be gradually eroded. I would say that we should not do that. You would not be surprised to know that this is not the first place that has discussed these issues, and those discussions have ended up in many different results, but there are states right now that citizens have a right to go to malls and shopping centers and engage, within limits, in free speech and in the collection of signatures on petitions. Among those are a couple of large states and a couple of smaller states. The courts in those states decided that their constitutions guaranteed that right, that is somewhat different from a legislature saying that we are going to take action to protect a right, but it is nonetheless instructive.

The New Jersey Supreme Court, in its decision on this issue, said that property rights serve human values. They are recognized to that end and limited by it. Title to real property cannot include dominion over the destiny of persons, the owner of permits to come upon the premises. Their wellbeing must remain the paramount concern of the system of law; in other words, we look at this a little differently when a business has invited people on and encouraged them to, in many respect, treat it as the former town square. It is a place not only that we shop, but also a place to assemble and engage in all kinds of activities. No one questions when you can go to the mall that you can talk with people, whether they are your friends or you are strangers, no one questions you can go up to them and flirt or engage in other activities, but interestingly enough if you pull out a petition, which is supposedly an important part of our democracy according to the courts here, according to the action of this Legislature, according to what the people voted, then the mall owners will come and ask you to leave.

I had a number of cosponsors on the bill, one of them was from the other body, from the other party, and he signed on rather quickly and spoke to the bill in committee. He had experience petitioning and being asked to leave, and that Senator found it troubling as do I. What the Chief Justice of the New Jersey Supreme Court said, if the people have left for the shopping centers, our constitutional rights include the right to go there to, to follow them and to talk to them. We do not believe that those who adopted a constitutional provision granting a right of free speech wanted it to diminish an importance a society changed.

In the current situation, we do find that the downtowns in many parts of Maine have given out to shopping centers and malls. I think that in this state that process has been less than it has been in other states. There is two ways of looking at that: One is, it is not an emergency here, why do anything? The other way to look at it is we still have an opportunity to do something in the State of Maine, which supports the town square as it

originally was and as we hoped it would stay. Once the landscape of this state becomes dominated by large malls and shopping centers, it would be impossible for us to take action. I think that is typically what you find in states that have been completely malled. You know, now is the time to stand on principle. As I mentioned, the rights at issue will come on their 100 year anniversary, January 1 of next year, is the 100 year anniversary of these rights being in our constitution. Over those years, they have been exercised in a range of different ways and, I think it is fair to say, lots of different political prospectives. There is not a single person, I am sure, that is always happy with petitions that they see. They may not always be happy with petitioner gatherers. Probably most people are not always happy with free speech or long speeches, that is beside the point. Constitutional rights are based on principle, and I think many people understand that. We actually have to stand sometimes to preserve and protect rights that enable something that we might prefer not to see.

It is interesting, after it was initially passed, the right to petition in this state, it was not used much. There was an initial flurry and then not for a number of years, and then a group came together to put an initiative forward which would protect highway funds and make sure they were only used for highways, that was in the 1930's. Later on, we had another flowering and Maine got its bottle bill. You know, the exercise of these rights would rise and fall. I think one of the reasons why it also does not appear that pressing to us is, despite our flaws, this Legislature does the people's business and does it fairly well. Will the Legislature always do the people's business fairly well; will the Chief Executive always do the people's business well? I don't know and I wouldn't want to predict, but I am glad that the state reserves the ability for ordinary citizens to veto legislation and to enact legislation, and one of the hurdles to that is simply collecting signatures. We may be thrown off a little because we have gotten petitions adopted recently with paid petition gathers. I think we ought to think about protecting the rights of ordinary citizens with petitions that might be important to fundamental values that do not have big dollars behind them, and they still should be able to get the petition signatures on petitions and propose their legislation and vote on it, and for them we need to preserve access. We could talk some other time about whether or not there are other ways to limit the ones that are paid, but for now the right is protected for ordinary citizens and I think urge you to vote down the Ought Not to Pass motion before you. I thank you very much.

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 say that, in this Chamber, I am proud of our ability to sometimes disagree, but to always remain good friends. I will say that Representative Simpson, who made this motion, is someone who I think very much of and I agree with her well over 90 percent of the time. It just does happen to be this one time we disagree a little bit. This is an issue that I felt strongly about since I studied, actually, this very issue in school, and I want to address it here.

During college, I had a summer job conducting consumer surveys at the mall, and they actually paid me to walk up to women and start a conversation. Dozens of women, every day, that was my job. As college jobs go, not too shabby.

Now some people look down at malls, but I have to say, especially from those years, I have some pretty fond memories of malls, I kind of like them. But love them or hate them, enclosed shopping malls have changed America dramatically and in a very short time: two thirds of the members of this House were born

before the first enclosed shopping mall was built, which was in 1956 in Minnesota. Enclosed shopping malls spread like wildfire. All over the United States, the historical town square, where no one questioned free speech, was largely superseded by the express design—by the express design—of the mall developers.

As the New Jersey Supreme Court wrote in an opinion on this topic, mall corporations "have intentionally transformed their property into a public square or market, a public gathering place, a downtown business district, a community," and that marketing worked like gangbusters: downtown stores closed their doors, including Bangor's famous Freeze's Building. People voted with their feet, taking much of community life to the enclosed shopping mall, the new, all-weather town square. Now some may disagree but, in Bangor, in January, I frankly see the appeal of strolling in the mall; I will tell you, I like it.

But there is something I like far better than malls and you know what I really love? The United States of America. I have nothing against those other countries. They are fine, but there is no question, none, that the greatest today, the greatest country that has ever been is America the beautiful, and why is America the best? The First Amendment. No bigger reason, no better reason. The First Amendment embodies the best concept ever in any civil society. Freedom, as a law, was America's idea and everybody, everybody everywhere should be thankful to America for this idea, so when we fly the flag—and we should—the First Amendment is the essence of the grand old flag. The First Amendment is the civil liberty of the brain.

Now back to my college job. I had awesome First Amendment freedoms back then during my consumer survey days. I had freedom to walk up to a woman and ask her to try on some ruby red lipstick. I had freedom to ask a woman to try on sheer nylons. I had the freedom to ask her what she was doing that night. Freedom: it is awesome. But ironically—ironically—I was not free to stand in a kiosk and ask someone to sign a petition to put a childcare initiative on the ballot; I was not free to ask someone to sign a petition on an anti-tax measure on the ballot.

At malls today, the centrally important type of speech, political speech, is the least protected. Think about that: Here it is, in malls today, this critically important form of speech—there is lots of speech at malls, no question—but the most important type, in many ways, is the least protected type. It is not the American way and it leads to injustice. I will give you a specific example: Some years ago, the campaign of a candidate running against Bill Cohen for U.S. Senate attempted some campaign activity at the Bangor Mall, in and around the Bangor Mall, and they were shut down. During that same campaign, that same exact campaign, Bill Cohen came to the mall. Senator Cohen was and is popular in Bangor; he is a Bangor High basketball star. He voted to impeach Nixon, I like the guy, you know? So everybody likes Bill Cohen, so what happened when Bill Cohen came to the mall, I will tell you what happened when Bill Cohen came to the mall: the mall manager showed him around, shop by shop, and introduced him to everybody. It is understandable, we all like Bill Cohen.

But you know our law is the law that protects the smaller voice, the lesser voice, that is the ideal of our nation, but the statutes in this country have not kept pace with the times and that is a problem. That is what makes America best, especially in our all-weather town square, and we cannot have that if it is left to the whims of a private corporation. The selection and promotion of one political speech over another political speech is just unconscionable and against the very essence of what our country is about. Ben Franklin never heard of the modern corporation,

John Adams never conceived of enclosed shopping malls; James Madison knew nothing of the all-weather town square, but throughout American history, statutes have evolved to protect our civil liberties in the face of changing times, ensuring the founders' principles.

We remember today, we remember on this day, four decades ago today, the loss of Reverend Dr. Martin Luther King. The Civil Rights Act of 1964 was a mere statute, it is not a constitutional provision, yet it protects rights that are sacred. The opponents of the Civil Rights Act of 1964, including Barry Goldwater and the first President Bush, argued that lunch counters were what; they argued that they were private property and therefore owners could choose to do whatever they wanted. Lunch counters were never designed specifically to be the all-weather public town square. We now all revere the Civil Rights Act of 1964, but the argument against the Civil Rights Act of 1964 was stronger, stronger than the argument that we are hearing today about private property rights.

Mr. Speaker, Men and Women of the House, frankly, Mr. Hinck's bill does not go far enough. It should go farther, but it goes in the direction of freedom, it goes in the direction of the First Amendment and that is the direction we need to go as a state and as a nation. This is providing a civil right that is critically important and necessary and I hope you will oppose the pending motion. I thank the Men and Women of the House.

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

Representative **SIMPSON**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. We have had a lot of conversation about constitution rights. We are not debating a constitutional right here; we are debating a bill, a statutory provision to tell the owners of certain private property that they have to open their property for other people to conduct their own purposes there. Now, they own this property for the purpose of making money for conducting business, and we want to tell them that they have to open their doors and provide a space for, let's face it, people who are not very popular, you and I, and people gathering petitions. So politicians and petition gatherers, mall owners will have to open their doors and let us conduct our business. I have a problem with that. We have had a lot of discussion about the town square, yet the amendment that people are supporting is talking about three towns and, frankly, I live in one of them, I would not call it a town, I live in a city, the City of Auburn, so it would apply to the Auburn Mall, the Maine Mall in South Portland, and the Bangor Mall. So three towns, I really wouldn't call them towns, I would call them cities.

The City of Auburn has a town square. The taxpayers of Auburn paid to create a place for the people of Auburn to go and to gather. We have a community band that plays there, we have movie nights, we have water fountains, we have all kinds of activities, and people go there and gather and that is open to the public because the taxpayers of the City of Auburn own that land. I have a problem with saying that the owners of the Auburn Mall, just up the street from my house; they do not have the right to use their property the way they want. We are going to tell them that they have to take part of their property and allow other people to use it for their own purposes. So, I would urge you to support the Ought Not to Pass Report. We are not talking about a constitutional right, we are talking about a statutory provision people are asking us to give, and can we do that? Perhaps, we can, but should we? That is the question you should ask yourself: should we? Is that something people have been calling you, are your constituents concerned that when they go shopping, they do not get to sign petitions. Have they been calling you up saying, Oh my goodness, I went shopping on

Saturday and nobody asked me if I could sign their petitions, they are running for office, they are trying to get something on the ballot. I am thinking there must be people out there wishing that they wanted us to be able to do that. I don't think so. So if you ask yourself, do people want this, I haven't heard it. Please support the pending motion. Thank you.

The SPEAKER: The Chair recognizes the Representative from Buckfield, Representative Hayes.

Representative **HAYES**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise in support of the pending motion. I don't think democracy was intended to be convenient and the fact that some aspects of it have become inconvenient does not mean we should change the definition of private property. It requires effort. People still gather in lots of places, at least in my community, and at different time. If you want to participate in the democracy, you have to be willing to put some time and some energy into it, I don't think the change in the definition of private property is justified because of the inconvenience.

I would also challenge the concept that the shopping mall has become the town square. I don't go there so it is not a town square for me, but I spend a lot of time on the Internet and I would suggest that if you really want to go to where people gather, that might be a venue you might want to look at and devise a strategy for allowing citizens to participate in democracy electronically if you really want to talk about where people are spending their time and how they have access to you, so I will support the pending motion of Ought Not to Pass. 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. Have you sent the bumper sticker that says, I love my country but I hate my government? Sometimes I think we are living in a time of cynicism and sort of an open season on public service, on the government and on political activism. I wonder sometimes, I am not sure how much interest in public service our young people have. I think it is there, but I think that we need to be constantly fanning the flames and encouraging it.

The toughest issues that we face in this body are those issues where there is a clash between important rights or values, where both sides have a reasonable claim to a high property. Here, we have the right of property owners which I wouldn't diminish. It is important, it is fundamental, but it is up against a long tradition of using the common space for public discourse. Neither right is absolute, neither one automatically trumps the other one; there is a balancing that has to take place when we reconcile these two interests. We have to reconcile the annoyance of the people who might be going to the mall and the not trivial interest of the owners of the mall not be promoting something that they might not agree with, against the constitutional system of gathering signatures to hold us, in this government, accountable. Let's admit it: It is kind of annoying to be approached, it is kind of annoying what we do to people sometimes to ask for their support for us. It pulls people out of their complacency. Democracy is inconvenient. If it is not annoying at some level, it is probably not democracy. Thomas Paine, Martin Luther King, Susan Anthony, these people were way out of their comfort zones and they invited us, also, to push the limits of our comfort zones. In that annoyance, in that signature gathering process, there is something very good, something very important, and vital. We need to fan the flames of democracy from time to time, and that is why I support either one of the amended versions of this bill. So which is it? Are we citizens in a republic or are we shoppers? Unfortunately, it can

be both. Thank you.

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

Representative **DUNN**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I sit on the committee that heard this bill and, like today, this bill was fascinating debate in committee. It was a wonderful debate on both sides of the issue: constitutional rights versus property rights. It is a bill that we had last session, we carried this bill over, and last session I may not have supported it. It was fairly wide-ranging last session, but we looked at it and we had a chance to look at it over the summer and some different folks weighed in over the summer. The Bangor Mall actually sits in the middle of my district, and I have decided to sign one of the other reports, I will not be supporting this motion.

Let me tell you, when I was a kid growing up the Bangor Mall used to be a cow pasture. That mall has since become a multimillion-dollar business, in large part because of public infrastructure improvements that we have done. We put an exit off the Interstate just recently, in the last two or three years. Stillwater Avenue in Bangor, it used to be a two-lane road, it is now in some cases a five-lane road, Stillwater Avenue, Hogan Road. So we as a public have put an awful lot of improvements into the areas that have made this private business what it is today. The bill, as I supported, not the pending motion but the bill that I supported puts reasonable time, place and manner restrictions on what petition gatherers could do. I don't think it is unreasonable to ask a mall that has benefited substantially from public infrastructure improvements to call for a limited time, place and manner of opportunity for people to gather petitions and signatures, so for that reason I would ask you to oppose this pending motion. Thank you.

The SPEAKER: The Chair recognizes the Representative from Eliot, Representative Lewin.

Representative **LEWIN**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I have a series of questions that I would like to ask, some of them will probably be recognized as tongue and cheek, and this comes from someone who spent 45 years running very successful retail businesses, all kinds of them, so I am very concerned about this bill. I would like to know if I am in a lovely restaurant in a mall and somewhere between the shrimp cocktail and the roast beef and the tiramisu, I have to put up with listening to some people gathering petitions? I assure you, even if I had the bottle of wine, I would not like it, it would not be fun, and it would not please me.

When I run down on Sunday morning to pick up a cup of coffee at my Dunkin' Donuts, am I going to have to go through a group of petitioners at the door, inside the door, beside the door before I can get to a counter and ask for a corn muffin and a black coffee? I don't think that is a good idea and, if I were Dunkin' Donuts, I wouldn't much like it.

How about when I go to Irving? Once I get through filling up the tank, am I going to have to go through a petition table before I can get inside to pay for the gas I just pumped into the tank? I don't think that is a great idea, I do not think it is nice to inflict it on business.

And some questions about how it is going to be implemented. Can the businesses restrict the space where petitioners will be allowed? Can they limit the number of petitioners who will be allowed? Can they put up a sign that says, we don't agree with any of this nonsense but the State of Maine insisted we do it? I think that would be a real good thing for them to be allowed to do.

Who is going to be sued if someone falls and gets hurt, or something happens and there is a reason for a lawsuit? In this litigious society, I assure you the first person hurt is going to be

the first one suing. And who will get to pay? The business will get to pay, that is who is going to get to pay.

Let's see, oh, just another little thought: Perhaps if our Tax Committee doesn't have a lot to do maybe they would enjoy spending a little time figuring out how they could pay back to some kind of a lovely tax credit, the business that these people lose. Wouldn't that be a nice little project, not that we seem to do very well with tax reform, but there is a little idea for them.

Let's see what else. Oh, since it applies to private places and I live in a home where many people come to visit me, I wonder if they will have a right to set up on my front lawn or on my front step. I wouldn't think that is a very good idea either. So I have to tell you, speaking for business, I think this is a joke and a real bad one at that. I don't think we should even be discussing something like this in this House and this state. Thank you.

The SPEAKER: The Chair recognizes the Representative from Cape Elizabeth, Representative Dill.

Representative **DILL**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I am happy to answer some of the questions posed by the good Representative from Eliot. When she is eating at that lovely restaurant in the mall, she doesn't have to worry because, the owners of the mall, if you read the bill, can place reasonable restrictions on time, place and manner; therefore, that should not be a problem. When she is getting coffee, again, I doubt she will be bombarded with petition signers because the mall will take care to place the petition gatherers at a place that will not interfere with the business rights of the shop owners. Unless there is a gas station at any of the malls in Maine, I highly doubt that when she is pumping gas it will be an issue.

She asked how the bill would be implemented and, again, I urge you all to read the bill itself because it states very clearly that mall owners can place reasonable restrictions on time, manner, and place.

With respect to our litigious society, the good Representative from Portland has included in his bill, at least as amended, a petition gatherer who seeks to exercise this right has to sign a release, and so there will no be liability on the part of the mall owner.

Finally, with respect to a tax credit that the Representative from Eliot seeks to give the mall owner, I would just remind all of you that mall owners live in our state and our country, obviously, and we are a country of laws. Most mall owners are not individuals; they are limited liability companies or multinational corporations that enjoy many of the privileges of many of the laws that we pass. And with respect to her home, I would just jokingly say, unless her home is an excess of 75,000 square feet and has five retail businesses in an enclosed area, I think she is fine in that regard. Thank you, Mr. Speaker.

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

Representative **BLISS**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I, too, rise to ask you to defeat the pending motion and allow us to move on. Like my longwinded friend from Portland and my longwinded and sometimes overenthusiastic friend from Bangor, I do think that this is an important issue, and it is an issue that it is appropriate for us to spend this time on.

I want to address the issue that my friend from Auburn raised about town squares. My town is one of those three towns that houses malls that would be affected in one version of this bill. And we, too, have a town square. It is a beautiful park with a lake and a bridge over it. We have regularly, in the spring and the summer; we have regularly scheduled outdoor concerts there. The town goes to great lengths to make the site available

for weddings and other activities. There is an art in the park event there, and the town works very hard to make that, because it is right down the street from city hall, be a town square. The truth of the matter though is there are clubs that arrange to meet, rain or shine, at six o'clock in the morning at the mall to walk up and down indoors to get their exercise. There are young people who assume that the focus of their social interaction will take place at the mall, not in the park. It is as much a town square today as any other place. It is, in fact, the management of these malls that works very hard to encourage these social interactions, because if the social interactions draw people into the mall, they just might patronize some of the businesses that exist there. It is in their best interest to make these things happen. So if they can set aside 10 square feet to allow for a table and two chairs, and a sign-up sheet to allow people to sign up for their day to be at the mall to collect signatures for their event, and that might bring a few other people into the mall who maybe only do their shopping over the Internet, I suspect that they would be happy to do it. As long as they can maintain control over time, place and manner, my good friend from Eliot will not have to worry about anything happening untoward between her shrimp cocktail and her tiramisu. Thank you, Mr. Speaker.

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. I will be brief. It may surprise this body to learn I disagree with my friend from Auburn, well, a little bit, not much. Regarding the constitutional rights of freedom of speech, we are talking about what those constitutions do is they limit what government can and cannot do regarding the people. When we are talking about, as far as a libertarian view is concerned regarding rights, there is a tenant that states, your rights stop where my rights begin. The rights in question are those of the people versus the other people, those who own the mall. It may be a public space, by standards, that they allow folks to come in there. It should also be their right to allow whatever speech they deem allowable under their own control, so if they do want to allow the tables to come in, that should be their right. I think that is about all there is to it. Thank you very much. I encourage the support of this motion. Thanks.

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

Representative **McDONOUGH**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Déjà vu all over again. This is an issue and I am going to be very brief today, I promise, and I will not go into my long tirade about the public's rights and all that. But I looked at some of the things that I have heard today, and I agree with some, I disagree with some, and the good Representative from Auburn is absolutely right on this issue. I can remember another friend of mine, a friend of ours, who used to sit over there, her name was Pam Hatch. And Pami used to say when she would get up about a bill that she didn't like, she'd say, Mr. Speaker, Men and Women of the House, this is a bad bill and we want you to vote against it. This afternoon, my friends, I would ask you to vote against it and vote for the pending motion Ought Not to Pass. We have no business going in on private property and telling owners of businesses that they have to open it up to people who are not customers, number one, and that are in interrupting their trades. So, again, I would you to vote for the pending motion. Thank you, Mr. Speaker.

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. Mr. Speaker, this is not a bad bill, I respectfully disagree with the pervious speaker. It is

an excellent bill, and it generated excellent and lengthy discussion among members of the Judiciary Committee. We looked at various permutations of this bill and, of course, I am not allowed to talk about any particular amendments, like A and B, but we are only arguing on Ought Not to Pass which is the Majority Report. We argued at length, in a very friendly fashion, about the kinds of speech that are permitted, should be permitted, could be permitted. It isn't about whether you allow free speech or whether you don't allow free speech. The bill and the discussions surrounding the bill was about what kind of mall, what size of mall, whether we should deal only with commercial speech and political speech, or whether we should deal with publications of a written nature as well as verbal publications, oral publications, or oral representations. What kind of speech should we deal within a statute, or can we deal with in a statute in a rational, appropriate fashion. It was a very, very difficult proposition to draft this bill in manner that protected the kinds of speech we all like, like our own ability to gather petition signatures at a certain size mall, versus the kind of speech that we might not like which I do not need to describe. Once you begin to draw lines, however, there arises a serious constitutional question about discerning content of speech and how you regulate that by statute. That is where serious constitutional issues arise, and I don't feel that we in the committee were able to adequately, appropriately discern the difference.

My view, also, is that the Maine Supreme Court has dealt with this issue, not necessarily in the constitutional context but in the common law of Maine, in interpreting our trespass statutes and disorderly conduct statutes and, as a prosecutor with 19 years experience, I dealt with this issue. It is my view that the mall owners today do not have legal authority to evict people on account of exercising their free speech in a rational and peaceable way. I don't believe they have that authority, and I think that the Maine Supreme Court, the law court, would so rule in appropriate cases and has ruled in appropriate cases, such as *State v. Tauvar*, *State v. Scbunya*. There are a number of cases where people contested their arrests and their criminal charges for violating statutes, allegedly violating statutes, and the law court has said you can't evict somebody for simply expressing themselves. So on the one hand, I thought it was very interesting to try to draft a bill that would accommodate what we consider free speech exercise, in particular, as the amendments pertain to, the right to petition for signatures only, in rather selfish fashion. But on the other hand, I felt that our law is adequate, that we don't need to craft a statute to try to address a perceived problem, that the common law of Maine is adequate in accommodating the constitutional rights of our citizens and of ourselves in gathering petitions. So for those reasons, I voted with the Majority Ought Not to Pass Report. Mr. Speaker, I would request a roll call.

Representative MILLS of Farmington **REQUESTED** a roll call on the motion to **ACCEPT** Report "A" **Ought Not to Pass**.

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 Farmington, Representative Mills.

Representative **MILLS**: Thank you Mr. Speaker. May I conclude my remarks, too, by saying that when you talk about malls, you are talking about only one or two particular places in the State of Maine. In my village, my town, the public square is something different, the public square is the corner of Main Street and Broadway where we do petitions, where we do exercise our rights of free speech. I would like, if we drafted a comprehensive statute, I would like to encompass all kinds of public squares, town squares and all kinds of speech, but I do not think it is

practical or reasonable to do that under the circumstances, and I do not think the bill, as originally drafted, does that. So for those reasons, I ask that you support the green light for the Majority Ought Not to Pass Report, and I would ask that the Report be read.

Representative MILLS of Farmington **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 Biddeford, Representative Casavant.

Representative **CASAVANT**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I just want to interject two points: First off, I was on the original Majority Ought Not to Pass Report, and I changed my vote mainly because I thought back to when I was a city councilor in Biddeford and recognizing the dynamic between developers who wanted to put in malls or shopping centers or whatever, and the caveat that existed between the government and the developer itself, there were certain expectations of both parts. As I began to work through that process, I realize that looking at a mall or looking at a shopping center, there was a main street that was essentially created within the framework of those enterprises, a pedestrian main street, but a place where people congregated and socialized, and that made me consider switching. The other irony that you all have to know is that Amendment "A" was produced by the Maine Mall itself, okay? It was produced by the Maine Mall itself. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from South Berwick, Representative Gould.

Representative **GOULD**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I was going to start by saying that I am speechless, but since Representative Casavant's last comment, I have found my voice. I would agree with the good Representative from Biddeford that one of the Minority Reports, of which we are not even supposed to be speaking, was indeed proffered by mall owners, but I would like to paint for you the content in which that was offered. It was offered when it was clearly presented to those owners.

The **SPEAKER**: The Chair recognizes the Representative from Cape Elizabeth, Representative Dill, and inquires why she rises at this time.

Representative **DILL**: Thank you, Mr. Speaker. I do not believe that the amendment is currently before this body and, therefore, the Representative's remarks are not germane.

On **POINT OF ORDER**, Representative DILL of Cape Elizabeth asked the Chair if the remarks of Representative GOULD of South Berwick were germane to the pending question.

The **SPEAKER**: The pending question before the House is the Acceptance of Report "A," that is the Majority Ought Not to Pass.

The Chair recognizes the Representative from South Berwick, Representative Gould.

Representative **GOULD**: Thank you, Mr. Speaker. In returning to the comments of Representative Casavant, the document of which he speaks was offered in the context that the mall owners were told that there would be.

The **SPEAKER**: The Chair recognizes the Representative from Cape Elizabeth, Representative Dill, and inquires as to why she rises.

Representative **DILL**: Thank you, Mr. Speaker. I just would like to repeat my earlier Point of Order. I recognize that the earlier speaker may have been out of order, and I am sorry that I did not jump up sooner.

On **POINT OF ORDER**, Representative DILL of Cape Elizabeth asked the Chair if the remarks of Representative

GOULD of South Berwick were germane to the pending question.

The SPEAKER: I do understand the Representative from South Berwick's point is that I believe that Representative Casavant had veered into another report inappropriately. It is the Chair's fault that I should have stopped him at that time.

The Chair reminded Representative GOULD of South Berwick to stay as close as possible to the pending question.

The SPEAKER: The Chair recognizes the Representative from South Berwick, Representative Gould.

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

The SPEAKER: The Representative may pose his question.

Representative **GOULD**: Thank you, Mr. Speaker. Since you have allowed the good Representative from Biddeford to open the door, may I simply finish my sentence?

The SPEAKER: You may finish the sentence and then we may move on the appropriate motion.

Representative **GOULD**: Thank you, Mr. Speaker. The document in question was offered in the context that the mall owners were told that there would be a bill coming out of here that would force some sort of obligation on them, and that was their effort to make it as good as they could for themselves.

Mr. Speaker, I am somewhat speechless because I have to agree absolutely with everything that the good Representative from Auburn said. Representative Simpson is right on, and I do not think that any Representative on the floor of this House has made a better case for her argument than the good Representative from Bangor. The fact that the good Representative from Bangor was allowed to approach unsuspecting people in the mall with anything in hand and ask them any questions is argumentative enough that this speech should not be allowed.

In all seriousness, Mr. Speaker, I would tell you that if Maine were to do this, we would be the first state in the nation that would do this by legislation, and I respectfully suggest to you that we would be the first state that would have it struck down as unconstitutional. 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. Being a carpenter and not an attorney, wanting to craft something that serves all of the people of Maine and not something that serves just mall owners, although I am grateful that they produced something that might serve their interests, I would like to pose a question through the Chair to the attorneys among us regarding what I must weigh as I ponder this question. The things that I perceive that I must weigh are private property rights versus free speech rights. I know that times have changed; I know this because I have read history books where they have spoken about the public common, where statesmen and women have gathered, and hundreds of thousands of people, historically, have left their homes to attend these common gatherings and listen to our forefathers and mothers speak. I know that the mall has usurped that common space where we once communed. I know that television and the internet has also interfered with this.

My question to the attorneys among us is, and I think this was alluded to by the Representative from Cape Elizabeth, Representative Dill, that the body of law that governs this social organization in which we all live, contrasted with the wild where I would have every right to do as I please, regardless of who thought they occupied and owned the space. Could one of you please elaborate on what I must consider as I balance private property rights in the context of a social organization with freedom of speech, because I do agree that times have changed

and the common space where we once spoke to people no longer exists except under domes like this, and I am grateful that we are able to take the time, however long and however tired we may become, take the time to debate these very important issues and not rush through simply because it is Friday and we are all tired and we had a long week. Thank you.

The SPEAKER: The Representative from Berwick, Representative Burns has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Auburn, Representative Simpson.

Representative **SIMPSON**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I am not an attorney, but I will say this: We are not weighing a balance between free speech and property rights; we are weighing a balance between property rights and the right to have your property used for people to gather petition signatures. That is it. Free speech is out; it is just about petition signature gathering. That is what is left of the bill. If we want to talk about the original bill, if people are interested in it, I suppose there was some free speech in there, but that did not come through the committee.

I did want to respond to a few comments that were made earlier and make it clear for this body: The owners of the mall are opposed to the bill and are in favor of the pending motion. The mall people, who may have written something, do not want it to pass. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Cape Elizabeth, Representative Dill.

Representative **DILL**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. To Representative Burn's questions, I just would like to point out that the bill amends the Civil Rights Act, which is found in Title 5 of the Maine Statutes. Generally, the Civil Rights Act gives Maine citizens the right to engage in lawful activities, and those rights cannot be denied on the basis of race, color, religion and sex, ancestry, national origin, disability or sexual orientation. This bill would just simply add another section that grants Maine citizens the right to collect petition signatures at the mall. There are already rights that you have when you go to the mall: you cannot be denied entrance at the mall because of the color of your skin or because of your gender, you cannot be kicked out of the mall because you are old, you cannot be kicked out the mall because you are gay. This is simply saying that you cannot be kicked out of the mall because you are collecting signatures for a candidate, a petition, referendum, or an initiative. Thank you.

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. We are talking about passing a statute. There is no constitutional right to this, but I also respectfully disagree with the Representative from Berwick. There is case law that, if we pass a measure, such as is proposed (or the underlying bill which is what I think we should be discussing) it is perfectly constitutional. It won't be found struck down. It is whether the state wants to exercise that policy choice or not. As the good Chair pointed out, we can already discuss pantyhose or any other thing we want to in the mall. We just can't discuss the merits of policy issues, or you can be discriminated against because of asserting your views on politics.

In 2003, in March, there was a guy who wore a tee-shirt at a mall that said "Give Peace a Chance"—and this was at the height of the emotions about Iraq—and the mall management threw the guy out of the mall because he wore a tee-shirt that said "Give Peace a Chance." Now it is absolutely true, he wouldn't get prosecuted for it, that's not the issue. The issue is that in fact he was thrown out because he wore that tee shirt.

In 2005, in Maine—in 2005, in Maine—folks who were for the Maine Won't Discriminate campaign went to a mall. They were thrown out. The people who took the anti-position got to go around and circulate their petition. So yes, there are frivolous things we can talk about in the mall and that is all great and that is all good. I think it is unconscionable—and the underlying bill addresses this—that we would exist in a society, as we do right now, where that kind of situation would exist. It is entirely constitutional for our state to pass a statute that protects these civil liberties; there is no question about it.

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

Representative **BABBIDGE**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. The two questions I see as relevant in this conversation are is this reasonable and is this desirable. The private property issue I find very interesting. When I was in college, I interviewed the town manager of South Portland to discuss whether or not the new proposed Maine Mall was a positive to the City of South Portland and to greater Portland in general. His response was absolutely. The City of South Portland had put a great deal of public investment into access roads and everything else in order to make that more possible. It is true that a year and a half later, when the mall opened, the new president of the Maine Mall happened be that town manager. So the validity of my survey might have been impacted, but the fact of the matter is the amount of public investment that made that possible, I think, gives us some public interest in the fact that these malls have become a representation of modern culture, where citizens do gather.

Is this desirable? None of us want to be accosted by people as we go about our daily business. What I fear we are doing is mistaking uncivil behavior for civic mindedness. It is possible to deal politically and still be courteous and smiling and happily disagree. As a teacher, I am very concerned that politics is becoming off-limits; we need to bring it back into mainstream American life. Therefore, Mr. Speaker, I believe this to be both reasonable and desirable, and I ask that we oppose this motion. Thank you.

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

Representative **DUNN**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I am amazed that this debate has left the good Representative from South Berwick temporarily speechless, and I am sure it will only be temporary, because I do not think she will be speechless in committee.

I would simply say, but a raise in interest and a point to me, because I think that the issue we are debating is whether or not we should let people into the malls to gather petitions, which would give a voice to a number of other people and give a larger voice to a number of people so that they do not remain speechless. Thank you.

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

Representative **HINCK**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I mostly speak once more on questions that have been raised. The large question addressed the lawyers, the good Representative from Cape Elizabeth, Representative Dill, addressed that from one perspective. Since I came prepared with language from other courts that have looked at this issue, there is one line from a majority opinion, again, in the Supreme Court in New Jersey, that simply states the more the owner, for his advantage, opens up his property for use by the public in general, the more do his rights become circumscribed by the statutory and constitutional

rights of those who use it. In this case, we are talking about statutory rights. I think any prediction that this would have constitutional problems is not well founded on the law. I did, however, appreciate the comments of the good Representative from South Berwick, they were by enlarge engaging and on point and gentle, which I mention because as we were coming toward this debate, I figured that the good Representative from South Berwick would stand up, and I happened to glance over there and there was a book on the desk of the good Representative of South Berwick facing me, and it said "Leadership Secrets of Attila the Hun." I was quite afraid what we might face, and low and behold, instead it was gentle.

Going back to the questions of the good Representative from Eliot, they may have been answered, but no one needs to fear the different place of the mall are going to be subject to anything different than would previously be the case. Because there are reasonable time, place, and manner restrictions allowed, there is no reason why any activity has to be in the flow of traffic, has to be in front of people. In order to be reasonable, it would probably have to be somewhere in view. However, currently, you can sit in a restaurant in the mall and somebody could come and antagonize you, and that would be the same thing that would happen if the people happened to be petitioners. I think that most petitioners would not want to do that because it is not a way to get people to support your cause, but anybody could do that today in the mall and what typically happens is that the mall security comes over and takes them out, and that would still happen. Whether or not the mall owners could put up a sign, yes they could; this changes nothing along those lines.

The last comments that were brought to mind were the ones from Farmington, Representative Mills, which, in an inimitable style, came to an entirely different place and presents a different challenge. And that one seemed to suggest that what would be sought for in this statute already exists, and I do not know how to address that, except to say that there are repeated incidents in the State of Maine where people go and, if they distribute some literature or if they have a petition, they are asked to leave. It has happened over and over again. So whether or not, in theory, the people who ask them to leave and call the police and have them taken out have limits on their ability to do that, if we respect something because it is an important part of our democratic process, there is no harm in the Legislature indicating its support in statute rather than leaving the poor individuals who try to exercise these rights and participate in a democracy, to fight it out citing some provision of the current law that there is an argument gives them the ability to stand their ground. I do not think we need to leave it that way, that the rights at issue, the ability to exercise those rights are important in our democracy and it deserves to be recognized. Thank you.

The SPEAKER: The Chair recognizes the Representative from South Berwick, Representative Gould.

Representative **GOULD**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I will address only one point that the good Representative from Portland, Representative Hinck, raised, and that is in terms of the potential constitutional attack to this. Were the good Representative from Portland able to stay with the Judiciary Committee throughout its debates, he would have heard from our own Attorney General's Office that, in fact, questioned whether this would stand up to constitutional attack, and the question is whether it would do so under our constitution, not New Jersey's constitution. Both New Jersey's constitution and California's constitution have been consistently interpreted as granting greater rights than are granted by the Federal Constitution. Maine's constitution has been consistently granted as being analogous to the Federal

Constitution. Thank you, Mr. Speaker.

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

Representative **WATSON**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Very briefly, this is an issue of public ownership of private property. If we intended to require the malls and shopping districts to provide public access for public activities like petition gathering and other election and referendum activities, we should have required it in the TIF. We always make a contract with developers, either a TIF or zoning changes or whatever, it would be very simple at that point for the governing body to say, incidentally, we want you to provide 10 square feet for people to come and gather petitions and other things. We did not do that. Now we are turning around and requiring them to do it in space where businesses are paying an extraordinary amount of rent per square foot for the privilege of operating their business, and yet we are now telling that landlord that they have to turn over some designated amount of space to some public group that they have no control over at all, other than reasonable civil disturbance, and give it to them for free. I cannot go there; I just do not think it is appropriate. I do not think this method or this bill should last, and I will support the Ought Not to Pass motion.

The SPEAKER: The Chair recognizes the Representative from Bremen, Representative Pieh.

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

The SPEAKER: The Representative may pose her question.

Representative **PIEH**: Mr. Speaker, on behalf of all of my absent members at the moment, I have been asked to inquire if there is anyone in the body who does not yet know how they are going to vote.

The SPEAKER: The Representative has offered a rhetorical question; I will not pose that out.

The Chair recognizes the Representative from Lisbon, Representative Berube.

Representative **BERUBE**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Under the rules of the House and Mason's rules, would a motion to cease discussion be in order to move the question?

Representative **BERUBE** of Lisbon inquired if it was in order to **MOVE THE PREVIOUS QUESTION**.

The SPEAKER: The Chair would answer it is in order to move the question. You may do that.

The SPEAKER: The Chair recognizes the Representative from Berwick, Representative Burns, and asks why he rises at this time.

Representative **BURNS**: Mr. Speaker. This is an important issue, I know we are tired. How I vote on this, Mr. Speaker is irrelevant.

The SPEAKER: The Representative from Berwick, Representative Burns, I need to have you defer for just a moment. The pending question before us now is the Acceptance of Report "A" Ought Not to Pass.

The Chair recognizes the Representative from Berwick, Representative Burns

Representative **BURNS**: Mr. Speaker, I was going to motion, if it is appropriate, that we table this matter until we can complete the debate regardless of how long it takes us to talk about free speech and private property rights.

The Chair answered it was in order to **MOVE THE PREVIOUS QUESTION**.

The House was called to order by the Speaker.

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

ROLL CALL NO. 331

YEA - Annis, Austin, Ayotte, Barstow, Beaudoin, Beaulieu, Berube, Briggs, Browne W, Cain, Campbell, Carey, Cebra, Chase, Cotta, Craven, Cray, Crockett, Crosthwaite, Curtis, Driscoll, Duchesne, Duprey, Eaton, Edgcomb, Finch, Finley, Fischer, Fitts, Fletcher, Flood, Gerzofsky, Gifford, Giles, Gould, Greeley, Hamper, Hanley S, Hayes, Hill, Hogan, Jacobsen, Johnson, Jones, Joy, Kaenrath, Knight, Koffman, Lansley, Lewin, Marean, Mazurek, McDonough, McKane, McLeod, Miller, Millett, Mills, Moore, Nass, Patrick, Pendleton, Peoples, Pieh, Plummer, Prescott, Richardson D, Richardson W, Rines, Robinson, Rosen, Samson, Sarty, Savage, Saviello, Simpson, Sirois, Smith N, Strang Burgess, Sykes, Tardy, Thibodeau, Thomas, Valentino, Vaughan, Walker, Watson, Weaver, Weddell, Wheeler, Woodbury.

NAY - Adams, Babbidge, Berry, Blanchard, Bliss, Boland, Brautigam, Bryant, Burns, Canavan, Carter, Casavant, Connor, Conover, Dill, Dunn, Faircloth, Farrington, Harlow, Haskell, Hinck, Makas, Marley, Miramant, Norton, Perry, Pingree, Piotti, Pratt, Priest, Schatz, Treat, Trinward, Wagner, Webster, Mr. Speaker.

ABSENT - Beaudette, Blanchette, Clark, Cleary, Eberle, Emery, Fisher, Grose, Jackson, Lundeen, MacDonald, McFadden, Muse, Percy, Pilon, Pineau, Pinkham, Rand, Rector, Silsby, Sutherland, Theriault, Tibbetts, Tuttle.

Yes, 91; No, 36; Absent, 24; Excused, 0.

91 having voted in the affirmative and 36 voted in the negative, with 24 being absent, and accordingly Report "A" **Ought Not to Pass** was **ACCEPTED**.

Bill "An Act To Update the Regional Greenhouse Gas Initiative"

(H.P. 1381) (L.D. 1945)
(C. "A" H-768)

TABLED - March 25, 2008 (Till Later Today) by Representative BLISS of South Portland.

PENDING - **PASSAGE TO BE ENGROSSED**.

On motion of Representative FITTS of Pittsfield, the rules were **SUSPENDED** for the purpose of **RECONSIDERATION**.

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **Committee Amendment "A" (H-768)** was **ADOPTED**.

The same Representative **PRESENTED House Amendment "A" (H-932)** to **Committee Amendment "A" (H-768)** which was **READ** by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Pittsfield, Representative Fitts.

Representative **FITTS**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This amendment is what I would classify as friendly, and I hope the Natural Resources Committee and the rest of the House agrees. This amendment would make a technical change to this bill by inserting a cap of 2 percent to a voluntary renewable market set-aside in the Regional Greenhouse Gas Initiative. Rather than having this be an unlimited, or just be unlimited, this cap would remain in effect through January 31, 2010, and then the Utilities

The House was at ease.

and Energy Committee would have an opportunity to weigh in as to whether the cap is appropriate or not. After January 31, 2010, the Energy and Carbon Savings Trust, which has yet to be formed, in consultation with the Department of Environmental Protection, would make adjustments to the cap as deemed appropriate. I ask your consideration is allowing this amendment to be added, and thank you for your attention.

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

Representative **BLISS**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. My good friend from Pittsfield is correct: This is a good addition and is certainly perceived, at least by me, as a friendly amendment. My guess is that my colleagues on the Utilities and Energy Committee would also perceive this as an imminently friendly amendment, and I urge you to pass it. Thank you.

House Amendment "A" (H-932) to Committee Amendment "A" (H-768) was ADOPTED.

Committee Amendment "A" (H-768) as Amended by House Amendment "A" (H-932) thereto was ADOPTED.

The Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-768) as Amended by House Amendment "A" (H-932)** thereto and sent for concurrence. **ORDERED SENT FORTHWITH.**

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

Resolve, Directing the Commissioner of Agriculture, Food and Rural Resources To Evaluate and Recommend Revisions to the Animal Welfare Laws and Department Rules Regarding Breeding Kennels

(H.P. 1394) (L.D. 2010)
(C. "A" H-803)

Which was **TABLED** by Representative PRATT of Eddington pending **FINAL PASSAGE.**

On motion of Representative PRATT of Eddington, the rules were **SUSPENDED** for the purpose of **RECONSIDERATION.**

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

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

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **Committee Amendment "A" (H-803) was ADOPTED.**

The same Representative **PRESENTED House Amendment "B" (H-924) to Committee Amendment "A" (H-803)** which was **READ** by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Eddington, Representative Pratt.

Representative **PRATT**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I know people get a little bit wary when we start reconsidering, I know I do. This is an amendment that clarifies some language that was earlier put into a bill regarding puppy mills legislation. I believe it is only slightly less contentious than free speech in malls, but a lot of hard work has gone into this. I believe it is good compromise language that all the stakeholders are all right with, and I would urge its adoption. Thank you.

House Amendment "B" (H-924) to Committee Amendment "A" (H-803) was ADOPTED.

Committee Amendment "A" (H-803) as Amended by House Amendment "B" (H-924) thereto was ADOPTED.

The Resolve was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-803) as Amended by House Amendment "B" (H-924)** thereto in **NON-CONCURRENCE** and sent for concurrence. **ORDERED SENT FORTHWITH.**

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

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "C" (H-908)** on Bill "An Act To Establish a Labor Center within the University of Maine System" (H.P. 115) (L.D. 123)

Signed:

Senators:

BOWMAN of York
MITCHELL of Kennebec

Representatives:

NORTON of Bangor
MAKAS of Lewiston
HARLOW of Portland
FARRINGTON of Gorham

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

Signed:

Senator:

MILLS of Somerset

Representatives:

EDGECOMB of Caribou
McFADDEN of Dennysville
SUTHERLAND of Chapman
STRANG BURGESS of Cumberland

READ.

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

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

UNFINISHED BUSINESS

The following matter, in the consideration of which the House was engaged at the time of adjournment Wednesday, April 2, 2008, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

Resolve, To Prohibit In-person Absentee Voting on November 3, 2008

(S.P. 914) (L.D. 2293)

- In Senate, **REFERRED** to the Committee on **LEGAL AND VETERANS AFFAIRS.**

TABLED - April 2, 2008 (Till Later Today) by Representative PINGREE of North Haven.

PENDING - Motion of Representative RINES of Wiscasset to **INDEFINITELY POSTPONE** the Resolve and accompanying papers. (Roll Call Ordered)

Representative RINES of Wiscasset **WITHDREW** his motion to **INDEFINITELY POSTPONE** the Resolve and all accompanying papers.

Subsequently, the Resolve was **REFERRED** to the Committee on **LEGAL AND VETERANS AFFAIRS**, in concurrence.

At this point, the Members of the House stood and joined in a moment of silence in honor of the 40th Anniversary of the death of Martin Luther King, Jr.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH** with the exception of matters being held.

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

Representative **ADAMS**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. Forty years ago, this day and not far from this hour, Dr. Martin Luther King was shot and killed in Memphis, Tennessee, where he was speaking in support of striking sanitation workers. For those who can remember those tumultuous days, or as a school kid's memory of them or who learned about it only from books, it is hard to believe that two generations of Americans have been born and grown to adulthood and had their own children since that day he died. That evening, as the news spread and darkness fell across the country, one by one the great cities of the United States burst into flames as race riots broke out. That night, Senator Robert F. Kennedy of New York, then running for President, mounted a flatbed truck in Indianapolis, in the dark, in the rain, weather much like that which is falling outside even as we speak, before an angry mixed race crowd, and there he made an apparently extemporaneous speech, which across all the weary years between them and us, then and now, still speaks to us. Part of it reads thus:

"Martin Luther King dedicated his life to love and to justice between fellow human beings. He died in the cause of that effort. In this difficult day, in this difficult time for the United States, it is perhaps well to ask what kind of a nation we are and what direction we want to move in. We can move in the direction of bitterness as a country, in greater polarization—black people amongst blacks, and white amongst whites, filled with hatred toward one another. Or we can make an effort, as Martin Luther King did, to understand and to comprehend, and replace that violence, that stain of bloodshed, with an effort to understand, and with compassion and love."

"So I ask you," he continued, "to return home to say a prayer tonight for the family of Dr. King, but more importantly to say a prayer for our own country, which all of us love—a prayer for understanding and that compassion of which I spoke. We can do well in this country. We will have difficult times. We have had difficult times in the past. And we will have difficult times in the future. But let us dedicate ourselves to what the Greeks wrote so many years ago: to tame the savageness of man and make gentle the life of this world. Let us dedicate ourselves to that, and say a prayer tonight for our country and for our people."

The crowd dispersed in the rain. Indianapolis was the only major American city in the United States that did not have a race

riot that night. It was a long time ago, Mr. Speaker, but those words still have meaning to us today. Mr. Speaker, I ask that when the House adjourns this day, we do so in memory of Dr. Martin Luther King, an American winner of the Nobel Peace Prize.

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

Representative **CROCKETT**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. Had I been present in the Chamber when the following roll call votes were held, I would have voted as follows: Roll Call No. 328 on LD 2019, yea; Roll Call No. 327 on LD 2175, yea; Roll Call No. 324 on LD 2209, no; Roll Call No. 320 on LD 2099, yea; Roll Call No. 321 on LD 2249, yea; and Roll Call No. 323 on LD 2209, yea. Thank you.

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

Representative **SMITH**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I think it is appropriate after all that I was able to recently follow Representative Adams in his words about Martin Luther King. I simply want to say, I know it is Friday afternoon, I know we are tired. I am deeply disappointed that we choose to forbid further debate on a bill, which in its title talked about freedom of speech. I knew exactly how I wanted to vote on the bill. I thought that a roll call had been requested for the motion to move the question. Had we done a roll call, I would have been voting against that. This is an important issue, it was worth our time. I know we are tired; we are in the home stretch. I ask us all to continue to have patience with each other. Even if you know how you are going to vote, there are times where having your voice on the permanent record matters, I believe this is one of those situations, and I am sorry that debate ended. Thank you.

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

Representative **MILLS**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I was just going to follow up on the good Representative from Portland and his very kind and eloquent remarks concerning the 40th Anniversary. Many of us recall where we were and what was happening when we heard of the death of Martin Luther King, and the overwhelming grief and fear and concern that we encountered and felt at that moment, and the grief we feel in our hearts now today because of what could have happened and would have happened, had he survived, had he lived, and had he continued to lead his people and to lead so many members of our country into peaceful times, out a times of great disturbance. I wonder if it would be appropriate for us to have a moment of silence in his honor.

The **SPEAKER**: The Chair recognizes the Representative from Livermore Falls, Representative Knight who wishes to address the House on the record.

Representative **KNIGHT**: Thank you, Mr. Speaker. Had I been in my seat when LD 349 was voted on, that would be Roll Call No. 214, I would have voted yea; Roll Call No. 215 for LD 591, I would have voted nay; and finally, Roll Call No. 217, LD 1948, I would have voted yea. Thank you, Mr. Speaker.

On motion of Representative ADAMS of Portland, the House adjourned at 4:30 p.m., until 9:00 a.m., Monday, April 7, 2008 in honor and lasting tribute to Martin Luther King, Jr.